3-13-91
Vol. 56 No. 49
Pages 10503-10770

# federal register

Wednesday
March 13, 1991

**Briefings on How To Use the Federal Register**
For information on briefings in Washington, DC, Miami, FL, and Chicago, IL, see announcement on the inside cover of this issue.

**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 56 FR 12345.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | 202-783-3238 |
| Magnetic tapes | 275-0186 |
| Problems with public subscriptions | 275-3054 |

**Single copies/back copies:**

| | |
|---|---|
| Paper or fiche | 783-3238 |
| Magnetic tapes | 275-0186 |
| Problems with public single copies | 275-3050 |

### FEDERAL AGENCIES

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | 523-5240 |
| Magnetic tapes | 275-0186 |
| Problems with Federal agency subscriptions | 523-5243 |

**For other telephone numbers, see the Reader Aids section at the end of this issue.**

## THE FEDERAL REGISTER
## WHAT IT IS AND HOW TO USE IT

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** March 28, at 9:00 a.m.
**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
**RESERVATIONS:** 202-523-5240

### MIAMI, FL

**WHEN:** April 18:
1st Session 9:00 am to 12 noon.
2nd Session 1:30 pm to 4:30 pm
**WHERE:** 51 Southwest First Avenue
Room 914
Miami, FL
**RESERVATIONS:** 1-800-347-1997

### CHICAGO, IL

**WHEN:** April 25, at 9:00 am
**WHERE:** 219 S. Dearborn Street
Conference Room 1220
Chicago, IL
**RESERVATIONS:** 1-800-366-2998

### WASHINGTON, DC

**WHEN:** May 23, at 9:00 am
**WHERE:** Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
**RESERVATIONS:** 202-523-5240 (voice); 202-523-5229 (TDD)

**NOTE:** There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

# Contents

Federal Register
Vol. 56, No. 49
Wednesday, March 13, 1991

**Agency for Toxic Substances and Disease Registry**
NOTICES
Contaminated sites, restrictions; annual list availability, 10559

**Agricultural Marketing Service**
RULES
Almonds grown in California, 10505
Kiwifruit grown in California, 10503

**Agricultural Stabilization and Conservation Service**
PROPOSED RULES
Disaster payment program for 1990 crops
Correction, 10606

**Agriculture Department**
*See also* Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Farmers Home Administration; Foreign Agricultural Service
NOTICES
Agency information collection activities under OMB review, 10529

**Army Department**
NOTICES
Meetings:
Science Board, 10546

**Arts and Humanities, National Foundation**
*See* National Foundation on the Arts and the Humanities

**Centers for Disease Control**
NOTICES
Meetings:
Vital and Health Statistics National Committee, 10559

**Coast Guard**
RULES
Drawbridge operations:
Washington, 10512
Ports and waterways safety:
Los Angeles/Long Beach, CA; safety zone, 10513
PROPOSED RULES
Mobil offshore drilling unit requirements; revision; withdrawn, 10526

**Commerce Department**
*See also* Export Administration Bureau; International Trade Administration; National Institute of Standards and Technology; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 10531

**Conservation and Renewable Energy Office**
NOTICES
Consumer product test procedures; waiver petitions:
Armstrong Air Conditioning, Inc., 10553

**Copyright Office, Library of Congress**
RULES
Computer software lending by libraries; copyright warning
Correction, 10660

**Defense Department**
*See also* Army Department
NOTICES
Privacy Act:
Systems of records, 10545
Tort claims settlement; correction, 10546

**Defense Nuclear Facilities Safety Board**
NOTICES
Energy Department defense nuclear facilities; recommendation, 10546

**Education Department**
PROPOSED RULES
Postsecondary education:
Perkins loan college work-study, and supplemental educational opportunity grant programs, 10742
NOTICES
Grants and cooperative agreements; availability, etc.:
School dropout demonstration assistance program; correction, 10718

**Employment and Training Administration**
NOTICES
Adjustment assistance:
SESA Fluorspar, Inc., 10575
Southern Triangle Oil Co., 10575
Grants and cooperative agreements; availability, etc.:
Job Training Partnership Act—
Economic dislocation and worker adjustment assistance job creation demonstration project, 10576

**Energy Department**
*See also* Conservation and Renewable Energy Office; Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Rocky Flats Plant, CO, 10548
Grant and cooperative agreement awards:
Michigan University, 10550

**Environmental Protection Agency**
RULES
Air pollutants, hazardous; national emission standards:
Radionuclides, 10514
Air programs:
Stratospheric ozone protection—
Chlorofluorocarbons and halons; production and consumption; amendment; correction, 10660
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Radionuclides, 10523, 10524
(2 documents)
Air programs; fuel and fuel additives:
Clean fuels; guidelines and proposed regulations negotiating advisory committee; establishment, etc., 10522

Water pollution; effluent guidelines for point source categories:
Oil and gas extraction; offshore subcategory, 10664
NOTICES
Pesticide programs:
Ecogen, Inc.—
Genetically altered microbial pesticide; field test, 10555
Pesticide assessment guidelines—
Dermal absorption studies; humans and domestic animals, 10556
Pesticides and hazardous substances control:
Premanufacture exemption applications, 10556

**Executive Office of the President**
*See* Science and Technology Policy Office

**Export Administration Bureau**
RULES
Export licensing:
Commodity control list—
Chemical and biological weapons production, equipment and technical data; foreign policy controls, 10760
Chemical weapon precursors; foreign policy controls expansion, 10756
PROPOSED RULES
Export licensing:
Non-proliferation policies; foreign policy controls imposition and expansion, 10756
NOTICES
Export privileges, actions affecting:
Govaerts, Franciscus B., et al., 10532
Grandia, Goris Christiaan, et al., 10534
Koster, Jan C., et al., 10536
Sanders, Marcel J., et al., 10537

**Farmers Home Administration**
RULES
Loan and grant programs:
Formulas for allocation; methodology, 10508
NOTICES
Rural rental housing displacement prevention; list of non-profit organizations; solicitation, 10529

**Federal Aviation Administration**
RULES
Transition areas; correction, 10660
PROPOSED RULES
Control zones; correction, 10660

**Federal Communications Commission**
RULES
Radio stations; table of assignments:
Florida, 10519
Kentucky, 10518
New York, 10519
PROPOSED RULES
Common carrier services:
International communications traffic data, 10526
Radio stations; table of assignments:
Iowa, 10527
Wisconsin, 10527
NOTICES
Agency information collection activities under OMB review, 10557

**Federal Emergency Management Agency**
RULES
Flood insurance; communities eligible for sale:
Missouri, 10515
Texas et al., 10517
NOTICES
Disaster and emergency areas:
Mississippi, 10557

**Federal Energy Regulatory Commission**
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Lakewood Cogeneration, L.P., et al., 10551
*Applications, hearings, determinations, etc.:*
Bristol-Myers Squibb Co., Inc., 10553

**Federal Highway Administration**
NOTICES
Environmental statements; notice of intent:
Nassau County, NY, 10652

**Federal Maritime Commission**
NOTICES
Agreements filed, etc., 10558
(4 documents)

**Federal Reserve System**
NOTICES
Meetings; Sunshine Act, 10659

**Financial Management Service**
*See* Fiscal Service

**Fiscal Service**
NOTICES
Surety companies acceptable on Federal bonds:
Anvil Insurance Co., 10655

**Food and Drug Administration**
NOTICES
Biological products:
Export applications—
Anti-Human Globulin Anti-C3b, -C3d, etc., 10559
Anti-Human Globulin Anti-IgG (Murine Monoclonal) Gamma-clone, 10560
Anti-Human Globulin Anti-IgG, -C3d (Polyspecific) (Murine Monoclonal) Gamma-clone, 10560
Anti-Human Globulin Anti-IgG, -C3d, etc., 10561
Anti-Human Globulin Anti-IgG, etc., 10561
Human drugs:
Export applications—
Floxin (ofloxacin); correction, 10660
Patent extension; regulatory review period determinations—
Cardura, 10562

**Foreign Agricultural Service**
NOTICES
U.S.-Canada Free-Trade Agreement:
Technical working groups; contact persons list, 10530

**Health and Human Services Department**
*See* Agency for Toxic Substances and Disease Registry; Centers for Disease Control; Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; National Institutes of Health; Public Health Service

**Health Care Financing Administration**
RULES
Medicaid:
Health maintenance organizations (HMOs); health insuring organizations; requirements; correction, 10515
NOTICES
Meetings:
Social Security Advisory Council, 10563

**Health Resources and Services Administration**
*See also* Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Maternal and child health services; Federal set-aside program, 10563
Nurse anesthetist education programs, 10565
Meetings; advisory committees:
April, 10565

**Interior Department**
*See* Land Management Bureau; Minerals Management Service; Mines Bureau

**International Trade Administration**
NOTICES
Short supply determinations:
Doctor blade steel, 10539
Type 430 stainless steel wire rod, 10538

**International Trade Commission**
NOTICES
Import investigations:
United State-Mexico Free Trade Agreement; probable economic effects on U.S. industries and consumers, 10572

**Interstate Commerce Commission**
RULES
Practice and procedure:
Recordation of documents; documents executed with declaration in lieu of notorization, 10519
NOTICES
Motor and water carriers:
Purchase, merger, and control, 10572
Railroad services abandonment:
Bad Water Line, 10573

**Justice Department**
RULES
Organization, functions, and authority delegations:
Deputy Attorney General et al., 10509
NOTICES
Pollution control; consent judgments:
Boonville, IN, et al., 10573
Davis Walker Corp., 10574
E.I. du Ponte de Nemours & Co., 10574
Environmental Services, Inc., et al., 10574
Pinetree Power-Tamworth, Inc., 10575

**Labor Department**
*See* Employment and Training Administration; Mine Safety and Health Administration; Pension and Welfare Benefits Administration

**Land Management Bureau**
NOTICES
Grants and cooperative agreements; availability, etc.:
Global change research; ecosystems of western and northern United States, 10567
Management framework plans, etc.:
Utah, 10571

**Legal Services Corporation**
NOTICES
Grants and cooperative agreements; availability, etc.:
Migrant farmworker client population in Alabama et al.; civil legal service, 10577

**Library of Congress**
*See also* Copyright Office, Library of Congress
RULES
Mask works protection:
Claims registration protection
Correction, 10660

**Mine Safety and Health Administration**
NOTICES
Safety standard petitions:
Sykora, Richard, et al., 10577

**Minerals Management Service**
RULES
Royalty management:
State and Indian cooperative agreements; Federal funding limitation removal, 10515
NOTICES
Agency information collection activities under OMB review, 10571
Environmental statements; availability, etc.:
Alaska OCS—
Lease sale, 10572

**Mines Bureau**
NOTICES
Agency information collection activities under OMB review, 10571

**National Foundation on the Arts and the Humanities**
NOTICES
Meetings:
Expansion Arts Advisory Panel, 10578
Media Arts Advisory Panel, 10578

**National Highway Traffic Safety Administration**
PROPOSED RULES
Consumer information:
Uniform tire quality grading standards—
Vehicles in treadwear convoys; correction, 10661

**National Institute for Occupational Safety and Health**
*See* Centers for Disease Control

**National Institute of Standards and Technology**
NOTICES
Information processing standards, Federal:
Programming language C, 10540

**National Institutes of Health**
NOTICES
Meetings:
National Institute on Deafness and Other Communication Disorders, 10566

National Library of Medicine, 10566

**National Oceanic and Atmospheric Administration**
**RULES**
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 10521
**PROPOSED RULES**
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 10527
**NOTICES**
Endangered and threatened species:
Pacific salmon, 10542
Los Angeles/Long Beach Harbors, Palos Verde Shelf and ocean dumping sites; injury determination plan and damage assessment; document availability, 10544

**Nuclear Regulatory Commission**
**NOTICES**
Environmental statements; availability, etc.:
Cleveland Electric Illuminating Co. et al., 10579
Toledo Edison Co. et al., 10579
Meetings:
Reactor Safeguards Advisory Committee, 10580
Privacy Act:
Systems of records, 10580
*Applications, hearings, determinations, etc.:*
GPU Nuclear Corp., 10581
Gulf States Utilities Co., 10582
Wisconsin Electric Power Co., 10583
Wolf Creek Nuclear Operating Corp., 10584

**Nuclear Waste Technical Review Board**
**NOTICES**
Meetings, 10587

**Pension and Welfare Benefits Administration**
**PROPOSED RULES**
Employee Retirement Income Security Act:
Participant directed individual account plans, 10724

**Personnel Management Office**
**NOTICES**
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 10587
Senior Executive Service:
Career reserved positions; list, 10589

**Public Health Service**
*See also* Agency for Toxic Substances and Disease Registry; Centers for Disease Control; Food and Drug Administration; Health Resources and Services Administration; National Institutes of Health
**NOTICES**
Medical care:
Indian health service—
Contract health services; reimbursement rates; evaluation and establishment, 10566

**Research and Special Programs Administration**
**NOTICES**
Hazardous materials:
Applications; exemptions, renewals, etc., 10653, 10654 (2 documents)

**Science and Technology Policy Office**
**NOTICES**
Meetings:
Semiconductors National Advisory Committee, 10646

**Securities and Exchange Commission**
**NOTICES**
*Applications, hearings, determinations, etc.:*
Prudential Securities Inc., 10647

**Small Business Administration**
**NOTICES**
Privacy Act:
Systems of records, 10651

**State Department**
**NOTICES**
Meetings:
International Telegraph and Telephone Consultative Committee, 10651
Soviet and Eastern European Studies Advisory Committee, 10652

**Thrift Supervision Office**
**NOTICES**
Conservator appointments:
AmeriFederal Savings Bank, FSB, 10655
First Federal Savings Association of Toledo, 10655
First Federal Savings Bank of Zion, 10655
Peoples Federal Savings Bank, 10655
Receiver appointments:
AmeriFederal Savings Bank, 10655
First Savings Bank of Zion, 10655
Peoples Federal Savings & Loan Association, 10656
Pioneer Federal Savings Bank, 10656
Sandia Federal Savings Association et al., 10656
Statesman Federal Savings Bank, 10656

**Toxic Substances and Disease Registry Agency**
*See* Agency for Toxic Substances and Disease Registry

**Transportation Department**
*See* Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration

**Treasury Department**
*See* Fiscal Service; Thrift Supervision Office

**United States Information Agency**
**NOTICES**
Art objects, importation for exhibition:
Wisdom and Compassion: The Sacred Art of Tibet, 10656
Meetings:
Book and Library Advisory Committee, 10656

**Veterans Affairs Department**
**NOTICES**
Meetings:
Career Development Committee, 10657
Former Prisoners of War Advisory Committee, 10657
Rehabilitation Advisory Committee, 10657
Privacy Act:
Computer matching program, 10657

---

**Separate Parts In This Issue**

**Part II**
Environmental Protection Agency, 10664

**Part III**
Department of Education, 10718

**Part IV**
Department of Labor, Pension and Welfare Benefits Administration, 10724

**Part V**
Department of Education, 10742

**Part VI**
Department of Commerce, Export Administration, 10756

---

**Reader Aids**
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**7 CFR**
944 ..... 10503
981 ..... 10505
1940 ..... 10508
**Proposed Rules:**
777 ..... 10660

**14 CFR**
71 ..... 10660
**Proposed Rules:**
71 ..... 10660

**15 CFR**
770 ..... 10760
776 (2 documents) ..... 10756, 10760
778 ..... 10760
799 (2 documents) ..... 10756, 10760
**Proposed Rules:**
771 ..... 10760
776 ..... 10760
778 ..... 10760

**28 CFR**
0 ..... 10509

**29 CFR**
**Proposed Rules:**
2550 ..... 10724

**30 CFR**
228 ..... 10510

**33 CFR**
117 ..... 10512
165 ..... 10513

**34 CFR**
**Proposed Rules:**
674 ..... 10742
675 ..... 10742
676 ..... 10742

**37 CFR**
201 ..... 10660
211 ..... 10660

**40 CFR**
61 ..... 10514
82 ..... 10660
**Proposed Rules:**
Ch. I ..... 10522
435 ..... 10664
61 (2 documents) ..... 10523, 10524

**42 CFR**
434 ..... 10515

**44 CFR**
64 (2 documents) ..... 10515–10517

**46 CFR**
**Proposed Rules:**
56 ..... 10526
58 ..... 10526
107 ..... 10526
108 ..... 10526
109 ..... 10526
111 ..... 10526
174 ..... 10526

**47 CFR**
73 (3 documents) ..... 10518, 10519
**Proposed Rules:**
43 ..... 10526
73 (2 documents) ..... 10527

**49 CFR**
1177 ..... 10519
**Proposed Rules:**
575 ..... 10661

**50 CFR**
675 ..... 10521
**Proposed Rules:**
675 ..... 10527

# Rules and Regulations

Federal Register
Vol. 56, No. 49
Wednesday, March 13, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 944

[Docket No. FV-91-222]

### Kiwifruit Imported into the United States; Quality, Size and Maturity Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule requires kiwifruit offered for importation into the United States to meet the same grade, quality, size and maturity standards that are in effect for kiwifruit grown in California under Marketing Order No. 920. The intent of this action is to ensure imports of acceptable quality and size kiwifruit, and is made necessary by recent legislation which added kiwifruit to the list of commodities covered by section 8e of the Agricultural Marketing Agreement Act of 1937. This action should benefit kiwifruit producers, marketers, importers and consumers.

**DATES:** The interim final rule is effective on imported kiwifruit shipped from the port of origin after March 16, 1991; comments which are received by April 12, 1991, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456. Three copies of all written material should be submitted, and they will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone (202) 447-2431.

**SUPPLEMENTARY INFORMATION:** This rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, which provides that whenever certain specified commodities, including kiwifruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity.

This interim final rule has been reviewed by the Department in accordance with Departmental regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this section on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on those established under Federal marketing orders. Thus, they should also have small entity orientation, and impact both small and large business entities in a manner comparable to rules issued under such marketing orders.

There are approximately 75 importers of kiwifruit who will be subject to regulation under this action. Small agricultural service firms, which include kiwifruit importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000. The majority of the importers of kiwifruit may be classified as small entities.

This action is being initiated by the U.S. Department of Agriculture because section 8e of the Act (7 U.S.C. 608e-1) was recently amended to require imported kiwifruit to meet the same or comparable grade, size, quality and maturity requirements as those established under domestic marketing orders. Under this interim final rule, imported kiwifruit will have to meet the same minimum grade, size, quality and maturity requirements as domestically produced kiwifruit that is grown in California and regulated under Marketing Order No. 920 (7 CFR part 920).

California accounts for virtually all commercial production of kiwifruit in the U.S. Production has increased significantly in the past decade, reaching a record 11.5 million trays in 1990. (The net weight of a standard tray of kiwifruit is about 7.5 pounds.) Kiwifruit grown in California is typically harvested in late September or October. The fruit is packed shortly after harvest, and the bulk of the crop is placed into storage for later shipment. The domestic marketing season begins just subsequent to harvest and is concentrated through the following May. In recent seasons, however, supplies of California kiwifruit have been available all year long. The lengthening of the marketing season can be attributed to increasing supplies, improved consumer demand, and better storage techniques. The handling regulation established for California-grown kiwifruit is therefore in effect throughout the year. Thus, the import regulation will similarly be in effect year round in accord with section 8e.

Currently, fresh market shipments of California kiwifruit are required to be at least Size 49. Size 49 is defined to mean that no more than 60 pieces of fruit may be in an 8-pound sample.

The minimum grade requirement established for California kiwifruit is referred to as "KAC No. 1" quality (7 CFR 920.302). Kiwifruit meeting this quality standard is kiwifruit that meets all but the shape requirement of the U.S. No. 1 grade, as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340). With regard to shape, California kiwifruit is subject to the basic requirement of the

U.S. No. 2 grade, which is that the kiwifruit be "not badly misshapen."

This rule establishes these same minimum grade, size and quality requirements for kiwifruit imported into the U.S. While California kiwifruit is also subject to a number of pack and container requirements, section 8e does not authorize such requirements to be imposed on imports.

The volume of kiwifruit imported into the U.S. has risen from 4.6 million pounds in 1984 to 43.5 million pounds in 1989. New Zealand is the principal source of U.S. kiwifruit imports, accounting for roughly 95 percent of the total in 1989. Chile accounted for most of the remaining 5 percent, but the U.S. is expected to become a more significant market for Chilean kiwifruit in the future as the sizeable nonbearing acreage in that country comes into production. Imports from New Zealand occur primarily from May through September, peaking in July and August. Imports of Chilean kiwifruit are expected to begin in late March.

As is true for other fresh commodities regulated under section 8e of the Act, the Federal or Federal-State Inspection Service of the AMS is designated as the organization to certify the grade, size, quality and maturity of kiwifruit offered for importation into the U.S. Importers are responsible for arranging for the required inspection and certification prior to importation, which is defined to mean release from custody of the U.S. Customs Service.

The services of the Federal or Federal-State Inspection Service are available on a fee-for-service basis. This action will therefore result in increased costs for importers who do not now have their kiwifruit inspected. These additional costs should be offset, however, by the benefits accrued by ensuring that only acceptable quality kiwifruit is present in the U.S. marketplace. Such quality assurance should promote buyer satisfaction and increased sales.

The domestic regulation provides that small quantities of kiwifruit—200 pounds or less—may be shipped without regard to the established grade, size, muturity and inspection requirements. This same minimum quantity exemption will apply to imported kiwifruit.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. Kiwifruit is currently being imported into the U.S., and additional supplies are expected in the near future. California-grown kiwifruit is also now being marketed, subject to the established grade, size, quality and maturity requirements. To be consistent with section 8e of the Act, which provides that domestic and imported kiwifruit be subject to the same requirements, this action should become effective as soon as possible. Therefore, all imported kiwifruit leaving port of origin after March 16, 1991, will be subject to the requirements hereafter set forth. This action should benefit kiwifruit importers, producers, marketers and consumers by assuring that only acceptable quality kiwifruit is available in the U.S. marketplace.

A 30-day period is provided to allow interested persons to comment on this interim final rule. All written comments received within the comment period will be considered prior to finalization of this rule.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

**List of Subjects in 7 CFR Part 944**

Import regulations, Kiwifruit.

For the reasons set forth in the preamble, 7 CFR part 944 is amended as follows:

## PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Part 944 is amended by adding a new § 944.550 to read as follows:

**§ 944.550 Kiwifruit import regulation.**

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any kiwifruit is prohibited unless such kiwifruit meet all the requirements of a U.S. No. 1 grade, except that such fruit shall be "not badly misshapen" as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340). Such fruit shall be at least Size 49, which means there shall be a maximum of 60 pieces of fruit per 8-pound sample.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the quality and size of kiwifruit imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to a particular shipment of kiwifruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR part 51) and in accordance with the procedure for requesting inspection and designating the agencies to perform required inspection and certification (7 CFR 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not reconditioned or exported shall be disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) Any person may import up to 200 pounds of kiwifruit in any one shipment exempt from the requirements of this section.

3. Section 944.400 is amended by revising the section heading and introductory text of paragraph (a) to read as follows:

**§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, kiwifruit, limes, oranges, and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.**

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, kiwifruit, limes, oranges and table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of the specified fruit, is required on all imports. Such inspection and certification services will be available

upon application in accordance with the Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products [7 CFR part 51] but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, kiwifruit, limes, oranges, and table grapes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the fruit will be imported:

* * * * *

Dated: March 8, 1991.

**Robert O. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 91-5956 Filed 3-12-91; 8:45 am]

BILLING CODE 3410-02-M

---

## 7 CFR Part 981

[AMS-FV-90-208FR]

## Almonds Grown in California; Minimum Prices for 1990-1991 Crop Year Reserve Almonds Disposed of by Handlers in Specified Outlets

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action establishes minimum prices for 1990-91 crop year reserve almonds disposed of by handlers in several specified outlets. These outlets are almond butter, natural almond paste, foil packets for sales to airlines, and sales to government agencies, including federal and state school lunch programs. The action is needed to help ensure that 1990-91 crop year almonds which handlers dispose of in reserve outlets are sold at prices which will not be detrimental to producers' returns. This action is based on a recommendation of the Almond Board of California (Board), which is responsible for local administration of the order, and other available information.

**EFFECTIVE DATE:** March 13, 1991.

**FOR FURTHER INFORMATION CONTACT:** Sheila Young, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3923.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under marketing agreement and Order No. 981 (7 CFR part 981), both as amended, hereinafter referred to as the order, regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with U.S. Department of Agriculture (USDA) Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of almonds who are subject to regulation under the marketing order and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This final action establishes minimum prices for 1990-91 crop year reserve almond disposed of by handlers in several specified outlets. This action is intended to help ensure that reserve almonds are sold at prices which will not be detrimental to producer's returns and is not expected to impose any additional burden or costs on handlers.

This action revises § 981.467 of subpart—Administrative Rules and Regulations and is based on a recommendation of the Board, passed on a 7 to 1 vote, and other available information.

Section 981.67 of the order provides that upon request of a handler, the Board shall authorize such handler to act as agent of the Board for the disposition of that handler's reserve almonds upon such reasonable terms and conditions as the Board may specify. A final rule was published in the **Federal Register** on September 21, 1990 (55 FR 38797), which established a reserve percentage of 35 percent for marketable California almonds received by handlers during the 1990-91 crop year, which began on July 1, 1990. That rule became effective on October 22, 1990.

Section 981.467(a) of the rules and regulations established under the order provides that a handler may become an agent of the Board pursuant to § 981.67 for the purpose of disposing of reserve almonds of a particular crop year in authorized outlets. Section 981.66(c) of the order provides that those authorized outlets shall be sales to governmental agencies or to charitable institutions for charitable purposes and for diversion into almond oil, almond butter, poultry or animal feed, and other channels which the Board finds are noncompetitive with existing normal markets for almonds. The Board has designated three additional outlets for the disposition of 1990-91 crop year reserve outlets—natural almond paste and foil packets for sales to airlines, and donations to Operation Desert Shield/Storm.

This action adds a new paragraph (c) to § 981.467 of the administrative rules and regulations to establish minimum prices for 1990-91 crop year almonds disposed of by handlers in several specified outlets. These outlets are almond butter, natural almond paste, foil packets for sales to airlines, and sales to government agencies, including federal and state school lunch programs. Different minimum prices are hereby established for different grades and other categories of shelled almonds. The grades used are those contained in the "United States Standards for Grades of Shelled Almonds" (7 CFR 51.2105-51.2132). The minimum prices are ranked according to the quality of the grade, with the highest quality grade receiving the highest price. Minimum prices for almonds to be used for almond butter manufactured in the 48 contiguous states and shipped to European Economic Community (EEC) nations are set lower than the corresponding prices for domestic shipments or for shipments to foreign countries other than EEC countries, however, to counter a 12 percent duty imposed by the EEC on finished products such as almond butter going to EEC countries.

The minimum prices are established on a F.O.B. basis from the handler's plant. Thus, transportation costs to the buyer's facilities are not included in the minimum prices. To include such costs in the minimum prices would require an unduly complicated minimum price system, as the transportation costs to ship almonds to various destinations vary widely. A maximum two percent

brokerage commission will be allowed to be included in the minimum prices. Brokers customarily are employed in the industry to negotiate sales between handlers and buyers and the standard industry commission for this service is two percent. No cash discounts will be allowed because to devise a method for cash discounts would unduly complicate the system.

The minimum prices established by this rule apply to the disposition of the 35 percent reserve established by a final rule published in the **Federal Register** on September 21, 1990 (55 FR 38797). The 35 percent reserve is estimated to represent 220 million kernelweight pounds of almonds. However, at a later date, the Board or two or more handlers who handled at least 15 percent of all almonds handled during the 1989–90 crop year could request that all or a portion of this reserve be released to the salable category. Pursuant to § 981.48 of the order, this recommendation must be made prior to May 15, 1991. In fact, on December 3, 1990, the Board recommended to the Secretary lowering the reserve percentage from 35 percent to 30 percent. The 1990–91 reserve percentage was subsequently reduced from 35 to 30 percent on February 11, 1991 (55 FR 5307). Further, on February 21, 1991, the Board recommended lowering the reserve percentage from 30 to 20 percent. At its July 25, 1990, meeting, however, the Board passed a resolution that it does not expect to recommend that the salable percentage for the 1990–91 crop year be increased to more than 93 percent of marketable production. The Board believes that, while additional almonds may need to be released to the salable category at a future date if it is found that the current 65 percent salable percentage is insufficient to satisfy 1990–91 trade demand needs or for desirable carryover requirements for use during the 1991–92 crop year, at least 7 percent of marketable production is not likely to be needed for this purpose.

The minimum prices, as recommended by the Board and implemented by this action, are in the range of 60 cents to 95 cents per kernelweight pound. These prices are expected to be approximately one-half of what comparable grades of almonds are expected to sell for in salable markets. By contrast, almonds disposed of in low-value outlets, such as almond oil and animal feed, for which no minimum prices are established, are expected to sell for less than 10 cents per kernelweight pound.

In making its recommendation for minimum prices, the Board considered different price levels for the various grades and categories for which minimum prices were desired. It was determined that the prices ultimately recommended were at levels that are competitive with other nuts, particularly peanuts, used for similar products such as peanut butter and foil packets of peanuts.

The Board hopes to develop new markets for almonds by supplying those markets with reserve almonds, which are generally sold at prices lower than those for salable almonds. However, the Board would also like sales to those markets to cover the costs of processing the almonds and provide at least some returns to growers. Thus, these minimum prices are intended to ensure the highest return possible to growers within the contraints of providing buyers of reserve almonds a price which is attractive enough to encourage the development of new markets, which in future years may utilize substantial quantities of salable almonds at competitive prices.

At the Board's December 3, 1990, meeting some members of the almond industry wanted the minimum prices established herein to apply to dispositions since July 1, 1990, the beginning of the crop year. Under this scenario, handlers would have received reserve credit for any dispositions made during the crop year which complied with the proposed minimum price requirements, even though those requirements were not established until the crop year was well under way. It is the position of the USDA, however, that applying such minimum prices in this manner would have discouraged handlers from disposing of reserve almonds until the rulemaking process on this issue was completed, due to uncertainty as to what minimum prices, if any, would have been established. Section 981.67 of the order provides that the Board shall authorize a handler to act as an agent of the Board for the purpose of disposing of reserve almonds upon request of the handler. It is the position of the USDA that handlers should be allowed to dispose of reserve almonds in a timely manner without concern as to minimum prices established after dispositions have been made. Therefore, the minimum prices will apply only to dispositions made after the effective date of this rule.

The Board also recommended surcharges for various finished products, such as almond butter or foil packets of almonds, manufactured by handlers themselves. These recommended surcharges would have required handlers to sell these finished products at a specified minimum price above the minimum price for the almonds themselves. Establishing such surcharges would unduly complicate the minimum price system, without necessarily benefiting producer returns. In addition, the recommendation failed to indicate how such a proposal is within the ambit of the order provisions. Therefore, these surcharges are not included in this rule.

Notice of this action was published in the **Federal Register** on December 7, 1990 (55 FR 50560). Written comments from interested persons were invited through December 24, 1990. Four comments were received.

Three comments of identical nature were received from attorney Brian Leighton, on behalf of Gold Hills Nuts Company; MacEnterprises, Brownslake Ranch, Van Kay, Inc., and Mr. Derk Van Konynenburg; and Cal-Almond, Inc. These commenters' first issue concerns the classification of the proposed minimum price rule as a "major" or a "non-major" rule. The USDA, in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291, determined the rule to be a "non-major" rule.

The commenters, in objecting to the "non-major" status of the rule, calculated the total dollar value of the reserve (estimated at 200 million kernelweight pounds) and equated this figure to lost revenue. In actual practice, the reserve does not equal lost revenue because such a calculation does not take into account expected improved returns for the current 65 percent salable portion of the crop or the returns received for the current 35 percent of the crop which will be sold in noncompetitive outlets or released to the salable category at a later date. (Both the salable and reserve percentages were established in a final rule published in the **Federal Register** on September 21, 1990 (55 FR 38797).)

Two approved outlets for disposing of reserve almonds are sales for airline snack packs and for almond paste. The commenters assert that while these may be available outlets, many handlers do not have the packaging and manufacturing facilities in order to prepare the product. This, the commenters maintain, limits sales of snack packs to airlines and sales of almond paste to those handlers with certain facilities.

While it is true that some handlers have packaging and manufacturing facilities while other handlers do not, the Board and the USDA have stated that handlers themselves do not have to manufacture the snack packets for airlines and almond paste. Handlers

may sell the almonds to a packer who in turn will package the almonds. Handlers may also sell their reserve almonds to a manufacturer who in turn will make the almonds into paste. All handlers, therefore, are free to compete for airline contracts and for almond paste outlets by choosing to sell the almonds to a packer for sale to airlines or by selling the almonds to a manufacturer for making almond paste.

The commenters continue by stating that the only other reserve outlets besides almond paste and snack packs for airlines are to low value outlets such as cattle feed and almond oil. This in not the case. Along with almond paste and snack packs for airlines, there remain outlets for almond butter, governmental purchases for state and local school lunch programs, and sales to charitable organizations for charitable purposes.

The commenters further state that sales to governmental agencies for the Federal school lunch program has not proven to be a viable outlet because the government has offered to purchase only 2.2 million pounds of almond butter so far this crop year. The USDA disagrees with that statement. The amount which the USDA intends to purchase is substantial. On January 11, 1991, the USDA issued a notice of intent to purchase approximately 7.5 million pounds, in addition to the first 2.2 million pounds, of almond butter which the USDA is already committed to purchase for the school lunch program.

The commenters assert that since few handlers have disposed of their reserve almonds through the above-mentioned reserve outlets thus far this crop year, that these outlets impose additional burdens or costs on handlers. The USDA disagrees with this assertion. The Board is attempting to develop new and long-term outlets for handlers to dispose of reserve almonds. In addition to the above-mentioned outlets, handlers may work with local school districts, colleges, and universities to promote the sale of reserve almonds in the school lunch program at local and state levels. Any burdens imposed on handlers is far outweighed by the long term-benefits of developing these outlets.

The three commenters also do not think that the almond butter program would open up new uses for almonds and, therefore, should not be named as an outlet. The outlet for almond butter is specified as a reserve outlet under § 981.66(c) of the order. While the main thrust of this year's program is not almond butter, the option for almond butter to be an outlet cannot be eliminated through this rulemaking action because it is specified that it must be an option in the order. In addition, the USDA has asked the almond industry for a total of 9.7 million pounds of almond butter so far this crop year.

The three commenters state that selling almonds to airlines is not a "new" outlet since the peanut industry entered that market earlier. The Department disagrees with this statement. Sales of snack packs to airlines is a newly designated reserve outlet for almonds.

The three commenters state that the Act requires that the burdens of a surplus almond crop and reserve, and the benefits of the returns on the disposition of reserves, should be equitably apportioned. The commenters maintain, however, that not all handlers have equal opportunities to dispose of their reserve almonds. The USDA disagrees with these claims. All handlers of California almonds are bound under the same salable, reserve, and export percentages under the order. Further, all handlers have the opportunity to dispose of their reserve almonds through the Board approved outlets by signing an agency agreement. Under § 981.66(a) of the order, handlers may also choose to deliver their reserve almonds to the Board. The Board is then obligated to dispose of reserve almonds upon the best terms and conditions and at the highest return obtainable for reserve almonds.

The commenters state that § 981.67 of the almond marketing order, which states that if a handler requests to act as an agent of the Board, does not provide the authority for establishing minimum prices. Section 981.67 states that the Board may specify reasonable terms and conditions under which handlers may dispose of reserve almonds. It is the view of the USDA, as stated in the proposed minimum price rule, the minimum prices are authorized under § 981.67 of the order.

The commenters continue by stating that the reserve outlets for almond butter, almond paste and snack packs for airlines are profitable and, therefore, should not be specified outlets. As stated earlier, the Board is trying to develop new long-term markets for almonds. Under § 981.66(c) of the order, almond butter and almond oil are specified outlets for reserve almonds. Also under § 981.66(c) it states that the Board may find other outlets for reserve almonds which are noncompetitive with normal markets for almonds. Almond paste and snack packs for airlines fit into this noncompetitive outlet category for reserve almonds. The almond paste and snack pack outlets are new markets for domestically sold almonds and take time to develop.

Another issue that the commenters raised concerns the retroactivity of minimum prices. The reasons for not making minimum prices retroactive are stated earlier in this rule and in the proposed rule for minimum prices.

The commenters also mention that handlers did not specifically request that minimum prices be established through informal rulemaking. However, by allowing the opportunity for notice and comment, all handlers, growers, and others are given the opportunity to have their concerns and suggestions addressed by the USDA.

The commenters state that minimum prices cannot apply to any contracts entered into by handlers to sell reserve almonds prior to the effective date of this rule, regardless of when these shipments actually occur. The USDA agrees with the commenters on this issue. All contracts entered into prior to the effective date of this final rule will not be affected by the minimum prices established herein.

These commenters state that they are in agreement with the exclusion of surcharges for the same reasons mentioned in the proposed rule.

Another commenter is Mr. Steve Easter, representing Blue Diamond Growers (Blue Diamond).

Blue Diamond supports the minimum prices as they were presented in the proposed minimum price rule. Blue Diamond continues by stating that the minimum prices reflected in the proposed schedule are lower than normal trade prices and relatively attractive in the Board approved outlets, which in turn encourages increased almond consumption in these markets.

Blue Diamond adds that it is vital to establish minimum prices if an effective market development program is to be conducted using reserve almonds. According to Blue Diamond, minimum prices will provide that the industry as a whole will be working to develop these important new outlets, no one handler will have an advantage over other handlers, and all (handlers) will be focused on development of the market using a price lower than the general market price. Blue Diamond also adds that this effort will encourage almond consumption in new outlets while treating all handlers equally.

Blue Diamond does add, however, that the exclusion of the surcharges from the proposed minimum price rule will make it difficult for the Board to verify that handlers have met the minimum price provisions for the raw materials used in the manufactured items under the current reserve program. The USDA

disagrees for the reasons stated earlier in this rule and in the proposed rule.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the Board, and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Handlers are already disposing of their reserve almonds; and (2) Handlers, buyers, and producers should know as soon as possible the minimum prices which are in effect.

**List of Subjects in 7 CFR Part 981**

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

## PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 981.467 is amended by adding a new paragraph (c) to read as follows:

**§ 981.467 Disposition in reserve outlets by handlers.**

* * * * *

(c) *Minimum prices.* Minimum prices shall apply to 1990–91 crop year reserve almonds diverted to almond butter, natural almond paste, foil packets for sales to airlines, and sales to government agencies, including federal and state school lunch programs. Prices are F.O.B. handlers plant. The prices may contain a maximum of two percent brokerage commission. No cash discounts are allowed. The prices are as follows for various grades or categories of almonds:

| Grade or category | Price per pound |
|---|---|
| U.S. Select Sheller Run or better, unblanched. | 75 cents. |
| U.S. Standard Sheller Run, unblanched. | 74 cents. |
| U.S. No. 1 Whole and Broken, unblanched. | 73 cents. |
| U.S. No. 1 Pieces, unblanched | 73 cents. |
| U.S. No. 1 Pieces or better, unblanched, to be used for almond butter manufactured in the 48 contiguous states and shipped to EEC countries. | 60 cents. |
| Blanched made from U.S. No. 1 Pieces or better. | 95 cents. |
| Blanched made from U.S. No. 1 Pieces or better to be used for almond butter manufactured in the 48 continguous states and shipped to EEC countries. | 82 cents. |

Dated: March 8, 1991.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 91–5929 Filed 3–12–91; 8:45 am]

BILLING CODE 3410–02–M

---

## Farmers Home Administration

## 7 CFR Part 1940

## Methodology and Formulas for Allocation of Loan and Grant Program Funds

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) amends its regulation regarding formula allocation to immediately accommodate the guaranteed Section 502 Housing program, as set forth in section 706 of the Cranston-Gonzalez National Affordable Housing Act. The intended effect of this final rule is to immediately allocate $100 million in Guaranteed Section 502 Housing program funds for Fiscal Year 1991, to twenty FmHA States selected for program implementation testing.

Therefore, the final rule is issued on an emergency basis by the Agency to comply with Congressional mandates and time frames established for the successful implementation of the Section 502 Guaranteed Housing program in Fiscal Year 1991.

**EFFECTIVE DATE:** March 13, 1991.

**FOR FURTHER INFORMATION CONTACT:** Neal A. Hayes, Jr., Senior Loan Officer, Home Ownership Branch, Single Family Housing Processing Division, FmHA USDA, room 5344, South Agriculture Building, Washington, DC 20250, Telephone: (202) 382–1488.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal agency management. Section 534 of the Housing Act of 1949 requires that all rules and regulations issued pursuant to that Act must be published for public comment. The one noted exception is for a rule or regulation issued on an emergency basis. This action is not published for proposed rule making since it involves an emergency situation because there is not enough time to go through the proposed rulemaking process and still be able to allocate the $100 million appropriated for use in fiscal year 1991 so that a viable guaranteed rural Housing demonstration program would function this fiscal year.

**Environmental Impact Statement**

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

**Intergovernmental Consultation**

For the reason set forth in the final rule related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

**Programs Affected**

This program is listed in the catalog of Federal Domestic Assistance under 10.429, Guaranteed Rural Housing Loans—Demonstration Program.

**List of Subjects in 7 CFR Part 1940**

Administrative practice and procedure, Agriculture, Allocations, Grant programs, Housing and community development, Loan programs—Agriculture and rural areas.

Therefore, part 1940, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

## PART 1940—GENERAL

1. The authority citation for part 1940 continues to read as follows:

**Authority:** 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70

## Subpart L—Methodology and Formulas for Allocation of Loar and Grant Program Funds

2. Sections 1940.563 and 1940.564 are added to subpart L of part 1940 to read as follows:

**§ 1940.563 Section 502 non-subsidized guaranteed Rural Housing (RH) loans.**

(a) *Amount available for allocations.* See § 1940.552(a) of this subpart.

(b) *Basic formula criteria, data source and weight.* See § 1940.552 (b) of this subpart. The criteria used in the basic formula are:

(1) State's percentage of the National number of rural occupied substandard units,

(2) State's percentage of the National rural population in places of less than 2,500 population,

(3) State's percentage of the national number of rural households between 80 and 100 percent of the area median income, and

(4) State's percentage of the national number of rural renter households paying more than 35 percent of income for rent.

Data source for each of these criteria is based on the latest census data available. Each criterion is assigned a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a basic State factor (SF) as follows:

SF = (criterion 1 × weight of 30%) + (criterion 2 × weight of 10%) + (criterion 3 × weight of 30%) + (criterion 4 × weight of 30%)

(c) *Basic formula allocation.* See § 1940.552(c) of this subpart.

(d) *Transition formula.* See § 1940.552(d) of this subpart. The percentage range used for Section 502 guaranteed RH loans is plus or minus 15.

(e) *Base allocation.* See § 1940.552(e) of this subpart. Jurisdictions receiving administrative allocations do not receive base allocations.

(f) *Administrative allocations.* See § 1940.552(f) of this subpart. Jurisdictions receiving formula allocations do not receive administrative allocations.

(g) *Reserve.* See § 1940.552(g) of this subpart.

(h) *Pooling of funds.* See § 1940.552(h) of this subpart.

(1) Mid-year: If used in a particular fiscal year, available funds unobligated as of the pooling date are pooled and redistributed based on the formula used to allocate funds initially.

(2) Year-end: Pooled funds are placed in a National Office reserve and are available as determined administratively.

(i) *Availability of the allocation.* See § 1940.552(i) of this subpart.

(j) *Suballocation by the State Director.* See § 1940.552(j) of this subpart. Annually, the Administrator will advise State Director's whether or not suballocation within the State Office jurisdiction will be required for the guaranteed Housing program.

(k) *Other documentation.* Not applicable.

**§ 1940.564 Section 502 subsidized guaranteed Rural Housing loans.**

(a) *Amount available for allocations.* See § 1940.552(a) of this subpart.

(b) *Basic formula criteria, data source and weight.* See § 1940.552(b) of this subpart. The criteria used in the basic formula are:

(1) State's percentage of the National number of rural occupied substandard units,

(2) State's percentage of the National rural population in places of less than 2,500 population,

(3) State's percentage of the national number of rural households below 80 percent of the area median income, and

(4) State's percentage of the national number of rural renter households paying more than 35 percent of income for rent.

Data source for each of these criteria is based on the latest census data available. Each criterion is assigned a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a basic State factor (SF) as follows:

SF = (criterion 1 × weight of 30%) + (criterion 2 × weight of 10%) + (criterion 3 × weight of 30%) + (criterion 4 × weight of 30%)

(c) *Basic formula allocation.* See § 1940.552(c) of this subpart.

(d) *Transition formula.* See § 1940.552(d) of this subpart. The percentage range used for section 502 guaranteed RH loans is plus or minus 15.

(e) *Base allocation.* See § 1940.552(e) of this subpart. Jurisdictions receiving administrative allocations do not receive base allocations.

(f) *Administration allocations.* See § 1940.552(f) of this subpart. Jurisdictions receiving formula allocations do not receive administrative allocations.

(g) *Reserve.* See § 1940.552(g) of this subpart.

(h) *Pooling of funds.* See § 1940.552(h) of this subpart.

(1) Mid-year: If used in a particular fiscal year, available funds unobligated as of the pooling date are pooled and redistributed based on the formula used to allocate funds initially.

(2) Year-end: Pooled funds are placed in a National Office reserve and are available as determined administratively.

(i) *Availability of the allocation.* See § 1940.552(i) of this subpart.

(j) *Suballocation by the State Director.* See § 1940.552(j) of this subpart. Annually, the Administrator will advise State Director's whether or not suballocation within the State Office jurisdiction will be required for the guaranteed Housing program.

(k) *Other documentation.* Not applicable.

Dated: February 12, 1991.

**Laverne Ausman,**

*Administrator, Farmers Home Administration.*

[FR Doc. 91-5864 Filed 3-12-91; 8:45 am]

BILLING CODE 3410-07-M

---

## DEPARTMENT OF JUSTICE

### Office of the Attorney General

### 28 CFR Part 0

**[Order No. 1479-91]**

### Delegation of Authority to the Deputy Attorney General and the Director of the Federal Bureau of Investigation

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This order will amend part 0 of title 28 of the Code of Federal Regulations to delegate to the Deputy Attorney General and the Director, Federal Bureau of Investigation, certain authority assigned to the Attorney General by section 528 of Public Law 101-509 regarding the use of Federal agency personnel in the investigation and prosecution of fraud or other unlawful activities in or against federally insured financial institutions.

**EFFECTIVE DATE:** March 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Ira H. Raphaelson, Acting Special Counsel for Financial Institution Fraud, U.S. Department of Justice, Washington, DC 20530, Telephone: (202) 514-4328.

**SUPPLEMENTARY INFORMATION:** Under section 528(a) of Public Law 101-509, the Attorney General may accept, and federal departments and agencies may provide, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the federal government to assist the Department of Justice, subject

to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation. Section 528(a)(3) authorizes law enforcement personnel of the United States Secret Service, subject to the Attorney General's supervision, to conduct or perform any kind of civil or criminal investigation which Department of Justice law enforcement personnel are authorized by law to conduct or perform related to criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation.

This order delegates to the Deputy Attorney General the Attorney General's authority under section 528(a) to accept the services of attorneys and non-law enforcement employees and to supervise such personnel in the performance of any investigation and prosecution described in that section. In addition, the order delegates to the Director, Federal Bureau of Investigation, the Attorney General's authority under section 528(a) to accept the services of law enforcement personnel and to coordinate the activities of such law enforcement personnel in the performance of any investigation and prosecution described in that section.

This order is a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of or subject to Executive Order No. 12291.

**List of Subjects in 28 CFR Part 0**

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 878(a), 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*, 50 U.S.C. App. 1989b, 2001–2017p; Public Law 91–513, sec. 501; EO 11919; EO 11267; EO 11300; Public Law 101–203.

2. Section 0.15 is amended by adding paragraph (g) to read as follows:

**§ 0.15 Deputy Attorney General.**

* * * * *

(g) The Deputy Attorney General is authorized to exercise the authority vested in the Attorney General under section 528(a), Public Law 101–509, to accept from federal departments and agencies the services of attorneys and non-law enforcement personnel to assist the Department of Justice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, and to supervise such personnel in the conduct of such investigations and prosecutions.

3. Section 0.85 is amended by adding paragraph (n) to read as follows:

**§ 0.85 General functions.**

* * * * *

(n) Exercise the authority vested in the Attorney General under section 528(a), Public Law 101–509, to accept from federal departments and agencies the services of law enforcement personnel to assist the Department of Justice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, and to coordinate the activities of such law enforcement personnel in the conduct of such investigations and prosecutions.

Dated: March 1, 1991.

**Dick Thornburgh,**

*Attorney General.*

[FR Doc. 91–5721 Filed 3–12–91; 8:45 am]

BILLING CODE 4410-01-M

---

## DEPARTMENT OF THE INTERIOR

## Minerals Management Service

## 30 CFR Part 228

## RIN 1010-AB36

## Removal of Federal Funding Limitation for State and Indian Cooperative Agreements

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** The Minerals Management Service (MMS) is amending its regulations governing the funding of cooperative agreements with States or Indian tribes. The amended regulations will permit the Federal Government to fund up to 100 percent of the costs of eligible activities under a cooperative agreement with a State or Indian tribe.

**EFFECTIVE DATE:** April 12, 1991.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231–3432 or (FTS) 326–3432.

**SUPPLEMENTARY INFORMATION:** The principal author of this final rulemaking is Marvin D. Shaver of the Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, Lakewood, Colorado.

### I. Background

Section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1732, authorizes the Secretary of the Interior to enter into a cooperative agreement with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under FOGRMA and to carry out other activities described in section 108 of FOGRMA. The MMS's implementing regulations at 30 CFR part 228 provide that the Federal share of funding of such activities is limited to not more than 50 percent of the cost of eligible activities as established under the terms of the cooperative agreement.

In February 1988, the Special Committee on Investigations of the U.S. Senate Select Committee on Indian Affairs (Select Committee) initiated a comprehensive investigation into the Federal Government's relationship with American Indians. On May 12, 1989, MMS representatives testified before the Committee that MMS was committed to work to improve services to the Indian community. To fulfill that commitment, the MMS Director created a task force to evaluate the Committee's concerns and develop an improvement plan. The MMS task force, with input from State and tribal auditors, Indian tribes and allottees, and MMS royalty management personnel, identified several initiatives to improve services to the Indian community. One of these initiatives was to remove the 50-percent Federal funding limitation on cooperative agreements provided for in 30 CFR 228.105 and 228.107. The task force recommended that the funding for Indian cooperative agreements should be the same as delegated agreements with States pursuant to section 205 of FOGRMA, 30 U.S.C. 1735, which are reimbursed at 100 percent, to provide equity for all groups.

In July 1989, MMS requested formal review of the proposed improvements by the Department of the Interior's Royalty Management Advisory

Committee (RMAC). The RMAC, chartered by the Secretary of the Interior to advise him on royalty management issues, is comprised of representatives from industry, States, and Indian tribes and allottees. The RMAC established a work panel representing these constituent interests to review the proposed initiatives and provide recommendations to RMAC. Based on recommendations of the work panel, RMAC accepted the proposed initiative to remove the 50-percent Federal funding limitation on cooperative agreements. The RMAC made this recommendation in its final report to the Secretary on September 13, 1989. The RMAC recommended the proposed initiative to be responsive to Indian tribal concerns. The RMAC also concluded that the proposed initiative provides more equity in the funding of State and Indian audit agreements, and that it could increase the number of cooperative agreements in the future.

During September 1989, MMS provided the Select Committee with a list of proposed improvements and a copy of the RMAC report. The Select Committee was advised that the proposed initiatives for improvements would be incorporated into an MMS Action Plan. The MMS Action Plan was published in February 1990 and included an action item to propose to modify existing regulations governing section 202 cooperative agreements to allow 100 percent reimbursement for eligible cooperative agreement audit costs.

The MMS published a Notice of Proposed Rulemaking in the **Federal Register** on August 9, 1990 (55 FR 32448), proposing to amend its regulations to remove the 50-percent funding limitation. In response to the proposed rulemaking, MMS received comments from four interested parties. All of the comments were considered in the final rule and are discussed in section II below. The final rule is summarized and discussed in section III below.

## II. Comments Received on Proposed Rule

As stated above, MMS published a Notice of Proposed Rulemaking in the **Federal Register** on August 9, 1990 (55 FR 32448). The proposed rule provided for a 30-day public comment period which ended September 10, 1990. Four commenters (three Indian representatives and one State) submitted comments in response to the proposed rulemaking.

The three Indian commenters expressed strong support for adoption of the proposed amendment to remove the Federal funding limitation on cooperative agreements. Although the State representative did not specifically express support for the proposed rule, the State's concurrence was implied by a requested amendment to section 202 of FOGRMA. The State representative recommended that section 202 be amended to include an option for a State to enter into an agreement with MMS without reimbursement by MMS as a mandatory requirement of the cooperative agreement.

*Response:* Paragraph (c) of section 202 of FOGRMA states that any cooperative agreement shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of the Act. Because the Secretary or his designated representative has the authority to specify terms and conditions in a cooperative agreement, MMS does not consider it necessary for section 202 to be amended to include the recommended option. In any event, FOGRMA amendments must be enacted by Congress.

However, based on the State commenter's recommendation, MMS has amended §§ 228.100 and 228.105 of the final rule to provide for cooperative agreements without a requirement for Federal funding. If a cooperative agreement provides for Federal funding, the amount of costs to be reimbursed would be established under the terms of the cooperative agreement, up to 100 percent of the costs of eligible activities.

The State representative also pointed out an error in the Supplmentary Information section of the proposed rule relative to MMS's statement that: "Although a State can enter into a cooperative agreement under the provisions of section 202 of FOGRMA and 30 CFR Part 228, no State has requested to do so." The representative referred to an application for a cooperative agreement that had been filed by his State, which is in the process of being reviewed by MMS. Therefore the above statement in the proposed rule was incorrect.

## III. Summary of Final Rule

The final rulemaking amends existing MMS regulations at paragraph (a) Of §§ 228.105 and 228.107 to remove the 50-percent Federal funding limitation. Under the final rule, MMS may reimburse States and Indian tribes up to 100 percent of eligible costs based on the satisfactory performance of activities as established under the terms of the cooperative agreement. The final rule also adds a new paragraph (c) under § 228.100 and a new § 228.105(a)(2) to provide for cooperative agreements without a requirement for Federal funding. The reference to 48 CFR 31.107 and 31.6 included under § 228.105(a) of the proposed rule was redesignated, with clarification, as a new § 228.103(b) of the final rule for organizational purposes.

## IV. Procedural Matters

### *Executive Order 12291 and the Regulatory Flexibility Act*

The Department has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### *Executive Order 12630*

Because this rule would result in an increase in funds to States and Indian tribes that have entered into a cooperative agreement, the Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

### *Paperwork Reduction Act of 1980*

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* Public reporting burden for this collection of information is estimated to average 152 hours per response, including the time for reviewing instructions, searching existing data resources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Mail Stop 2300, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070, and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

### *National Environmental Policy Act of 1969*

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

**List of Subjects in 30 CFR Part 228**

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: January 3, 1991.

**James M. Hughes,**

*Deputy Assistant Secretary—Land and Minerals Management.*

For the reasons set out in the preamble, 30 CFR part 228 is amended as set forth below:

## PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

1. The authority citation for part 228 continues to read as follows:

**Authority:** Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

2. Section 228.100, under subpart C, add a new paragraph (c) to read as follows:

**§ 228.100 Entering into an agreement.**

* * * * *

(c) The eligible activities to be conducted under the terms of a cooperative agreement may be funded or unfunded by the Department. See § 228.105 of this subpart for funding of cooperative agreements.

3. Section 228.103, under subpart C, redesignate and revise the existing paragraph as paragraph (a) and add a new paragraph (b) to read as follows:

**§ 228.103 Maintenance of records.**

(a) The State or Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials for a period specified by MMS. All records and support materials must be available for inspection and review by appropriate personnel of the Department including the Office of the Inspector General.

(b) The State or Indian tribe shall maintain all books and records as may be necessary to assure compliance with the provisions of chapter 1, 48 CFR 31.107 and 48 CFR subpart 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

(4) Section 228.105, under subpart C, revise paragraph (a) and add a new paragraph (c) to read as follows:

**§ 228.105 Funding of cooperative agreements.**

(a)(1) The Department may, under the terms of the cooperative agreement, reimburse the State or Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement.

(2) A cooperative agreement may be entered into with a State or Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.

* * * * *

(c) The State or Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. The State or Indian tribe must provide the Department a summary of costs incurred, for which the State or Indian tribe is seeking reimbursement, with the voucher.

5. Section 228.107, under subpart C, revise paragraph (a) to read as follows:

**§ 228.107 Eligible cost of activities.**

(a) If a cooperative agreement provides for Federal funding, only costs directly associated with eligible activities undertaken by the State or Indian tribe under the terms of a cooperative agreement will be eligible for reimbursement. Costs of services or activities which cannot be directly related to the support of activities specified in the agreement will not be eligible for Federal funding or for inclusion in the State's share or in the Indian tribe's share of funding that may be established in the agreement.

* * * * *

[FR Doc. 91-5900 Filed 3-12-91; 8:45 am]

BILLING CODE 4310-MR-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 117

[CGD13 90-13]

### Drawbridge Operation Regulations; Duwamish Waterway, WA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Seattle Engineering Department (SED), the Coast Guard is changing the regulations governing the First Avenue South highway bridge across the Duwamish Waterway, mile 2.5, at Seattle, Washington, by lengthening the weekday morning and evening periods during which the bridge need not open for the passage of vessels (closed periods). This change is being made because of increases in both the volume and duration of vehicular traffic during morning and afternoon peak periods. The change will extend morning and afternoon closed periods by one hour each. Morning closed periods will be from 6 a.m. to 9 a.m. and evening closed periods will be from 3 p.m. to 6 p.m. This action should accommodate the needs of increased vehicular traffic and should still provide for the reasonable needs of navigation.

Also, the Coast Guard is revoking the regulations governing the Spokane Street highway bridge across the Duwamish West Waterway, mile 0.3, at Seattle, Washington. The bridge has been removed from the waterway and is being replaced with a new bridge which will provide greater navigation clearances.

**DATES:** These regulations become effective on April 12, 1991.

**FOR FURTHER INFORMATION CONTACT:** John E. Mikesell, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch (Telephone: (206) 553-5864).

**SUPPLEMENTARY INFORMATION:** On August 17, 1990, the Coast Guard published a proposed rule (55 FR 33723) concerning the First Avenue South Bridge. The Commander, Thirteenth Coast Guard District, also published the proposal as Public Notice 90-N-06, dated August 17, 1990. In each notice interested persons were given until October 1, 1990 to submit comments.

**Drafting Information**

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Deborah K. Schram, project attorney.

**Discussion of Comments**

Three comments were received concerning the First Avenue South Bridge. Two were from federal resource agencies who routinely respond to our public notices. Both had no objection to the proposed change. The third comment was from a barge and towing industry association. The commenter was concerned that the change would adversely affect scheduled departures of some barge line operators, citing a weekly 3:45 p.m. departure of one operator. We have carefully considered this comment and have decided that the requested increase in closed period time is not excessive and that barge operators can easily reschedule their departure times to accommodate it. Since the publication of the Notice of Proposed Rulemaking in August 1990, it was determined that the Spokane Street Bridge has been removed from the waterway. Accordingly, the portion of the final rule governing the First Avenue

South Bridge is unchanged from the proposed rule published on August 17, 1990 and the portion of the rule governing the Spokane Street Bridge has been deleted.

### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this action is expected to be so minimal that a full regulatory evaluation is unnecessary. Extending the morning and evening closed periods by one hour each will not impose undue hardship on waterway users. Since the economic impact of this action is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.1041 paragraph (a)(1) is revised and paragraph (b)(1) is removed and reserved as follows:

**§ 117.1041 Duwamish Waterway.**

(a) * * *

(1) From Monday through Friday, except Federal holidays, the draws of the First Avenue South Bridge, mile 2.5, need not be opened for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m., except: The draws shall open at any time for a vessel of 5,000 gross tons and over, a vessel towing a vessel of 5,000 gross tons and over, and a vessel proceeding to pick up for towing a vessel of 5,000 gross tons and over.

(2) * * *

(b) * * *

(1) (reserved)

* * * * *

Dated: February 26, 1991.

J.E. Vorbach,

*Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.*

[FR Doc. 91–5673 Filed 3–12–91; 8:45 am]

BILLING CODE 4910–14–M

---

## 33 CFR Part 165

**[COTP Los Angeles/Long Beach Regulation 91–06]**

## Safety Zone Regulations; Ports of Los Angeles/Long Beach, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Emergency rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the navigable waters of Los Angeles harbor West Basin inland from a line drawn between Los Angeles berth 120 to Los Angeles berth 148, due to the clean up of an oil spill occurring at Los Angeles berth 146. The zone is needed to protect the personnel and equipment involved in the cleanup of an oil spill occurring at Los Angeles berth 146. Entry into this zone is prohibited unless authorized by the Captain of the Port.

**EFFECTIVE DATES:** This regulation becomes effective at 7 a.m., February 27, 1991. It terminates at 7 a.m., March 15, 1991.

**FOR FURTHER INFORMATION CONTACT:** LT R. F. Shields at (213) 499–5570.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Regulation publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury or damage to the personnel and equipment involved in the cleanup of an oil spill occurring at Los Angeles berth 146.

### Drafting Information

The drafters of this regulation are LT R. F. Shields, project officer for the Captain of the Port, and LCDR A. LOTZ, project attorney, Eleventh Coast Guard District Legal Office.

### Discussion of Regulation:

The event requiring this regulation will occur between 7 a.m., February 27, 1991. It terminates at 7 a.m., March 15 1991. This safety zone is necessary to ensure the safety of the personnel and equipment involved in the cleanup of an oil spill occurring at Los Angeles berth 146.

### Federalism

This action has been analyzed in accordance with the principles and criteria contained in the Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### List of Subjects in 33 CFR Part 165

Harbors marine safety, Navigation (water), Security measures, Vessels, Waterways.

### Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

## PART 165 [AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. A new section 165.T1106 is added to read as follows:

**§ 165.T1106 Safety Zone: Port of Los Angeles, CA.**

(a) *Location.* The following area is a safety zone:

The navigable waters of Los Angeles harbor West Basin inland from a line drawn between Los Angeles berth 120 to Los Angeles berth 146.

(b) *Effective Date.* This regulation becomes effective 7 a.m., February 27, 1991. It terminates at 7 a.m. March 15, 1991.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain Of The Port.

Dated: February 27, 1991.

J.B. Morris,

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles/Long Beach.*

[FR Doc. 91–5892 Filed 3–12–91; 8:45 am]

BILLING CODE 4910–14–M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 61**

**[FRL-3913-3]**

## National Emissions Standards for Hazardous Air Pollutants

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Order temporarily staying effective date.

**SUMMARY:** On February 13, 1991, EPA proposed to adopt a rule staying the effectiveness until November 15, 1992 of subpart I of 40 CFR part 61 for all categories of NRC-licensed facilities other than nuclear power reactors. The purpose of the proposed stay is to enable EPA to collect information needed to make a determination under section 112(d)(9) of the Clean Air Act for these facilities. Although the current stay of subpart I is scheduled to expire on March 9, 1991, EPA will be unable to take final action on the proposed rule in a manner conforming to the procedures specified by section 307(d) of the Clean Air Act prior to that date. In order to prevent subpart I from taking effect pending final action concerning the proposed stay, EPA is today issuing an order temporarily staying the effectiveness of subpart I for all NRC-licensed facilities other than nuclear power reactors until April 15, 1991.

**DATE:** This order stays the effectiveness of 40 CFR part 61, subpart I for all categories of NRC-licensed facilities other than nuclear power reactors until April 15, 1991.

**FOR FURTHER INFORMATION CONTACT:** Al Colli, Environmental Standards Branch, Criteria and Standards Division (ANR-460W), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460, (703) 308-8787.

**SUPPLEMENTARY INFORMATION:**

### A. Background

On October 31, 1989, EPA promulgated standards controlling radionuclide emissions to the ambient air from several source categories, including emissions from licensees of the Nuclear Regulatory Commission (NRC) and from federal facilities not licensed by the NRC or operated by the Department of Energy (non-DOE Federal facilities) (subpart I 40 CFR part 61). This rule was published in the **Federal Register** on December 15, 1989 (54 FR 51654). At the same time as the rule was promulgated, EPA granted reconsideration of subpart I based on information received late in the rulemaking on the subject of duplicative regulation by NRC and EPA and on potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and also granted a 90-day stay of subpart I as permitted by Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607 (d)(7)(B).

EPA subsequently extended the stay of the effective date of subpart I on several occasions, pursuant to the authority provided by section 10(d) of the Administrative Procedure Act (APA), 5 U.S.C. 705, and section 301(a) of the Clean Air Act, 42 U.S.C. 7601(a). (55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990). The present stay of subpart I will expire on March 9, 1991.

On October 1990, Congress passed new legislation amending the Clean Air Act. Section 112(d)(9) of the amendments provides,

> No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commmission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health.

After evaluating the information received during the reconsideration of subpart I, EPA concluded that for all categories of NRC-licensed facilities other than nuclear power reactors the Agency may lack sufficient information to determine whether the regulatory program established by NRC provides "an ample margin of safety to protect the public health," as that term used in section 112 of the Clean Air Act (CAA). On February 13, 1991, EPA proposed to stay the effectiveness of subpart I for all categories of NRC-licensed facilities except for nuclear power reactors until November 15, 1992. 56 FR 6339 (February 15, 1991). The proposed stay will permit EPA to use its authority under section 114 of the Clean Air Act to collect the information which is required to make a determination under section 112(d)(9).

With regard to non-DOE federal facilities, EPA concluded that the factors which led to the reconsideration of subpart I, possible duplication of effort between the EPA and the NRC and potential negative effects on nuclear medicine, are not applicable to this subcategory of facilities. Since the determination concerning adequacy of the NRC regulatory program contemplated by the new language in section 112(d)(9) could not apply to such facilities, EPA did not include non-DOE federal facilities in its February 13, 1991 proposal to stay subpart I. Subpart I will take effect for non-DOE federal facilities on March 10, 1991.

A hearing concerning the proposed rule to stay the effectiveness of subpart I for all categories of NRC-licensed facilities other than nuclear power reactors was held in Washington, DC on February 25, 1991. Representatives of several organizations made oral presentations and submitted written statements. At the hearing, EPA announced that it would keep the record for this rulemaking open to receive additional written comments or information until March 27, 1991, thirty days after the completion of the hearing.

### B. Order Temporarily Staying Effective Date

Section 307(d) of the Clean Air Act establishes procedures which apply in various types of rulemakings conducted by EPA under the Clean Air Act, including any rulemaking to promulgate or revise a National Emission Standard for Hazardous Air Pollutants (NESHAP) under section 112. Although it is not clear whether a rule to stay NESHAP previously promulgated under Clean Air Act section 112 should be construed as a revision of that standard, EAP believes that it is prudent to assume that section 307(d) applies to the proposed rule to stay subpart I for NRC licensees other than nuclear power reactors.

In those instances where an interested person requests an oral hearing concerning a proposed rule to which section 307(d) applies, section 307(d)(5)(iv) requires EPA to "keep the record of such proceeding open for thirty days after completion of the proceeding to provide an opportunity for submission of rebuttal and supplementary information." If no person had requested a hearing concerning the Agency's proposal to stay subpart I for NRC licensees other than nuclear power reactors, it would have been possible for EPA to take final action concerning the proposal prior to March 9, 1991, the date on which the currently effective stay of subpart I will expire. However, because a hearing was in fact held on February 25, 1991, and the record will remain open until March 27, 1991 in order to conform to section 307(d), EPA will be unable to evaluate all submissions to the record and take final action on the proposed stay prior to expiration of the currently effective stay.

EPA believes that it would be disruptive and serve no useful purpose to permit subpart I to become effective on NRC-licensed facilities other than nuclear power reactors prior to final action concerning the proposed rule to stay the effectiveness of subpart I for these facilities until November 15, 1992.

Accordingly, in order to provide time for completion of the rulemaking on the proposed stay of subpart I, EPA is today issuing an order temporarily staying the effectiveness of subpart I for all NRC-licensed facilities other than nuclear power reactors until April 15, 1991. EPA intends to take final action concerning the proposed rule to stay subpart I on or before April 15, 1991.

Dated: March 8, 1991.

**William K. Reilly,**

*Administrator.*

[FR Doc. 91-6079 Filed 3-12-91; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### 42 CFR Part 434

**[MB-12-CN]**

**RIN 0938-AD31**

### Medicaid Program; Modification of Certain Requirements for Health Insuring Organizations

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Correction notice.

**SUMMARY:** This notice corrects 42 CFR 434.20, Basic rules, to restore current text which was inadvertently deleted in the final rule, to make a conforming redesignation change, and to correct technical errors.

**EFFECTIVE DATE:** These corrections are effective December 13, 1990.

**FOR FURTHER INFORMATION CONTACT:** Gwendolyn Lindsay, (301) 966-4673.

**SUPPLEMENTARY INFORMATION:** On December 13, 1990, in **Federal Register** document 90-29162, we published a final rule that included revisions to 42 CFR part 434. In doing so, we failed to take into account changes made to part 434 by a final rule published on June 12, 1990 (55 FR 23738). As a result, we inadvertently deleted from the December 13 final rule regulatory text that was added to § 434.20(a) by the June 12 final rule. We are publishing this correction notice to restore the deleted text as § 434.20(a)(4) of the final rule and, therefore, redesignate paragraph (a)(4) as (a)(5). We also correct the statutory citation and a typographical error in § 434.20(a)(3), and a typographical error in paragraph (e).

A. On page 51295, column 2, § 434.20(a) is correctly revised to read as follows:

**§ 434.20 Basic rules.**

(a) *Entities eligible for risk contracts for services specified in § 434.21.* A Medicaid agency may enter into a risk contract for the scope of services specified in § 434.21, only with an entity that—

(1) Is a Federally qualified HMO, including a provisional status Federally qualified HMO;

(2) Meets the State plan's definition of an HMO, as specified in paragraph (c) of this section;

(3) Is one of several entities identified in section 1903(m)(2)(B) (i), (ii) and (iii) of the Act, and considered as PHPs;

(4) Is one of certain Community, Migrant and Appalachian Health Centers identified in section 1903(m)(2)(G) of the Act. Unless they qualify for a total exemption under section 1903(m)(2)(B), these entities are subject to the regulations governing HMOs under this part, with the exception of the requirements of section 1903(m)(2)(A) (i) and (ii) of the Act; or

(5) Is an HIO that arranges for services and becomes operational before January 1, 1986.

* * * * *

B. On page 51295, column 2, § 434.20(e), line 2, "PHOs" should read "PHPs".

(Catalog of Federal Domestic Assistance Program No. 93.714, Medical Assistance)

Dated: March 5, 1991.

**Neil J. Stillman,**

*Deputy Assistant Secretary for Information Resources Management.*

[FR Doc. 91-5920 Filed 3-12-91; 8:45 am]

BILLING CODE 4120-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 64

**[Docket No. FEMA 7507]**

### List of Communities Eligible for the Sale of Flood Insurance

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). Sixty-one Missouri communities were subject to NFIP suspension effective on March 4, 1991. However, on March 1, 1991 the Governor of Missouri signed into law legislation which allows the 61 affected Missouri counties to fully enforce their floodplain management ordinances in accordance with 44 CFR 60.3 of the NFIP regulations. As a result the NFIP suspension action has been withdrawn, and the Missouri counties may continue to participate without interruption in the NFIP. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street SW., room 417, Washington, DC 20472.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the NFIP suspension action has been withdrawn for the communities on the attached list, flood insurance continues to be available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the flood map is indicated in the fourth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5

U.S.C. 553(b) are impracticable and unnecesary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

**List of Subjects in 44 CFR Part 64**

Flood insurance and floodplains.

1. The authority citation for part 64 continues to read as follows:

## PART 64—[AMENDED]

**Authority:** 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

**§ 64.6 List of Eligible Communities.**

| State and location | Community number | Effective date authorization/cancellation of sale or flood insurance in community | Current effective map date |
|---|---|---|---|
| **Region VII—Regular Program** | | | |
| Missouri: | | | |
| Andrew County, unincorporated areas | 290004 | Mar. 4, 1991 suspension withdrawn | 7-04-88 |
| Atchison County, unincorporated areas | 290009 | do | 3-01-90 |
| Barton County, unincorporated areas | 290785 | do | 7-01-87 |
| Benton County, unincorporated areas | 290027 | do | 3-01-87 |
| Bollinger County, unincorporated areas | 290787 | do | 3-01-84 |
| Boone County, unincorporated areas | 290034 | do | 6-15-83 |
| Buchanan County, unincorported areas | 290040 | do | 8-01-83 |
| Butler County, unincorporated areas | 290044 | do | 4-03-85 |
| Callaway County unincorporated areas | 290049 | do | 1-03-85 |
| **Region VII** | | | |
| Missouri: | | | |
| Cape Girardeau County, unincorporated areas | 290790 | do | 8-15-89 |
| Carroll County, unincorporated areas | 290057 | do | 10-17-86 |
| Carter County, unincorporated areas | 290060 | do | 2-04-87 |
| Cass County, unincorporated areas | 290783 | do | 4-15-82 |
| Chariton County, unincorporated areas | 290073 | do | 12-03-87 |
| Clark County, unincorporated areas | 290792 | do | 9-15-81 |
| Clay County, unincorporated areas | 290086 | do | 2-17-81 |
| Clinton County unincorporated areas | 290793 | do | 6-18-87 |
| Cole County, unincorporated areas | 290107 | do | 12-15-81 |
| Cooper County, unincorporated areas | 290794 | do | 9-02-89 |
| **Region VII** | | | |
| Missouri: | | | |
| Crawford County, unincorported areas | 290795 | do | 5-01-87 |
| Dunklin County, unincorporated areas | 290122 | do | 4-03-89 |
| Franklin County, unincorporated areas | 290493 | do | 10-16-84 |
| Gasconade County, unincorporated areas | 290801 | do | 9-04-87 |
| Greene County, unincorporated areas | 290782 | do | 6-15-83 |
| Grundy County, unincorporated areas | 290150 | do | 2-01-87 |
| Holt County, unincorporated areas | 290157 | do | 1-06-88 |
| Howard County, unincorporated areas | 290162 | do | 1-05-89 |
| Jackson County, unincorporated areas | 290492 | do | 11-03-89 |
| Jasper County, unincorporated areas | 290807 | do | 4-17-85 |
| Jefferson County, unincorporated areas | 290808 | do | 9-16-88 |
| Johnson County, unincorporated areas | 290809 | do | 4-02-90 |
| Lafayette County, unincorporated areas | 290812 | do | 9-04-86 |
| Lewis County, unincorporated areas | 290844 | do | 9-01-89 |
| Lincoln County, unincorporated areas | 290869 | do | 11-15-89 |
| Livingston County, unincorporated areas | 290814 | do | 5-01-89 |
| Maries County, unincorporated areas | 290816 | do | 7-01-87 |
| Marion County, unincorporated areas | 290222 | do | 4-26-79 |
| Mississippi County, unincorporated areas | 290781 | do | 1-18-89 |
| Moniteau County, unincorporated areas | 290237 | do | 10-17-86 |
| Montgomery County, unincorporated areas | 290242 | do | 4-01-87 |
| New Madrid County, unincorporated areas | 290849 | do | 11-27-79 |
| Osage County, unincorporated areas | 290268 | do | 2-02-90 |
| Pemiscot County, unincorporated areas | 290779 | do | 5-17-82 |
| Perry County, unincorporated areas | 290280 | do | 1-06-88 |
| Phelps County, unincorporated areas | 290824 | do | 2-01-87 |
| Pike County, unincorporated areas | 290286 | do | 5-01-89 |
| Platte County, unincorporated areas | 290475 | do | 6-04-87 |
| Pulaski County, unincorporated areas | 290826 | do | 4-17-85 |
| Ralls County, unincorporated areas | 290302 | do | 5-01-89 |
| Ray County, unincorporated areas | 290778 | do | 1-19-83 |
| Ripley County, unincorporated areas | 290830 | do | 1-17-86 |
| St. Charles County, unincorporated areas | 290315 | do | 9-15-78 |
| St. Francois County, unincorporated areas | 290832 | do | 2-01-87 |
| Ste. Genevieve County, unincorporated areas | 290325 | do | 9-30-77 |

| State and location | Community number | Effective date authorization/cancellation of sale or flood insurance in community | Current effective map date |
|---|---|---|---|
| St. Louis County, unincorporated areas | 290327 | do | 11-18-88 |
| Saline County, unincorporated areas | 290834 | do | 4-01-89 |
| Scott County, unincorporated areas | 290837 | do | 9-06-89 |
| Stoddard County, unincorporated areas | 290845 | do | 7-01-87 |
| Vernon County, unincorporated areas | 290841 | do | 7-01-87 |
| Warren County, unincorporated areas | 290443 | do | 4-03-85 |
| Wayne County, unincorporated areas | 290449 | do | 2-01-87 |

Issued: March 7, 1991.

C.M. "Bud" Schauerte,

*Administrator, Federal Insurance Administration.*

[FR Doc. 91-5926 Filed 3-12-91; 8:45 am]

BILLING CODE 6718-21-M

## 44 CFR Part 64

**[Docket No. FEMA 7508]**

## List of Communities Eligible for the Sale of Flood Insurance

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street SW., room 417, Washington, DC 20472.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

### List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

## PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

**§ 64.6 List of Eligible Communities.**

| State and location | Community number | Effective date authorization/cancellation of sale of flood insurance in community | Current effective map date |
|---|---|---|---|
| **New Eligibles—Emergency Program** | | | |
| Texas: Wells, city of, Cherokee County | 480741 | Feb. 4, 1991 | 7-11-75 |
| Indiana: Owen County, unincorporated areas | 180481 | Feb. 6, 1991 | 5-15-81 |
| Alabama: | | | |
| Double Springs, town of, Winston County | 010350 | Feb. 8, 1991 | 1-28-77 |
| Gurley, town of, Madison County | 010152 | Feb. 12, 1991 | 4-16-76 |
| Illinois: Vermilion County, unincorporated areas | 170935 | Feb. 28, 1991 | 4-21-78 |
| Georgia: Early County, unincorporated areas | 130499 | do | |
| **New Eligibles—Regular Program** | | | |
| Washington: Enumclaw, city of, King County | 530319 | Feb. 15, 1991 | 9-29-89 |

| State and location | Community number | Effective date authorization/cancellation of sale of flood insurance in community | Current effective map date |
|---|---|---|---|
| **Reinstatements—Regular Program** | | | |
| Maine: Roque Bluffs, town of, Washington County | 230322 | July 16, 1975, Emerg.; Sept. 18, 1985, Reg.; May 17, 1990, Susp; Feb. 4, 1991, Rein.. | 9-18-85 |
| Kentucky: Magoffin County, unincorporated areas | 210158 | Dec, 18, 1978, Emerg.; Mar. 4, 1986, Reg.; Oct. 18, 1988, Susp.; Feb. 1, 1991, Rein. | 3-4-80 |
| Georgia: Jenkins County, unincorporated areas | 130118 | Jan. 16, 1976, Emerg.; Sept. 29, 1989, Reg.; Sept. 29, 1989, Susp.; Feb. 1, 1991. Rein. | 9-29-89 |
| Pennsylvania: President, township of, Venango County | 422112 | July 7, 1975, Emerg.; Feb. 6, 1991, Reg.; Feb. 6, 1991, Susp.; Feb. 7, 1991, Rein.. | 2-6-91 |
| Mississippi: Marshall County, unincorporated areas | 280274 | Aug. 4, 1986, Emerg.; Jan. 17, 1991, Reg. Jan. 17, 1991, Susp.; Feb. 18, 1991, Rein.. | 1-17-91 |
| West Virginia: Elizabeth, town of, Wirt County | 540212 | June 9, 1975, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp.; Feb. 27, 1991, Rein. | 1-17-91 |
| **Region II—Regular Program Conversions** | | | |
| New York: | | | |
| Alden, town of, Erie County | 360225 | Feb. 6, 1991, suspension withdrawn | 2-6-91 |
| Rochester, town of, Ulster County | 360861 | do | 2-6-91 |
| Pound Ridge, town of, Westchester County | 360929 | do | 2-6-91 |
| **Region III** | | | |
| Pennsylvania: | | | |
| Pine Creek, township of, Jefferson County | 422445 | do | 2-6-91 |
| Shade, township of, Somerset County | 422054 | do | 2-6-91 |
| Virginia: | | | |
| Brunswick County, unincorporated areas | 510236 | do | 2-6-91 |
| Dickenson County, unincorporated areas | 510253 | do | 2-6-91 |
| James City County, unincorporated areas | 510201 | do | 2-6-91 |
| **Region IV** | | | |
| South Carolina: Williamsburg County, unincorporated areas | 450187 | do | 2-6-91 |
| **Region V** | | | |
| Ohio: Madison County, unincorporated areas | 390773 | do | 2-6-91 |
| **Region VI** | | | |
| Texas: Blanco County, unincorporated areas | 480711 | do | 2-6-91 |
| **Region VII** | | | |
| Iowa: | | | |
| Columbus Junction, city of, Louisa County | 190307 | do | 2-6-91 |
| Louisa County, unincorporated areas | 190193 | do | 2-6-91 |
| **Regular Program Conversions—Region II** | | | |
| New York: Thompson, town of, Sullivan County | 360830 | Feb. 15, 1991, suspension withdrawn | 2-15-91 |
| Pennsylvania: Hempfield, township of, Mercer County | 421868 | do | 2-15-91 |
| **Region V** | | | |
| Minnesota: | | | |
| Fort Ripley, city of, Crow Wing County | 270097 | do | 2-15-91 |
| Pipestone, city of, Pipestone County | 270359 | do | 2-15-91 |
| **Region V—Minimal Conversion** | | | |
| Michigan: Union, township of, Isabella County | 260812 | do | 2-15-91 |

Code for reading fourth column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

Issued: March 6, 1981.

**C.M. "Bud" Schauerte,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 91-5925 Filed 3-12-91; 8:45 am]

BILLING CODE 6718-21-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 90-576; RM-7393]**

### Radio Broadcasting Services; Garrison, KY

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 252A to Garrison, Kentucky, as that community's first local FM service, at the request of James P. Gray. See 55 FR 49922, December 3, 1990. Channel 252A can be allotted to Garrison in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.8 kilometers (3.0 miles) east of the community, in order to avoid a short-spacing to Station WKQQ(FM), Channel 251C1, Lexington, Kentucky. The coordinates for this allotment are North Latitude 38-37-00 and West Longitude 83-07-18. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** April 22, 1991; The window period for filing applications will open on April 23, 1991, and close on May 23, 1991.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-576, adopted February 22, 1991, and released March 8, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors,

Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW. Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation of part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Channel 252A, Garrison.

Federal Communications Commission.

**Andrew J. Rhodes,**

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-5962 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

---

## 47 CFR Part 73

**[MM Docket No. 89-616; RM-7018]**

## Radio Broadcasting Services; Panama City Beach, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 261C3 for Channel 261A at Panama City Beach, Florida, and modifies the license for Station WPCF(FM) to specify operation on the higher class channel, at the request of Winstanley Broadcasting, Inc. See 55 FR 01481, January 16, 1990. Channel 261C3 can be allotted to Panama City Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.1 kilometers (6.3 miles) east of the community to prevent a short spacing to the vacant but applied for Channel 262A at Niceville, Florida. The coordinates are North Latitude 30-11-00 and West Longitude 85-42-00. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** April 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 89-616, adopted February 21, 1991, and released March 8, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 261A and adding Channel 261C3 at Panama City Beach.

Federal Communications Commission.

**Andrew J. Rhodes,**

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-5961 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

---

## 47 CFR Part 73

**[MM Docket No. 90-562; RM-7525]**

## Radio Broadcasting Services; Ballston Spa and Saratoga Springs, NY

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Saratoga Radio Corporation, reallots Channel 272A from Saratoga Springs, New York, to Ballston Spa, New York, and modifies the license of Station WQQY (FM) to specify Ballston Spa as its community of license. See 55 FR 49543, November 29, 1990. Channel 272A can be allotted to Ballston Spa in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.2 kilometers (8.8 miles) south of the community to avoid short-spacings to Stations WJIV, Channel 270B, Cherry Falls, New York, and WEQX(FM), Channel 274B, Manchester, Vermont, as well as to accommodate petitioner's desired transmitter site. The coordinates for Channel 272A at Ballston Spa are North Latitude 42-52-44 and West Longitude 73-51-47. Canadian concurrence has been received since Ballston Spa is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** April 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-562, adopted February 22, 1991, and released March 8, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 272A, Saratoga Springs, and adding Channel 272A, Ballston Spa.

Federal Communications Commission.

**Andrew J. Rhodes,**

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-5963 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

---

# INTERSTATE COMMERCE COMMISSION

## 49 CFR Part 1177

**[Ex Parte No. 382 (Sub-No. 7)]**

## Revision of Rules for the Recordation of Documents Under 49 U.S.C. 11303—Documents Executed With a Declaration, Made Under Penalty of Perjury

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission adopts final rules which permit execution of documents with a declaration, made under penalty of perjury under 28 U.S.C. 1746, in lieu of notarization. The purpose of this change is to conform the Commission's regulations to federal law.

**EFFECTIVE DATES:** The rules are effective on March 13, 1991.

**FOR FURTHER INFORMATION CONTACT:** Kathleen M. King, Assistant Secretary, 202-275-7429 [TDD for hearing impaired: 202-275-1721]

**SUPPLEMENTARY INFORMATION:** The Commission's current regulations (49 CFR part 1177.3), require that documents filed with it for recordation under 49 U.S.C. 11303 be executed or certified with notarization. 28 U.S.C. 1746 allows a party to make a declaration that his/her statement is made under penalty of perjury under the laws of the United States as an alternative to notarization. Specifically, section 1746 states:

"Whenever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date)

(Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)".

The Commission regulations (49 CFR 1104.5) already provide for the acceptance in formal proceedings of documents that contain affirmations or declarations under penalty of perjury in lieu of oath. Also, the Commission's application forms, such as Form OP-1 and Form OP-FC-1, and the Commission rules (49 CFR part 1167) relating to submission of notices of intent to engage in compensated intercorporate hauling provide for an applicant's oath under penalty of perjury. There are severe penalties if knowing and willful misstatements or omission of material facts are made in a submission to the Commission. Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to $10,000 for each offense. Additionally, when made under penalty of perjury, these misstatements are punishable as perjury under 18 U.S.C. 1621 which provides for fines up to $2,000 or imprisonment up to 5 years for each offense.

The rule change will conform our recordation regulations to federal law. Therefore, we will modify 49 CFR 1177.3, as set forth below, to provide for submission of documents executed or certified under penalty of perjury.

This amendment to the Commission's regulations has no effect on the substantive rights of parties and merely corrects these regulations to recognize a procedural alternative that is specifically made available by statute. Accordingly, for good cause shown, we find that notice and public procedure is unnecessary under 5 U.S.C. 553(b)(3)(B).

### Environmental and Energy Considerations

We conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

### Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603, the Commission is required to examine specifically the impact of the proposed action on small business and small organizations. We conclude that this decision will not have a significant impact on a substantial number of small entities.

### List of Subjects in 49 CFR Part 1177

Administrative practice and procedure, Archives and records, Maritime carriers, Railroads.

Decided: March 6, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips and McDonald.

**Sidney L. Strickland, Jr.,**

*Secretary.*

For the reasons set forth in the preamble, title 49, chapter X, part 1177 of the Code of Federal Regulations is amended as follows:

## PART 1177—RECORDATION OF DOCUMENTS

1. The authority citation for Part 1177 continues to read as follows:

**Authority:** 49 U.S.C. 10321 and 11303; 5 U.S.C. 559.

2. Section 1177.3, paragraphs (a) and (b) are revised to read as follows:

**§ 1177.3 Requirement for submission.**

* * * * *

(a) Be in writing and executed by the parties to the document, and acknowledged or verified either in a form:

(1) Authorized by the law of the state, territory, district or possession where executed for the acknowledgement or verification of deeds of land; or

(2) Substantially as follows:

**Individual Form of Acknowledgement**

I, (name of signor), certify that I am the person described in and who executed the foregoing instrument and that I acknowledge that I executed the same as my free act and deed. I further declare (certify, verify or state) under penalty of perjury ("under the laws of the United States of America" if executed outside the United States) that the foregoing is true and correct. Executed on (date).

Signature.

or;

**Corporate Form of Acknowledgement**

I, (name of signor), certify that I am (title of office) of (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the corporation. I further declare (certify, verify or state) under penalty of perjury ("under the laws of the United States of America" if executed outside the United States of America) that the foregoing is true and correct. Executed on (date).

Signature.

or;

(3) Substantially as follows:

**Individual Form of Acknowledgement**

State of _____

County of _____, ss:

On this _____ day of _____, 19____, before me, personally appeared (name of signor), to be known to be the person described in and who executed the foregoing instrument and (s)he acknowledged that (s)he executed the same as his/her free act and deed.
(SEAL)

Signature of Notary Public

My commission expires _____

Corporate Form of Acknowledgement

State of _____

County of _____, ss:

On this _____ day of _____, 19____ before me personally appeared (name of signor), to me personally known, who being by me duly sworn, says that (s)he is the (title of office) of (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.
(SEAL)

Signature of Notary Public

My commission expires _____

(b) Be accompanied by at least one fully executed and acknowledged or verified counterpart, or if no counterpart

has been executed and acknowledged by the parties, one certified true copy. A certified true copy of an original document is a complete and identical copy in all respects to the original attached with:

(1) A certificate executed by a notary public, stating that he or she has compared the copy with the original and has found the copy to be complete and identical in all respects to the original document; or

(2) A certification of the filer stating that he or she has compared the copy with the original and found the copy to be complete and identical in all respects to the original document and that he or she declares under penalty of perjury ("under the laws of the United States of America" if executed outside the United States) that the foregoing is true and correct; or

(3) There may be attached to the copy, affidavits, wherein the affidavit states that he or she has compared the copy with the original document and found the copy to be complete and identical in all respects to the original documents.

* * * * *

[FR Doc. 91-5931 Filed 3-12-91; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 675

[Docket No. 901199-1021]

### Groundfish of the Bering Sea and Aleutian Islands Area

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of closure.

**SUMMARY:** The Director, Alaska Region, NMFS (Regional Director), has determined that the first quarter seasonal apportionment of the secondary prohibited species catch (PSC) allowance for halibut for the domestic annual processing (DAP) "DAP other fishery" in the Bering Sea and Aleutian Island management area (BSAI) has been caught. The Secretary of Commerce is prohibiting directed fishing for pollock and Pacific cod combined by vessels using trawl gear other than pelagic trawl gear in the entire BSAI from 12 noon, Alaska local time (A.l.t.), March 8, 1991, through 24:00 hours, March 31, 1991. This action is necessary to prevent the first quarter seasonal apportionment of the secondary PSC allowance of halibut apportioned to the "DAP other fishery" from being exceeded before the end of the first quarter. This action is intended to implement regulatory measures controlling the bycatch of prohibited species in the trawl fisheries for groundfish.

**DATES:** Effective 12 noon, A.l.t., March 8, 1991, through 24:00 hours, March 31, 1991.

**FOR FURTHER INFORMATION CONTACT:** Jessica A. Gharrett, Resource Management Specialist, NMFS, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and parts 620 and 675.

The final rule for amendment 16 to the FMP (56 FR 2700; January 24, 1991) established PSC limits of red king crab and *C. bairdi* Tanner crab in specific zones of the Bering Sea subarea (BS), and for Pacific halibut throughout the BSAI Area. Under § 675.21(a)(5), the secondary PSC limit of Pacific halibut while conducting any DAH trawl fishery for groundfish in the BSAI during any fishing year is 5,333 metric tons (mt). Furthermore, § 675.21(b)(1) provides that the PSC limit of Pacific halibut be further apportioned into bycatch allowances, one of which is assigned to the "DAP other fishery" under § 675.21(b)(4). Within the "DAP other fishery," the halibut bycatch allowance may be further apportioned on a seasonal bssis under § 675.21(b)(2). The final notice of initial specifications of BSAI groundfish for 1991 (56 FR 6290; February 15, 1991) established the 1991 secondary Pacific halibut allowance for the "DAP other fishery" at 3,233 mt, and the first quarter seasonal apportionment of that allowance at 1,455 mt.

Under § 675.21(C)(2)(iv), if the Regional Director (Director) determines that U.S. fishing vessels using trawl gear will catch the seasonal apportionment of the secondary PSC allowance of Pacific halibut in the BSAI while participating in the "DAP other fishery," the Secretary will publish a notice in the **Federal Register** closing the BSAI for the remainder of the season to DAP trawl vessels using other than pelagic trawl gear in the combined directed fishery for pollock and Pacific cod.

The Regional Director has determined that the first quarter apportionment of the secondary PSC allowance of Pacific halibut for the "DAP other fishery" will be reached on March 8, 1991. The Secretary of Commerce is prohibiting directed fishing for pollock and Pacific cod in the aggregate by DAP vessels using trawl gear other than pelagic trawl gear in the BSAI from 12 noon, Alaska local time (A.1.t.), March 8, 1991, through 24:00 hours, March 31, 1991. In accordance with § 675.21(c)(2)(iv), the aggregate amount of pollock and Pacific cod must comprise less than 20 percent of the aggregate amount of the other groundfish or groundfish products as measured in round weight equivalents retained by a vessel affected by this prohibition during a weekly reporting period.

### Classification

This action is taken under § 675.21 and complies with Executive Order 12291.

### List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

**Authority:** 16 U.S.C 1801 *et seq.*

Dated: March 8, 1991.

**Richard H. Schaefer,**

*Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 91-5952 Filed 3-8-91 2:33 pm]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 56, No. 49
Wednesday, March 13, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Chapter 1

[FRL: 3913-1]

### Establishment of the Negotiated Rulemaking Advisory Committee to Negotiate Guidelines and Proposed Regulations Implementing Clean Fuels Provisions of Section 211 of the Clean Air Act

**AGENCY:** Environmental Protection Agency.

**ACTION:** Establishment of negotiated rulemaking committee on clean fuels guidelines and proposed rules.

**SUMMARY:** As required by the Federal Advisory Committee Act (FACA), 5 U.S.C. App. section 9(a)(2) and the Negotiated Rulemaking Act of 1990 (NRA), 5 U.S.C. 581 *et seq.*, EPA is giving notice of the establishment of an advisory committee to negotiate issues for the purpose of reaching a consensus in the development of proposed regulations under the clean fuels provisions of section 211 of the Clean Air Act (the Act) as amended by the Clean Air Act Amendments of 1990. Those regulations include requirements for reformulated gasoline under section 211(k), detergent additives under section 211(l), and labeling requirements for oxygenated fuels under section 211(m). In addition, the committee will be used to negotiate guidelines for oxygenated fuels credit programs under section 211(m). EPA has determined that this is in the public interest and will assist the Agency in performing its duties under section 211 of the Act.

Copies of the Committee Charter will be filed with the appropriate committees of Congress and the Library of Congress, in accordance with section 9(c) of FACA.

**DATES:** EPA published a "Notice of Open Meeting of the Negotiated Rulemaking Advisory Committee—Clean Fuels Rules and Guidelines" on March 4, 1991 (56 FR 8972). This notice announced that the first meeting of the Advisory Committee, assuming it was convened, would be held on March 14–15, 1991 from 9 a.m. to 6 p.m. on March 14 and 9 a.m. until 4 p.m. on March 15. The purpose of this meeting, as discussed in the March 4 notice, is to discuss and ratify organizational protocols, organize workgroups, develop the committee's specific agenda for its operations, and begin to consider substantive issues. Since EPA has decided to convene the committee, the March 14–15 meeting will be held as scheduled.

**ADDRESSES:** The meeting will be held at the Quality Hotel Capital Hill, 415 New Jersey Avenue, NW., Washington, DC, (202) 638–1616. A docket has been set up for the negotiation. Comments should be submitted (in duplicate if possible) to Air Docket Section (LE–131), EPA, Attention Docket #A–91–17, 401 M Street SW., Washington, DC 20460. A copy should also be sent to Mr. Alfonse Mannato, Field Operations and Support Division (EN–397F), 401 M Street, SW., Washington, DC 20460. Docket #A–91–17 contains materials relevant to this negotiation, and may be inspected at room 1500M, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC between 8:30 a.m. and noon, and 1:30 p.m. and 3:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Persons needing further information on the substantive matters related to reformulated gasoline should call Carol Menninga, Motor Vehicles Emissions Laboratory, EPA, at (313) 668–4575. Persons needing more information on the substantive matters related to oxygenated gasoline should call Alfonse Mannato, Field Operations and Support Division, EPA, at (202) 382–2640. Persons needing further information on administrative matters such as committee arrangements or procedures should contact Chris Kirtz, Director, Regulatory Negotiation Project, EPA, at (202) 382–7565, or one of the committee's independent facilitators, Philip J. Harter at (202) 887–1033 or Alana S. Knaster at (818) 702–9526.

**SUPPLEMENTARY INFORMATION:** On February 8, 1991, EPA announced its "Intent to Form an Advisory Committee to Negotiate Guidelines and Proposed Regulations Implementing the Clean Fuels Provisions of Section 211 of the Clean Air Act as Amended, and Announcement of Public Meeting" [56 FR 5167]. The notice discussed the section 211 clean fuels provisions in detail as well as the regulatory negotiation process, and the issues considered appropriated for negotiation. For further details, see that notice. A public meeting on the notice was held on February 21–22, 1991 in Washington, DC. After considering the comments submitted in response to the notice and made at the public meeting, EPA has determined that it is in the public interest to proceed with negotiating guidelines and proposed regulations under section 211 of the Act.

As required by section 583 of the NRA, EPA has considered and determined that there is a need for the rule, that there are a limited number of interests that will be significantly affected by the rule, that it is reasonably likely that the committee can convene with balanced representation of parties, that the parties are willing to negotiate in good faith and attempt to reach a consensus, that the negotiation procedure will not unreasonably delay either the notice of proposed rulemaking or issuance of the final rule, that the Agency has adequate resources and technical support to assist the committee, and that the Agency, to the maximum extent possible consistent with its legal obligations, will use the consensus of the committee as the basis of its proposed rules and guidelines.

The potential parties indicated that, besides the issues identified in the February 8, 1991 notice of intent, issues related to domestic supply, distribution capacity, length of program, and related issues are of concern. Therefore, a workgroup to deal with these issues was proposed at the public meeting of February 21–22. In addition to a Supply and Distribution workgroup, three other workgroups were suggested at the meeting. These proposed workgroups were suggested to address issues related to Certification (Modeling and Testing), Anti-Dumping, and Averaging and Enforcement. The proposed Certification (Modeling and Testing) workgroup would address issues related to baseline emissions, toxic performance standards, evaportative running loss and refueling emissions, test procedures and compliance criteria, among other issues.

The Anti-Dumping workgroup will address issues related to definitions, including those of "blender," "refiner," and "importer," the definition of adequate data for baseline, the effect of Phase II RVP controls on compliance, the interaction between oxygenated fuels programs, and anti-dumping, among other issues. The Averaging and Enforcement workgroup will address issues related to self-auditing, banking (if it is to be permitted), liability for violations, and oxygenate labeling requirements, among other issues.

The current objectives of the proposed negotiation are:

—To attempt, via face-to-face negotiations, to reach consensus on concepts and language to use as the basis of the guidelines and proposed rules under the clean fuels provisions of section 211 of the Act.

—To develop approaches to oxygenated fuels marketable oxygen credit guidelines and proposed labeling regulations.

—To address approaches to emissions testing and modeling of fuels, standards applicable to reformulated fuels, specifications for baseline fuels, and the credit program.

—To address such other issues under the section 211 clean fuels provisions of the act as are appropriate.

**Parties to the Negotiation**

After reviewing the comments and nominations received, EPA has tentatively determined that the following interests should be represented at the negotiating committee: Refiners, Automobile Manufacturers, Oxygenated Fuels Industry Members, States/cities, Marketers, Environmental and Public Interest Groups, Department of Energy, and EPA.

Based on comments received and the public meeting held on February 21–22, 1991, EPA believes that this distribution of interests will result in balanced representation on the committee. The distribution of seats among industry and association interests will represent small, medium, and large scale industry interests. Likewise, the automobile manufacturers will represent both domestic operations and importers.

Dated: March 6, 1991.

**Daniel P. Beardsley,**

*Acting Assistant Administrator for Policy, Planning, and Evaluation.*

[FR Doc. 91–5946 Filed 3–12–91; 8:45 am]

BILLING CODE 6560–50–M

**40 CFR Part 61**

**[FRL-3913-5]**

## National Emission Standards for Hazardous Air Pollutants

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In an advance notice of proposed rulemaking published elsewhere in today's **Federal Register**, EPA is announcing its intention to enter into a future rulemaking pursuant to section 112(d)(9) of the 1990 amendments of the Clean Air Act to rescind subpart I of 40 CFR part 61 as it applies to nuclear power reactors. EPA intends to issue a proposal to rescind Subpart I for nuclear power reactors no later than June 30, 1991, and will further explain its rationale for rescission and solicit additional comments at that time.

In this companion action, EPA is proposing a rule to stay the effectiveness of Subpart I as applied to nuclear power reactors until the rulemaking concerning rescission of Subpart I for nuclear power reactors has been concluded. EPA intends to take final action concerning this proposed rule to stay Subpart I for nuclear power reactors at the same time that it issues a proposed rule to rescind Subpart I for nuclear power reactors. As part of today's action, EPA is issuing an order temporarily staying the effectiveness of Subpart I for nuclear power reactors pending final action concerning its proposed stay.

**DATES:** Comments concerning this proposed rule must be received by EPA on or before April 15, 1991. A hearing concerning this proposed rule will be held in Washington, DC on April 22, 1991 if a request for such a hearing is received by April 15, 1991. For the location of the hearing, please contact Al Colli at (703) 308–8787. EPA intends to take final action concerning this proposed rule no later than June 30, 1991.

**ADDRESSES:** Comments should be submitted (in duplicate if possible) to: Central Docket Section LE–131, Environmental Protection Agency, Attn: Docket No. A–79–11, Washington, DC 20460. Requests to participate in the hearing should be made in writing to the Director, Criteria and Standards Division, ANR–460W, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments and requests to participate in the hearing may also be faxed to the EPA at (703) 308–8763.

**FOR FURTHER INFORMATION CONTACT:** Al Colli, Environmental Standards Branch, Criteria and Standards Division (ANR–460W), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460 (703) 308–8787.

**SUPPLEMENTARY INFORMATION:**

### A. Background

On October 31, 1989, EPA promulgated standards controlling radionuclide emissions to the ambient air from several source categories, including emissions from licensees of the Nuclear Regulatory Commission (NRC) and from federal facilities not licensed by the NRC or operated by the Department of Energy (non-DOE Federal facilities) (subpart I, 40 CFR part 61). This rule was published in the **Federal Register** on December 15, 1989 (54 FR 51654). At the same time as the rule was promulgated, EPA granted reconsideration of subpart I based on information received late in the rulemaking on the subject of duplicative regulation by NRC and EPA and on potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and also granted a 90-day stay of subpart I as permitted by Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B).

EPA subsequently extended the stay of the effective date of Subpart I on several occasions, pursuant to the authority provided by section 10(d) of the Administrative Procedure Act (APA), 5 U.S.C. 705, and section 301(a) of the Clean Air Act, 42 U.S.C. 7601(a). (55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990).

In October 1990, Congress passed new legislation amending the Clean Air Act. Section 112(d)(9) of the amendments provides,

> No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health.

After evaluating the information received during the reconsideration of subpart I, EPA concluded that for all categories of NRC-licensed facilities other than nuclear power reactors the

Agency lacks sufficient information to determine whether the regulatory program established by NRC provides "an ample margin of safety to protect the public health," as that term is used in section 112 of the Clean Air Act (CAA). On February 13, 1991, EPA proposed to stay the effectiveness of subpart I for all NRC-licensed facilities except for nuclear power reactors until November 15, 1992. 56 FR 6339 (February 15, 1991). This stay will permit EPA to use its authority under section 114 of the Clean Air Act to collect the information which is required to make a determination under section 112(d)(9). With regard to non-DOE federal facilities, EPA concluded that the factors which led to the reconsideration of Subpart I, possible duplication of effort between the EPA and the NRC and potential negative effects on nuclear medicine, are not applicable to this subcategory of facilities. Since the determination concerning the adequacy of the NRC regulatory program contemplated by the new language in section 112(d)(9) could not apply to such facilities, EPA did not include non-DOE federal facilities in its February 13, 1991 proposal to stay subpart I.

In an Advance Notice of Proposed Rulemaking published elsewhere in today's **Federal Register**, EPA is announcing its intention to enter into a future rulemaking pursuant to section 112(d)(9) to rescind subpart I of 40 CFR part 61 (subpart I) as it applies to nuclear power reactors. After reviewing available information concerning radionuclide emissions from nuclear power reactors and the program implemented by the NRC to control such emissions, EPA has tentatively concluded that NRC's regulatory program limiting these emissions protects public health with an ample margin of safety. EPA intends to issue a proposed rule under section 112(d)(9) to rescind subpart I as it applies to nuclear power reactors no later than June 30, 1991.

**B. Proposed Stay of Subpart I for Nuclear Power Reactors**

EPA did not include nuclear power reactors in the stay previously proposed on February 13, 1991 because the basis of that stay, the Agency's need to collect further information before making a determination under section 112(d)(9), is not applicable to nuclear power reactors. However, in this companion action to the advance notice of proposed rulemaking published elsewhere in today's **Federal Register**, EPA is proposing a rule to stay the effectiveness of subpart I as applied to nuclear power reactors until the rulemaking to rescind subpart I for nuclear power reactors has been concluded.

In section 112(d)(9), Congress authorized EPA to decline to regulate NRC licensees under section 112 in those instances where NRC regulation is sufficient to provide an ample margin of safety. Congress clearly intended to give EPA the discretion to relieve affected facilities from the burdens associated wtih parallel regulation when this would not adversely affect public health. Since EPA has now concluded that a rulemaking under section 112(d)(9) to rescind subpart I for nuclear power reactors is warranted, it would frustrate the clear purpose of section 112(d)(9) for EPA to permit subpart I to take effect for this subcategory during the pendency of the rulemaking concerning rescission. Accordingly, EPA is proposing this rule to stay the effectiveness of subpart I as applied to nuclear power reactors pending completion of the rulemking concerning rescission of subpart I for nuclear power reactors. EPA will take final action concerning this proposed stay at the same time as it issues a proposed rule to rescind subpart I for nuclear power reactors. EPA intends to issue a proposed rule to rescind subpart I for nuclear power reactors no later than June 30, 1991.

**C. Order Temporarily Staying Subpart I**

The present stay of subpart I for all facilities, including nuclear power reactors, is scheduled to expire on March 9, 1991. Since the decision by EPA to stay subpart I as applied to nuclear power reactors is closely related to the decision by EPA to rescind subpart I for nuclear power reactors, EPA believes that it is appropriate to afford the public an opportunity to comment on both proposed actions. However, it is not practicable to complete notice and comment rulemaking concerning the proposed stay of subpart I for nuclear power reactors by March 9, 1991. As explained above, EPA believes that permitting the standard to take effect for such facilities, even temporarily, would frustrate the Congressional intent embodied section 112(d)(9). Therefore, EPA is today issuing an order temporarily staying the effectiveness of subpart I for nuclear power reactors until EPA takes final action either adopting or declining to adopt the proposed stay. The sole purpose of this order is to preserve the status quo pending such final action. In these circumstances, EPA considers such an order to be an integral part of the rulemaking process established by section 112(d)(9).

Dated: March 8, 1991.

**William K. Reilly,**
*Administrator.*

[FR Doc. 91-6077 Filed 3-12-91; 8:45 am]
BILLING CODE 6560-50-M

---

**40 CFR Part 61**

**[FRL-3913-4]**

## National Emission Standards for Hazardous Air Pollutants

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** EPA is today announcing its intention to enter into a future rulemaking pursuant to section 112(d)(9) of the 1990 amendments to the Clean Air Act to rescind subpart I of 40 CFR part 61 as it applies to nuclear power reactors, one of the subcategories of NRC-licensed facilities which are governed by subpart I. EPA intends to issue a proposed rule no later than June 30, 1991, and will further explain its rationale for rescission and solicit additional comments at that time.

In a related action published elsewhere in today's **Federal Register**, EPA is proposing a rule to stay the effectiveness of Subpart I as applied to nuclear power reactors until the rulemaking concerning rescission of Subpart I for nuclear power reactors has been concluded. As part of that action, EPA is also issuing an order temporarily staying the effectiveness of subpart I for nuclear power reactors pending final action concerning its proposed stay.

**DATES:** Any comments submitted concerning this ANPRM must be received by EPA on or before April 15, 1991. EPA intends to issue a proposed rule to rescind subpart I as applied to nuclear power reactors no later than June 30, 1991.

**ADDRESSES:** Comments should be submitted (in duplicate if possible) to: Central Docket Section LE-131, Environmental Protection Agency, Attn: Docket No. A-79-11, Washington DC 20460. Comments may also be faxed to the EPA at (703) 308-8763.

**FOR FURTHER INFORMATION CONTACT:** Al Colli, Environmental Standards Branch, Criteria and Standards Division (ANR-460W), Office of Radiation Programs, Environmental Protection Agnecy, Washingotn, DC 20460, (703) 308-8787.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On October 31, 1989, EPA promulgated standards controlling radionuclide emissions to the ambient air from several source categories, including emissions from licensees of the Nuclear Regulatory Commission (NRC) ( and from federal facilities not licensed by the NRC or operated by the Department of Energy (non-DOE Federal facilities) (subpart I, 40 CFR part 61). This rule was published in the **Federal Register** on December 15, 1989 (54 FR 51654). At the same time as the rule was promulgated, EPA granted reconsideration of subpart I based on information received late in the rulemaking on the subject of duplicative regulation by NRC and EPA and on potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and also granted a 90-day stay of Subpart I as permitted by Clean Air Act Section 307(d)(7)(B), 42 U.S.C. 7607 (d)(7)(B).

EPA subsequently extended the stay of the effective date of Subpart I on several occasions, pursuant to the authority provided by section 10(d) of the Administrative Procedure Act (APA), 5 U.S.C. 705, and section 301(a) of the Clean Air Act, 42 U.S.C. 7601(a). (55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990).

In October 1990, Congress passed new legislation amending the Clean Air Act. Section 112(d)(9) of the amendments provides,

> No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health.

After evaluating the information received during the reconsidseration of subpart I, EPA concluded that for all categories of NRC-licensed facilities other than nuclear power reactors the Agency may lack sufficient information to determine whether the regulatory program established by NRC provides "an ample margin of safety to protect the public health," as that term is used in section 112 of the Clean Air Act (CAA). On February 13, 1991, EPA proposed to stay the effectiveness of Subpart I for all NRC-licensed facilities except for nuclear power reactors until November 15, 1992. 56 FR 6339 (February 15, 1991). This stay will permit EPA to use its authority under section 114 of the Clean Air Act to collect the information which is required to make a detrmination under section 112(d)(9). With regard to non-DOE federal facilities, EPA concluded that the factors which led to the reconsideration of subpart I, possible duplication of effort between the EPA and the NRC and potential negative effects on nuclear medicine, are not applicable to this subcategory of facilities. Since the determination concerning the adequacy of the NRC regulatory program contemplated by the new language in section 112(d)(9) could not apply to such facilities, EPA did not include non-DOE federal facilities in its February 13, 1991 proposed to stay subpart I.

EPA also did not include nuclear power reactors in the stay proposed on Febuary 13, 1991 because the basis of the stay, the Agency's need to collect further information before making a determination under section 112(d)(9), is not applicable to nuclear power reactors. However, in a related action published elsewhere in today's **Federal Register**, EPA is proposing a rule to stay the effectiveness of subpart I as applied to nuclear power reactors until the rulemaking concerning rescission of subpart I for nuclear power reactors has been concluded. As part of that action, EPA is also issuing an order temporarily staying the effectiveness of subpart I for nuclear power reactors pending final action concerning its proposed stay.

**B. Summary of Rationale for Recission**

Subpart I of 40 CFR part 61 limits radionuclide emissions to the ambient air from NRC-licensed facilities to that amount which would cause any member of the public to receive in any year an effective dose equivalent ("ede") of 10 millirem, of which no more than 3 millirem/year ede may be from radioiodine. The NESHAP limit represents the Agency's application of the policy for regulating section 112 pollutants which was first announced in the benzene standard. 54 FR 38044 (September 14, 1989). That policy considers the cancer risk to the maximally exposed individual to be presumptively acceptable if it is no higher than approximately one in ten thousand. This presumptive level provides a benchmark for judging the acceptability of maximim individual risk; however, EPA strives to protect as much of the population as possible to risks below in one million. EPA also considers other health and risk factors such as incidence of cancer, the number of persons exposed within each individual lifetime risk range, the weight of evidence presented in the risk assessment, and the incidence of non-fatal cancer and other health effects.

As part of the promulgation of subpart I, EPA estimated the lifetime risks associated with emissions of radionuclides to the ambient air from various categories of NRC-licensed facilities. The analysis of model nuclear power reactors indicated that the maximally exposed individual would be expected to receive a dose associated with an increased risk of fatal cancer of approximately 5 in one million and a risk of non-fatal cancer of approximately 2.5 in one million, which EPA considers to be presumptively acceptable. The Agency's analysis also indicated that emissions of radionuclides from nuclear power reactors are associated with a total of .09 fatal cancers per year, and almost all of that risk is borne by people whose risk is less than one in one million.

After Congress passed section 112(d)(9) of the new Clean Air Act, which gives EPA the authority not to regulate particular categories or subcategories of NRC-licensed facilities if it finds that the NRC regulatory program protects public health with an ample margin of safety, EPA evaluated the information it has collected during the reconsideration of subpart I. EPA believes that it has sufficient information to enable the Agency to make a determination under section 112(d)(9) for the subcategory of nuclear power reactors.

Data incorporated in the record for the reconsideration indicates that the maximum dose to the public for radionuclide emissions from nuclear power reactors is approximately 5 millirem/year ede. This dose is below the NESHAP limit of 10 millirem/year ede. Other data suggests that radioiodine emissions from nuclear power reactors are minimal.

EPA has evaluated the NRC program to implement standards which regulate emissions from nuclear power reactors. Prior to obtaining an NRC license to operate a nuclear power reactor, each facility must submit to NRC the design plans of the reactor, including effluent control information. Each facility is further required to submit calculations which demonstrate that it meets the requirements of 10 CFR 50 appendix which establishes, among other things, 5 millirem external total whole body dose from gaseous emissions as the design goal for reactors. If this design goal is met, NRC considers this to be quantitative evidence that the facility's radionuclide emissions meet NRC's

requirement of being "as low as reasonably achievable" (ALARA). Once a year, the facility must report offsite dose calculations, and calculations which demonstrate compliance with 40 CFR 190, the NRC's radiation standards. Twice a year, the facility must report effluent quantities. This provides a public record demonstrating that the emissions are being adequately controlled.

After reviewing available information concerning radionuclide emissions from nuclear power reactors and the program implemented by the NRC to coantrol such emissions, EPA has tentatively concluded that NRC's regulatory program limiting these emissions protects public health with an ample margin of safety. EPA intends to issue a proposed rule under section 112(d)(9) to rescind subpart I as it applies to nuclear power reactors no later than June 30, 1991.

Dated: March 8, 1991.

William K. Reilly,

*Administrator.*

[FR Doc. 91-6078 Filed 3-12-91; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 46 CFR Parts 56, 58, 107, 108, 109, 111 and 174

[CGD 83-071a]

RIN 2115-AB88

### Mobile Offshore Drilling Unit Regulations Revision

**AGENCY:** Coast Guard DOT.

**ACTION:** Notice of withdrawal.

**SUMMARY:** On March 25, 1985, an advance notice of proposed rulemaking (ANPRM) addressing revisions to the Mobile Offshore Drilling Unit (MODU) regulations was published in the **Federal Register** (50 FR 11741).

The primary purpose of this rulemaking was to align the existing regulations more closely with the International Maritime Organization's MODU Code. One section of this rulemaking addressing operating manual requirements was "broken off" and published as a final rule on March 6, 1987 in the **Federal Register** (50 FR 1174).

This proposed rulemaking is being withdrawn because of the changing priorities and shift of resources within the Coast Guard necessary to respond to the Congressional mandates of the Oil Pollution Act, 1990. Work will continue with the National Offshore Safety Advisory Committee (NOSAC), as resources permit, with the intent of redocketing this regulatory project at a later date.

**DATE:** March 13, 1991.

**FOR FURTHER INFORMATION CONTACT:** CDR. Michael M. Ashdown, Chief, Offshore Activities Branch (202) 267-2307.

Dated: March 4, 1991.

J.D. Sipes,

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Satety, Security and Environmental Protection.*

[FR Doc. 91-5893 Filed 3-12-91; 8:45 am]

BILLING CODE 4910-14-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 43

[CC Docket No. 91-22; FCC 91-37)

### International Communications Traffic Data

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This rule making proceeding will simplify § 43.61 of the Rules, delegate authority to the Chief, Common Carrier Bureau to develop a carrier reporting manual to replace the reporting requirements currently set out in the Rules, eliminate obsolete reporting requirements for international common carriers, reduce the reporting requirements for international resale carriers, and include data for service with Canada and Mexico in carrier submissions.

**DATES:** Comments must be filed by April 29, 1991. Reply comments are due by May 14, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Kenneth B. Stanley, Industry Analysis Division, Common Carrier Bureau, (202) 632-0745.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making in CC Docket No. 91-22, adopted February 4, 1991, and released March 8, 1991.

The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this notice may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street NW., Washington, DC 20036.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street, Washington, DC 20036. Persons wishing to comment on this information collection should direct their comments to Jonas Neihardt, (202) 395-4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

*OMB Number:* 3060-0106.

*Title:* Section 43.61—Reports of Overseas Telecommunications Traffic.

*Action:* Proposed revision.

*Respondents:* Business or other for-profit.

*Frequency of Response:* Annually. Corrections are reported three months after the annual filing.

*Estimated Annual Burden:* 49 responses; 579 hours total; 12.1 hours average burden per response. (The foregoing estimates are based on the proposals contained in the Notice of Proposed Rule Making.)

*Needs and Uses:* The telecommunications traffic data report is an annual reporting requirement imposed on common carriers engaged in the provision of overseas telecommunications services. The reported data are useful for international facilities planning, facility authorization, monitoring emerging developments in communications services, analyzing market services, and market analysis purposes. The reported data enable the Commission to fulfill its regulatory responsibilities.

### Summary of Notice of Proposed Rule Making

1. Section 43.61 requires common carriers that provide international communications service to file annual reports on service between the United States and overseas points and it prescribes the requirements for reporting the traffic and revenue information. The data submitted by the carriers are compiled and a report is issued by the Commission. The data have several uses.

2. The Notice of Proposed Rule Making (NPRM) seeks to streamline and simplify § 43.61 by stating the reporting requirements in generic terms to replace the detailed requirements, data categories, definitions, and schedules in the current section the rules. The NPRM proposes to direct the Chief of the Common Carrier Bureau to issue a filing manual containing the reporting requirements and other instructions to be used by common carriers to compile their reports. Comments are requested on these proposals as well as the proposals listed below.

3. The NPRM also proposes several changes in the information to be submitted by the common carriers. The current § 43.61 does not require carriers to submit data for service with three points, Canada, Mexico, and St. Pierre-Miquelon. The NPRM proposes to require data on service with these points. The NPRM proposes to eliminate one schedule currently filed by carriers in their submissions. It also seeks to eliminate detailed reporting requirements for services no longer widely used by the public and the submission of data no longer needed to monitor the industry or fulfill other regulatory objectives.

4. The NPRM also proposes to reduce the reporting requirements applied to international resellers by requiring them to provide summary data rather than detailed reports.

5. Finally, the NPRM proposes that common carriers identify new service categories and report total revenue data for each such service.

6. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's Rules. 47 CFR 1.231, for the governing permissible *ex parte* contacts.

**List of Subjects in 47 CFR Part 43**

Communications common carriers, International traffic data reports.

Federal Communications Commission.

**LaVera F. Marshall,**

*Acting Secretary.*

[FR Doc. 91-5964 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

---

## 47 CFR Part 73

**[MM Docket No. 91-48, RM-7621]**

## Radio Broadcasting Services; Milford, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by 202 Data Systems seeking the allotment of Channel 271C2 to Milford, Iowa, as the community's first local FM service. Channel 271C2 can be alloted to Milford in compliance with the Commission's minimum distance separation requirements with a site restriction of 3 kilometers (1.9 miles) northwest to avoid a shortspacing to Station KAYL-FM, Channel 268C1, Storm Lake, Iowa. The coordinates for Channel 271C2 at Milford are North Latitude 43-20-33 and West Longitude 95-07-40.

**DATES:** Comments must be filed on or before April 29, 1991 and reply comments before May 14, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Kevin W. Galbraith, President, 202 Data Systems, Station Square Three, Paoli, Pennsylvania 19301 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-48, adopted February 22, 1991, and released March 8, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**Andrew J. Rhodes,**

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-5965 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

---

## 47 CFR Part 73

**[MM Docket No. 90-465, RM-7278]**

## Radio Broadcasting Services; Chippewa Falls, WI

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal of proposal.

**SUMMARY:** This document dismisses a petition for rule making filed by Jay Lellman requesting the allotment of Channel 260C3 to Chippewa Falls, Wisconsin. *See* 55 FR 45623, October 30, 1990. The petition is dismissed at the request of the petitioner.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-465, adopted February 22, 1991, and released March 8, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW Washington, DC 20036, (202) 452-1422.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission

**Andrew J. Rhodes,**

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 91-5966 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

---

# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 675

## Groundfish of the Bering Sea and Aleutian Islands

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of availability of an amendment to a fishery management plan and request for comments.

**SUMMARY:** NOAA issues this notice that the North Pacific Fishery Management Council (Council) has submitted Amendment 16a to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands (FMP) for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

**DATES:** Comments on the amendment should be submitted on or before May 6, 1991.

**ADDRESSES:** Comments on the amendment should be submitted to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802.

Copies of the amendment with the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510.

**FOR FURTHER INFORMATION CONTACT:** Susan Salveson (National Marine Fisheries Service, Alaska Region), 907-586-7230.

**SUPPLEMENTARY INFORMATION:** The Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments received during the comment period in determining whether to approve the plan or amendment.

If approved, Amendment 16a will make the following changes to the FMP: (1) Establish herring bycatch management measures for trawl fisheries, (2) authorize the Regional Director to close temporarily limited areas due to high bycatch rates, and (3) authorize the Regional Director to limit the amount of pollock that may be taken in the directed bottom trawl pollock fishery.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 15 days of this notice (16 U.S.C. 1801 *et seq.*).

**List of Subjects in 50 CFR Part 675**

Fisheries.

Dated: March 7, 1991.

**Richard H. Schaefer,**

*Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 91-5862 Filed 3-8-91; 10:19 am]

BILLING CODE 3510-22-M

# Notices

Federal Register
Vol. 56, No. 49
Wednesday, March 13, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forms Under Review by Office of Management and Budget

March 8, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

New Collection

• Food and Nutrition Service, Income and Eligibility Verification Systems (IEVS) Targeting, Study, One-time only, State or local governments; Non-profit institutions; 102 responses; 204 hours, Sharron Cristofar, (703) 756-3115.

• Food and Nutrition Service, WIC Vendor Issues Study, One-time only, State or local governments; Businesses or other profit; 4,860 responses; 1,818 hours, Dr. Steven K. Gale (703) 756-3117.

Existing

• Federal Crop Insurance Corporation, Federal Crop Insurance Policies With Options And Optional Forms, FCI-505, 506, 514, 523, 535, 539, 541, 547, 548, and 550, On occasion, Individuals or households; Farms; 32,935 responses; 8,234 hours, Bonnie L. Hart, (202) 245-5046.

Existing

• Federal Crop Insurance Corporation, Request To Exclude Hail and Fire Coverage From Insurance Policy, FIC-78 and FCI-78-A, On occasion, Individuals or households; Farms; 54,535 responses; 13,334 hours, Bonnie L. Hart, (202) 245-5046.

Larry K. Roberson,
*Deputy Departmental Clearance Officer.*

[FR Doc. 91-5883 Filed 3-12-91; 8:45 am]
BILLING CODE 3410-01-M

## Farmers Home Administration

### Rural Rental Housing Displacement Prevention; Solicitation to Nonprofit Organizations

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** The interim rule published on February 13, 1990, (55 FR 4965) based on the Tenant Displacement Prevention Provisions of the Housing and Community Development Act of 1987, provides that certain categories of rural rental housing (RRH) borrowers who wish to prepay their loans must first attempt to sell their projects to nonprofit organizations. In order to expedite this process, Farmers Home Administration (FmHA) maintains a list of nonprofit organizations which may wish to purchase such projects. The intended effect of this notice is to invite nonprofit organizations to be placed on this list in order to be notified when RRH borrowers request to prepay their loans.

**ADDRESSES:** Eligible regional and nationwide organizations should submit their names, addresses, contact persons and area(s) of interest to the Multiple Housing Servicing and Property Management Division, FmHA, room 5321, South Agriculture Building, Washington, DC 20250. Information submitted will be compiled and forwarded to the State periodically.

**SUPPLEMENTARY INFORMATION:**

*Intergovernmental Consultation:* This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.427, Rural Rental Assistance Payments (Rental Assistance); 10.415, Rural Rental Housing Loans; 10.405, Farm Labor Housing Loans and Grants, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983).

*Discussion:* By means of this Notice, FmHA is soliciting expressions of interest by local, regional and National nonprofit organizations interested in purchasing multifamily housing projects, in accordance with the procedures contained in Paragraph VI of exhibit E of subpart E of part 1965. FmHA procedure provides that borrowers who wish to prepay rural rental housing (RRH) loans which FmHA determines are still needed for low- and moderate-income use must be offered an incentive to remain within the FmHA program. If the borrowers reject the incentive offer, they must try to sell the project to a nonprofit organization which meets certain requirements. Prepayment may be accepted if a qualified nonprofit purchaser is not found.

Local and Statewide nonprofit organizations which meet the requirements contained in Paragraph VI C of exhibit E of subpart E of Part 1965 should submit their names, addresses and contact persons to the FmHA State Office(s) in the State(s) in which they are eligible. State Offices will be responsible for compiling and forwarding the information provided by the eligible organizations to the appropriate District Offices. Borrowers will be required to update the information for inclusion on this list annually.

The following is a list of FmHA State Offices. All correspondence should be directed to the Multiple Housing Coordinator.

Dale N. Richey, State Director, FmHA, Aronov Building, rm. 717, 474 South Court Street, Montgomery, AL 36104
Roger E. Willis, State Director, FmHA, 634 South Bailey, suite 103, Palmer, AK 99645.
Clark R. Dierks, State Director, FmHA, 201 East Indianola, suite 275, Phoenix, AZ 85012.
Robert L. Hankins,

State Director, FmHA,
700 West Capitol,
Post Office Box 2778,
Little Rock, AR 72203.
Richard E. Mallory,
State Director, FmHA,
194 West Main Street, suite F,
Woodland, CA 95695-2195.
Judy A. Jaklich,
State Director, FmHA,
room E-100,
655 Parfet Street,
Lakewood, CO 80215.
G. Wallace Caulk,
State Director, FmHA,
2319 South DuPont Highway,
Dover, DE 19901.
L. James Cherry, Jr.,
State Director, FmHA,
401 S.E. 1st Ave., rm. 214,
Gainesville, FL 32601-6805.
Thomas M. Harris,
Director, FmHA,
Stephens Federal Building,
355 East Hancock Avenue,
Athens, GA 30610.
Daniel K. J. Lee,
State Director, FmHA,
room 311, Federal Building,
154 Waianuenue Avenue,
Hilo, HI 96720.
Michael A. Field,
State Director, FmHA,
3232 Elder Street,
Boise, ID 83705.
Gerald A. Townsend,
Acting State Director, FmHA,
Illini Plaza III—suite 103,
1817 South Neil Street,
Champaign, IL 61820.
George A. Morton
State Director, FmHA,
5975 Lakeside Boulevard,
Indianapolis, IN 46278.
Robert R. Pim,
State Director, FmHA,
873 Federal Building,
210 Walnut Street,
Des Moines, IA 50309.
John R. Price,
State Director, FmHA,
444 S. E. Quincy Street,
room 176
Topeka, KS 66683.
Mary Ann Baron,
State Director, FmHA,
333 Waller Avenue,
Lexington, KY 40504.
John C. McCarthy,
State Director, FmHA,
3727 Government Street,
Alexandria, LA 71302.
Nathaniel A. Churchill,
State Director, FmHA,
444 Stillwater Avenue,
suite 2,
Bangor, ME 04402-0405.
Theodore L. Fusaro,
State Director, FmHA,
451 West Street,
Amherst, MA 01002.
Calvin C. Lutz,
State Director, FmHA,
1405 South Harrison Road,
room 209,
East Lansing, MI 48823.
Russ Bjorhus,
State Director, FmHA,
410 Farm Credit Building,
375 Jackson Street
St. Paul, MN 55101-1853.
James B. Huff, Sr.,
State Director, FmHA,
Federal Building, suite 831,
100 West Capitol Street,
Jackson, MS 39269.
Douglas A. Elliott,
State Director, FmHA,
555 Vandiver Drive,
Columbia, MO 65202.
Eugene Coombs,
State Director, FmHA,
Federal Building, rm. 210,
10 East Babcock Street,
P. O. Box 850
Bozeman, MT 59715.
James L. Howe,
State Director, FmHA,
Federal Building, rm. 308,
100 Centennial Mall N,
Lincoln, NE 68508.
Takashi Moriuchi,
State Director, FmHA,
Tarnsfield Plaza, suite 22,
Tarnsfield and Woodlane Road,
Mt. Holly, NJ 08060.
Vivian G. Cordova,
State Director, FmHA,
Federal Building, rm. 3414,
517 Gold Avenue, SW.,
Albuquerque, NM 87102.
Pierre L. Labourdette,
State Director, FmHA,
James M. Hanley Federal Building,
room 871,
100 South Clinton Street,
Syracuse, NY 13260.
Larry W. Godwin, Sr.,
State Director, FmHA,
310 New Bern Avenue, rm. 525,
Raleigh, NC 27601.
Marshall W. Moore,
State Director, FmHA,
Federal Building, rm. 208,
Third and Rosser.
Post Office Box 1737,
Bismarck, ND 58502.
Allen L. Turnbull,
State Director, FmHA,
Federal Building, room 507,
200 North High Street,
Columbus, OH 43215.
Ernest Hellwege, State Director, FmHA,
USDA Agricultural Center Building,
Stillwater, OK 74074.
Donald D. Thompson, State Director, FmHA.
Federal Building, rm. 1590, 1220 SW. 3rd
Avenue,
Portland, OR 97204.
D. Eugene Gayman, State Director, FmHA,
Federal Building, rm. 730, Post Office Box
905, Harrisburg, PA 17108.
Julia R. deVincenti, State Director, FmHA,
Federico Degetau Federal Building, rm. 623,
Carlos Chardon Street,
Hato Rey, PR 00918.
Elwood L. Gerald, Acting State Director,
FmHA, Strom Thurmond Federal Building,
1835 Assembly Street, rm. 1007, Columbia,
SC 29201.
Marvis T. Hogen, State Director, FmHA,
Federal Building, rm. 308, 200 Fourth Street,
SW., Huron, SD 57350.
Randle B. Richardson, State Director, FmHA,
Federal Building,
U.S. Courthouse, rm. 538, 801 Broadway,
Nashville, TN 37203.
Neal Sox Johnson, State Director, FmHA,
Federal Building, suite 102, 101 South Main,
Temple, TX 76501.
E. Lee Hawkes, State Director, FmHA,
Wallace F. Bennett Federal Building, 125
South State Street, rm. 5438, Salt Lake City,
UT 84138.
Bernice R. Murray, State Director, FmHA, 141
Main Street, Post Office Box 588,
Montpelier, VT 05602.
Lloyd A. Jones, State Director, FmHA,
Federal Building, rm. 8213, 400 North 8th
Street, Richmond, VA 23240.
Earl F. Tilly, State Director, FmHA, Federal
Building, rm. 319, Post Office Box 2427,
Wenatchee, WA 98807.
John C. Musgrave, State Director, FmHA, Post
Office Box 678, 75 High Street,
Morgantown, WV 26505.
Ronald W. Caldwell, State Director, FmHA,
4943 Kirschling Court, Stevens Point, WI
54481.
Michael F. Ormsby, State Director, FmHA,
100 East B, Federal Building, rm. 1005, Post
Office Box 820, Casper, WY 82602.

Dated: February 28, 1991.

**La Verne Ausman,**

*Administrator, Farmers Home Administration.*

[FR Doc. 91-5865 Filed 3-12-91; 8:45 am]

BILLING CODE 3410-07-M

---

## Foreign Agricultural Service

## List of Technical Working Group Contact Persons for the United States-Canada Free-Trade Agreement

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice

**SUMMARY:** Notice is given of the U.S. contact persons of the technical working groups created by the United States-Canada Free Trade Agreement. The technical working groups are comprised of government officials from the United States and Canada. The purpose of these groups is to determine whether any technical changes to the administration of U.S. or Canadian law could be made to enhance bilateral agricultural trade. Each of these groups has been assigned specific trade areas. If any person wishes to submit information for consideration by a technical working group or obtain information about a technical working group, please contact the person representing that working group listed below.

*Dairy, Fruit, Vegetable and Egg Inspection*

Kenneth C. Clayton, Deputy Administrator, Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, room 3069-S, 14th & Independence Ave., SW., Washington, DC 20250, (202) 447-4276 telephone, (202) 447-8477 fax.

*Food, Beverage and Color Additives and Unavoidable Contaminants*

Ray Gill, Food and Drug Administration, Division of Nutrition (HFF-260), room 1844, 200 C St., SW., Washington, DC 20204, (202) 485-0160 telephone, (202) 472-1542 fax.

*Packaging and Labeling*

John Vanderveen, Food and Drug Administration, Division of Nutrition (HFF-260), rm 1844, 200 C st., SW., Washington, DC 20204, (202) 245-1064 telephone, (202) 426-7494 fax.

*Seafood*

Thomas Billy, National Martine Fisheries Serivce, U.S. Department of Commerce, 1335 East-West Highway, Silver Spring, MD 20910, (301) 427-2351 telephone, (301) 588-4853 fax.

*Seeds*

James Triplett, Agricultural Marketing Service, Seed Regulatory and Testing Branch, Bld 506, BARC-E, Beltsville, MD 20705, (301) 344-4430 telephone, (301) 344-4454 fax.

*Animal Health*

Dr. Robert Whiting, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 765 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8590 telephone, (301) 436-8226 fax.

*Plant Health*

Scot Campbell, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 657 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8692 telephone, (301) 436-8316 fax.

*Meat and Poultry Inspection*

Pat Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, room 341-E, 14th & Independence Ave., SW., Washington, DC 20250, (202) 447-3473 telephone, (202) 426-3856 fax.

*Veterinary Drugs and Feeds*

Dr. Gerald Guest, Dr. John Augburg, Food and Drug Administration, Center for Veterinary Medicine, 5600 Fisher Lane, room 757, Rockville, MD 20857, (301) 443-3450 telephone, (301) 443-3449 fax.

*Pesticides and Fertilizers*

Stanford Fertig, Agricultural Research Service, U.S. Department of Agriculture, BARC-East, Building 1070, Beltsville, MD 20705, (301) 344-2845 telephone, (301) 344-5063 fax.

**DATES:** March 13, 1991.

**FOR FURTHER INFORMATION CONTACT:** Lawrence D. Fuell, FAS, International Trade Policy, room 5506-S, U.S. Department of Agriculture, Washington, DC 20250, (202) 382-1335 telephone, (202) 382-8069 fax.

**SUPPLEMENTARY INFORMATION:** On January 2, 1988, President Reagan signed the United States-Canada Free-Trade Agreement (hereafter "FTA"). Pursuant to Article 2105, the "Agreement shall enter into force on January 1, 1989, upon exchange of diplomatic notes certifying the completion of necessary legal procedures by each Party." To implement the United States obligations of the Agreement, the Congress passed and President Reagan signed into law the United States-Canada Free-Trade Agreement Implementation Act of 1988, Public Law 100-449.

Article 708 of the FTA required the creation of technical working groups which would attempt to resolve barriers to bilateral agricultural trade caused by differences in U.S. and Canadian technical regulations and standards concerning agricultural, food, beverage, and other related goods. These working groups are comprised of government officials from the United States and Canada. The purpose of these groups is to raise issues concerning technical barriers to bilateral agricultural trade, develop proposals to resolve such trade barriers, and forward those proposals to their respective governments. These groups do not have the authority to make binding agreements between the two governments and they have no independent authority to change law in either the United States or Canada. The working groups merely provide a forum for the governments to raise and discuss possible solutions to technical agricultural trade issues.

Signed in Washington, DC, on March 7, 1991.

**Duane Acker,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 91-5968 Filed 3-12-91; 8:45 am]

BILLING CODE 3410

## DEPARTMENT OF COMMERCE

### Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency*: National Oceanic and Atmospheric Administration.

*Title:* Applications and Reports for Scientific Research and Public Display Permits under the Marine Mammal Protection Act, the Fur Seal Act, and the Endangered Species Act.

*Form Number*: None; OMB—0648-0084.

*Type of Request*: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

*Burden*: 487 respondents; 6,134 reporting hours; average hours per response—12.6 hours. 2 hours recordkeeping for 259 respondents.

*Needs and Uses*: Respondents will be applicants for, and holders of, scientific research/public display permits. The MMPA and ESA prohibit the taking of marine mammals with certain exceptions. Applicants wanting authorization to take or import must provide certain information to be used as a basis for determining whether a permit should be issued. Permit holders are required to report periodically on the status of their permit.

*Affected Public*: State or local governments, businesses or other for profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.

*Frequency*: On occasion, annual.

*Respondent's Obligation*: Mandatory.

*OMB Desk Officer:* Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 8, 1991.

**Edward Michals,**

*Departmental Clearance Officer, Office of Management and Organization.*

[FR Doc. 91-5955 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-CW-M

---

## Bureau of Export Administration

**[Docket No. 0108-01]**

## Action Affecting Export Privileges: Franciscus B. Govaerts Individually and Doing Business as Printlas Europa

### Order

In the matter of Franciscus B. Govaerts individually and doing business as Printlas Europa, Respondent.

On February 5, 1991, the Administrative Law Judge (the "ALJ") entered his Recommended Decision and Order in the above captioned matter. The ALJ's Decision and Order, a copy of which is attached to and made a part of this final Order, has been referred to me for final action. Based upon the facts of this case, I am affirming in part and modifying in part that Decision and Order.

Specifically, I affirm the ALJ's conclusions of law that Respondent violated the Export Administration Act of 1979, as amended (50 U.S.C.A. App. sections 2401-2420 (Supp. 1989)) (the "Act") and the Export Administration Regulations (15 CFR Parts 768-799 (1990)) (the "Regulations"). Furthermore, I affirm the ALJ's Decision to deny Respondent's export privileges for a period of ten years, but to suspend the denial of such privileges for a period of five years. Contrary to the contention advanced by Agency Counsel, the record established that Respondent's cooperation with the U.S. Customs Service contributed to arrests and convictions in other criminal proceedings and, therefore, supports the ALJ's Decision to suspend in part the denial period.

Because the ALJ correctly concluded in this matter that Respondent had violated the Act and the Regulations, I am modifying the sixth, seventh, and eighth lines of Paragraph II (suspension of denial period) of the Recommended Order to reflect those conclusions. Accordingly, I am striking the sixth, seventh, and eighth lines of Paragraph II of the Recommended Order and am inserting in lieu thereof the following language: "provided that Respondent has committed no further violations of the Act or the Regulation, or has not committed a violation of the final Order entered in this proceeding."

I am also modifying in part the Statement of Facts of the Recommended Decision to reflect that the criminal proceeding upon which the ALJ based his legal conclusions was predicated upon Respondent's guilty plea to two counts of a federal grand jury indictment. Count One, which does not appear in the Statement Of Facts, provides in relevant part:

> From a date unknown to the Grand Jury and continuing until on or about December 9, 1988, in and around Boston in the District of Massachusetts and elsewhere, Marcel Sanders, Goris Christiaan Grandia, Franciscus Govaerts, and Rogier Von Alphen, defendants herein, did knowingly and willfully combine, conspire, confederate and agree among themselves to commit offenses against the United States, namely (a) to knowingly and willfully export, cause to be exported and attempt to export from the United States through other nations to Bulgaria a Teradyne J937 Memory Test System and a Teradyne M218 Laser Repair System, without first applying for and obtaining a validated export license from the United States Custom Service and the United States Department of Commerce, Office of Export Licensing, knowing that the intended final destination of the Teradyne J937 Memory Test System and the Teradyne M218 Laser Repair System was Bulgaria, a controlled country, in violation of 50 U.S.C. App. section 2410(b); (b) to knowingly and willfully make a false, fictitious and fraudulent statement and representation, in a matter within the jurisdiction of the United States Custom Service and the United States Department of Commerce, departments and agencies of the United States, in violation of title 18, United States Code, section 1001; and (c) to transport and attempt to transport monetary instruments and funds to a place in the United States from a place outside the United States to promote the carrying on of the unlawful export of a Teradyne J937 Memory Test System and a Teradyne M218 Laser Repair System in violation of title 18, United States Code, section 1956(2)(A).

Finally, I am vacating in part the temporary denial order issued in this matter. On April 6, 1989, an order was issued that temporarily denied the export privileges of, *inter alia*, Franciscus B. Govaerts, individually and doing business as Printlas Europa. 54 FR 14667 (April 12, 1989) (the "Temporary Denial Order"). The Temporary Denial Order was renewed on October 4, 1989, 54 FR 41660 (October 11, 1989), April 2, 1990, 55 FR 14330 (April 13, 1990), and September 28, 1990, 55 FR 41366 (October 11, 1990). Pursuant to its terms, the Temporary Denial Order was to remain in effect until, among other events, the final disposition of the instant administrative proceeding.

The final Order of the Under Secretary for Export Administration constitutes the final disposition of the administrative proceeding in this matter. Accordingly, pursuant to the terms of the Temporary Denial Order, such Order shall cease to have any legal force and effect with regard to Franciscus B. Govaerts, individually and doing business as Printlas Europa, Torenakker 8-5731 CC, Mierlo, Netherlands, as of the date of this final Order. The Temporary Denial Order, however, shall remain in full force and effect for all the other individuals and companies named in that order.

Having examined the record of this administrative proceeding and based upon the facts of this case, I affirm the ALJ's Recommended Decision and Order in all other respects. This Order constitutes the final Agency action in this matter.

Dated: March 6, 1991.

**Dennis E. Kloske,**

*Under Secretary for Export Administration.*

Appearance for Respondent: Franciscus B. Govaerts, c/o Printlas Europa, Torenakker 8—5731 CC, Mierlo, Holland.[1]

Appearance for Agency: Thomas C. Barbour, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, 14th St. and Constitution Ave. NW., room H-3839, Washington, DC 20230.

### *Preliminary Statement*

In a charging letter dated June 19, 1990, the Office of Export Enforcement charged Respondent Franciscus B. Govaerts individually and doing business as Printlas Europa with four violations of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420 (Supp. 1989)) (the "Act"), and the implementing Export Administration Regulations (currently codified at 15 CFR Parts 768-799 (1989)) ("the Regulations").[2] Respondent filed

---

[1] A Temporary Denial Order was issued on April 6, 1989 (54 FR 14667 (1989)). The first renewal was issued on October 4, 1989 (54 FR 41660 (1989)); the second renewal was issued on April 2, 1990 (55 FR 14330 (1990)). Respondent made an unsuccessful appeal of the second renewal which was denied on June 6, 1990 (55 FR 27288 (1990)). The third renewal was issued on September 28, 1990 (55 FR 41366 (1990)). It was to remain in effect for 180 days from the date of issue (March 27, 1991) or the disposition of this proceeding. The dates of the Temporary Denial Order which are printed in the Federal Register Table of Denied Parties appear to be in error.

[2] The Act expired on September 30, 1990. Executive Order FR 12730 (55 FR 40373 (1990)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (Supp. 1990)).

an Answer by letter dated July 9, 1990. Agency Counsel has moved for summary judgment with respect to Charge I (conspiracy to export without a license) and Charge III (attempt to export) of the charging letter citing Respondent's criminal conviction which was assertedly based on the same facts as are at issue here.[3] The record reflects that criminal proceedings were initiated and a conviction obtained respecting the Respondent in the United States District Court for the District of Massachusetts, which had jurisdiction of the Respondent and of the charged violations of the criminal law. As noted in the administrative proceeding titled, "In the Matter of Spawr Optical Research, Inc." 51 FR 7477 (1986), and subsequent federal court decision, *Spawr Optical Research, Inc.* v. *Baldridge*, 649 F. Supp. 1366 (D.D.C. 1986), factual determinations of a Court of competent jurisdiction are not subject to redetermination before this administrative Tribunal.

*Facts*

The facts in the grand jury indictment of which Respondent was convicted on his guilty plea are:

On or about December 9, 1983, at or around Boston in the District of Massachusetts, Marcel Sanders, Coris Christiaan Grandia, Franciscus Covaerts, and Rogier Von Alphen,[4] defendants herein, in furtherance of the conspiracy [to knowingly and willfully export as] charged in Court One, did knowingly and willfully attempt to export and did aid, abet, cause, counsel, command, procure and induce the knowing and willful attempt to export the Terandyne J927 Memory Test System and M218 Laser Repair System from the United States, without first having applied for and obtained a validated export license from the United States Department of Commerce, Office of Export Licensing, knowing that the intended final destination of the equipment was Bulgaria, a controlled country.

All in violation of [title 18, United States Code section 371]; title 50, United States Code, appendix, section 2410(b); title 15, Code of Federal Regulations, §§ 370.1–370.3, § 372.1; §§ 387.1–387.3, § 399.1; Title 18, United States Code, section 2.

(Agency Ex. 1. *See* Ex. 2).

*Discussion*

In his answer Respondent acknowledges acquaintances with some of the others involved in the charged export though he denies his own culpable participation. In his explanation, Respondent claims that he was pressured into executing and delivering the documents relating to the transaction. His criminal conviction may not be contradicted here. The United States District Court was the competent tribunal to consider the criminal charges. The criminal conviction may not be collaterally attacked here.

The disposition of administrative proceedings in summary fashion predicated upon facts found in a criminal proceeding is not open to question. Such process has been approved legislatively and judicially. 50 U.S.C. App. 2410(h); *Spawr, supra*. I conclude that this is an appropriate case for such summary disposition. Comparing the charge in this proceeding to the facts alleged and found in the Count in the criminal case, reflects that the essential facts and elements alleged in this administrative proceeding were found in that judicial criminal proceeding. The facts found in relation to the violations are identical.

I do not find that there are special circumstances which preclude reliance upon the criminal court's factual findings.

*Conclusion*

The Agency Motion for Summary Judgment is granted.

The results of the criminal proceeding introduced in the course of this adjudication establish that Respondent Govaerts violated the Act and Regulations as charged. Since his business activity Printlas Europa is but his *alter ego* or the *nom de plume* under which his operations are conducted, it too should be named.

The violation warrants denial of participation in export of the United States goods and technologies for 10 years. This is consistent with the action in other similar cases. The indication that Govaerts provided cooperation and information to U.S. Customs authorities after the violations were uncovered deserves some credit. Suspending 5 years of the denial will acknowledge that cooperation.

I. For a period of ten years from the date of the final order the Respondents Franciscus B. Govaerts individually and doing business as Printlas Europa, with addresses at Torenakker 8—5731 CC, Mierlo, Holland, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Commencing five years from the date that this Order becomes effective, the denial of export privileges set forth above shall be suspended, in accordance with § 788.16(c) of the Regulations, for the remainder of the ten year period set forth in Paragraph I above, and shall be terminated at the end of such ten year period, provided that Respondent has committed no violations of the Act, the Regulations, or the final Order entered in this proceeding. The provisions of paragraphs III and VI of this Order are also suspended during the five year suspension period.

III. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for re-export authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

V. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including,

[3] Agency Counsel represents that two of the counts (II and IV) are withdrawn if summary judgment is granted with respect to the two remaining counts which allege the same facts set forth in the criminal proceeding.

[4] Decisions respecting the first three named Respondents are being issued concurrently. No Charging Letter has been filed with respect to the last named individual.

but not limited to, distribution licenses, are hereby revoked.

VI. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VII. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Dated: February 5, 1991.

Hugh J. Dolan,

*Administrative Law Judge.*

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW, room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to Section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 91-5847 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 0117-01, 0117-02]

## Action Affecting Export Privileges: Goris Christiaan Grandia

In the matter of: Goris Christiaan Grandia individually and doing business as Grandia Project Services, Respondent.

### Order

On February 5, 1991, the Administrative Law Judge entered his Recommended Decision and Order in the above-referenced matter. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record and based on the facts in this case, I hereby affirm the Decision and Order of the Administrative Law Judge.

In addition, as the Administrative Law Judge notes, there is a Temporary Denial Order currently in effect against the respondent. By Order of April 6, 1989 (54 FR 14667, April 12, 1989), which was renewed on October 4, 1989 (54 FR 41660, October 11, 1989), April 2, 1990 (55 FR 14330, April 17, 1990) and September 28, 1990 (55 FR 41366, October 11, 1990), Grandia, along with several other named parties, was temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The Order which I am now issuing concludes the administrative proceeding against Grandia as a result of the investigation which gave rise to the Temporary Denial Order. Accordingly, the Temporary Denial Order is amended by deleting from the list of respondents named therein: Goris Christiaan Grandia, individually and doing business as Grandia Project Services with addresses at:

Laurietstraat 59 1016 PH Amsterdam, Netherlands
and
Gudrunstrasse 121 A 1100 Vienna, Austria.

This constitutes final agency action in this matter.

Dated: March 5, 1991.

Dennis Kloske,

*Under Secretary for Export Administration.*

### Decision and Order

Appearance for Respondent: M. V. van der Woude, Esq., Advocaat En Procureur, Hacquartstraat 10, 1071 SH Amsterdam.[1]

Appearance for Agency: Thomas C. Barbour, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., room H-3839, Washington, DC 20230.

*Preliminary Statement*

In a charging letter dated September 10, 1990, the Office of Export Enforcement charged Respondent Goris Christiaan Grandia individually and doing business as Grandia Project Services with one violation of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420 (Supp. 1989)) (the "Act"), and the implementing Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1989)) ("the Regulations").[2] Following one extension, Respondent filed an Answer and requested a hearing by letter dated November 19, 1990, which was received on November 26, 1990. Agency Counsel thereafter moved for summary judgment citing Respondent's criminal conviction which was assertedly based on the same facts as are at issue here.[3] The record reflects that criminal proceedings were initiated and a conviction obtained respecting the Respondent in the United States District Court for the District of Massachusetts, which had jurisdiction of the Respondent and of the charged violations of the criminal law. As noted in the administrative proceeding titled, "In the Matter of Spawr Optical Research, Inc.", 51 FR 7477 (1986), and subsequent federal court decision, *Spawr Optical Research, Inc.* v. *Baldridge*, 649 F. Supp. 1366 (D.D.C. 1986), factual determinations of a Court of competent jurisdiction are not subject to redetermination before this administrative Tribunal.

[1] Respondent Grandia, doing business as R. Grandia Project Services B.V. and Grandia Project Services GmBH, was previously subject to a Temporary Denial Order (50 FR 7945 (1985)), which was vacated on May 21, 1989 (52 FR 19902 (1987)). Further a Temporary Denial Order was issued on April 6, 1989 (54 FR 14667 (1989)). The first renewal was issued on October 4, 1989 (54 FR 41660 (1989)); the second renewal was issued on April 2, 1990 (55 FR 14330 (1990)); the third renewal was issued on September 28, 1990 (55 FR 41366 (1990)). The third renewal to remain in effect until March 27, 1991 or the disposition of this proceeding. The dates of the Temporary Denial Order which are printed in the Federal Register Table of Denied Parties appear to be in error.

[2] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373 (1990)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (Supp. 1990)).

[3] Following receipt of Respondent's Answer a schedule was established for processing this adjudication. The filing of the Indictment and Judgment of Conviction obviates the need for such filings.

*Facts*

The facts in the grand jury indictment of which Respondent Grandia was convicted on his guilty plea are:

On or about December 9, 1988, at or around Boston in the District of Massachusetts, Marcel Sanders, Goris Christiaan Grandia, Franciscus Govaerts, and Rogier Von Alphen,[4] defendants herein, in furtherance of the conspiracy [to knowingly and willfully export as] charged in Count One, did knowingly and willfully attempt to export and did aid, abet, cause, counsel, command, procure and induce the knowing and willful attempt to export the Terandyne J927 Memory Test System and M218 Laser Repair System from the United States, without first having applied for and obtained a validated export license from the United States Department of Commerce, Office of Export Licensing, knowing that the intended final destination of the equipment was Bulgaria, a controlled country.

All in violation of [title 18 United States Code section 371]; title 50, United States Code, appendix, section 2410(b); Title 15, Code of Federal Regulations, §§ 370.1–370.3, § 372.1; §§ 387.1–387.3, § 399.1; Title 18, United States Code, section 2.

(Agency Ex. 1; *See* Agency Ex. 2)

*Discussion*

In his answer Respondent acknowledges acquaintances with some of the others involved in the charged export though he denies culpable participation. His explanation acknowledges and indicates substantial knowledge and participation in the transaction. His attack upon the validity of the criminal conviction will not be considered here. The tribunal that issued the Writ of Extradition and the United States District Court were the competent tribunals to consider that action. The criminal conviction may not be collaterally attacked here.

The disposition of administrative proceedings in summary fashion predicated upon facts found in a criminal proceeding is not open to question. Such process has been approved legislatively and judicially. 50 U.S.C. App. 2410(h); *Spawr, supra.* I conclude that this is an appropriate case for such summary disposition. Comparing the charge in this proceeding to the facts alleged and found in the count in the criminal case, reflects that the essential facts and elements alleged in this administrative proceeding were found in that judicial criminal proceeding. The fact that this administrative proceeding does not allege or rely upon a conspiracy does not preclude reliance upon the criminal conviction. The facts found in relation to the violations are identical.

I do not find that there are special circumstances which preclude reliance upon the criminal court's factual findings. Respondent's assertions are devoid of merit.

*Conclusion*

The results of the criminal proceeding introduced in the course of this adjudication establish that Respondent Grandia violated the Act and Regulations as charged. Since his business activity Grandia Project Services is but his *alter ego* or the *nom de plume* under which his operations are conducted, it too should be named.

The violation warrants denial of participation in export of the United States goods and technologies for 10 years. As requested by Agency Counsel. This is consistent with the action in other similar cases.

*Order*

I. For a period of ten years from the date of the final order the Respondents Goris Christiaan Grandia, individually and doing business as Grandia Project Services with address at:

Laurierstraat 59 1016 PH Amsterdam, The Netherlands
and
Gudrunstrasse 121 A 1100 Vienna, Austria

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for re-export authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. All outstanding individual validated export licenses in which Responsdent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly and indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1))

[4] Decisions respecting the first three named Respondents are being issued concurrently. No Charging Letter has been filed with respect to the last named individual.

Dated: February 5, 1991.

Hugh J. Dolan,

*Administrative Law Judge.*

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., room 3898B, Washington, DC 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order or the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 91-5848 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-DT-M

## Action Affecting Export Privileges; JAN C. KOSTER, Individually and Doing Business as Advanced Computing Management and Also as AQUA CITY MIJ

### Order

In the Matter of: JAN C. KOSTER, individually and doing business as ADVANCED COMPUTING MANAGEMENT and also as AQUA CITY MIJ, World Trade Center, Strawinskylaan 59, 1077 XW Amsterdam Postbus 72311, 1007 VA, Amsterdam, The Netherlands, Respondents.

*Whereas,* on August 24, 1990, the undersigned entered an Order against Respondents which, in pertinent part, provided that:

It is therefore ordered,

A civil penalty in the amount of $50,000 is assessed against Koster, which Koster shall pay to the Department as follows: $25,000 shall be paid on or before December 31, 1990 and $25,000 shall be paid within one year of the entry of this Order. * * *

Jan C. Koster, individually and doing business as Advanced Computing Management and Aqua City Mij (hereinafter collectively referred to as Koster), World Trade Center, Strawinskylaan 59, Amsterdam Postbus 72311, 1007 VA Amsterdam, The Netherlands, and all his successors, assignees, officers, partners, representatives, agents and employes, shall be denied, for a period of five years from the date of this Order, all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad. * * *

As authorized by § 788.16(c) of the Regulations, the denial period herein provided for against Koster shall be suspended for a period of five years beginning from the date of entry of this Order and shall thereafter be waived, provided that, during the period of applicable suspension, Koster has not committed any violation of the Act or any regulation, order or license issued under the Act.

*Whereas,* pursuant to §§ 788.17(b) and 788.16(c) of the Export Administration Regulations (15 CFR parts 768-799 (1990)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420 (1990) (the Act),[1] the Department on February 1, 1991, applied to the undersigned to modify the Order of August 24, 1990, by revoking the five-year period of suspension of denial, because Respondents have refused or failed to pay the $25,000 installment of the civil penalty that was due and payable on December 31, 1990, as required by the Order of August 24, 1990;

Whereas, on February 1, 1991, Respondents were Ordered by the undersigned to show cause in writing on or before March 1, 1991, why the Order of August 24, 1990 should not be modified as requested by the Department for the Respondents' failure to pay the civil penalty as required by the Order of August 24, 1990;

*Whereas,* the Order to Show Cause was duly served on the Respondents in a manner authorized by §§ 788.4 of the Regulations;

*Whereas,* the Respondents have failed to show cause why the revocation of the suspension of the five-year denial period requested by the Department should not be ordered;

*Now therefore,* pursuant to §§ 788.17(b) and 788.16(c) of the Regulations and in consequence of Respondents' failure to pay the civil penalty as required by the Order of August 24, 1990;

*It is hereby ordered* that the Order of August 24, 1990, is modified, as follows:

*First,* the suspension of the five-year period of denial of all U.S. export privileges imposed against Respondents, by the Order of August 24, 1990 is hereby revoked. Jan C. Koster, individually and doing business as, Advanced Computing Management, and also as, Aqua City Mij, World Trade Center, Strawinskylaan 59, 1077 XW Amsterdam Postbus 72311, 1007 VA, Amsterdam, The Netherlands, collectively referred to herein as Respondents, and all their successors, assignees, offices, partners, representatives, agents and employees, shall be denied for a period of five years from the date of the entry of this Order, all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad.

A. All outstanding individual validated export licenses in which any Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondents' privileges of participating, in any manner or capacity, in any special licensing procedure including, but not limited to, distribution licenses, are hereby revoked.

B. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but is not limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

C. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

D. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to any specific authorization from the OFfice of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any

[1] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (Supp. 1990)).

association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported, in whole or in part, or to be exported by, to, or for any Respondent or any related person denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States. These prohibitions apply only to those commodities and technical data which are subject to the Act and the Regulations.

*Second*, the sum of $25,000 that was due on or before December 31, 1990 is immediately due and payable. The remaining balance due, $25,000, shall be paid on or before August 24, 1991.

*Third*, this Order shall be served upon Respondents and published in the **Federal Register**.

Entered this fifth day of March 1991.

**Quincy M. Krosby,**

*Assistant Secretary for Export Enforcement.*

---

**[Docket No. 0118-01, 0118-02]**

## Action Affecting Export Privileges; Marcel J. Sanders

### Order

In the matter of: Marcel J. Sanders, individually and doing business as [1] Belgian Trading Company, Lokeren S.A.; Respondent.

On February 5, 1991, the Administrative Law Judge entered his Recommended Decision and Order in the above-referenced matter. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record and based on the facts in this case, I hereby affirm the Decision and Order of the Administrative Law Judge.

In addition, as the Administrative Law Judge notes, there is a Temporary Denial Order currently in effect against the respondent. By Order of April 6, 1989 (54 FR 14667, April 12, 1989), which was renewed on October 4, 1989 (54 FR 41660, October 11, 1989), April 2, 1990 (55 FR 14330, April 17, 1990) and September 28, 1990 (55 FR 41366, October 11, 1990), Sanders, along with several other named parties, was temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The Order which I am now issuing concludes the administrative proceeding against Sanders as a result of the investigation which gave rise to the Temporary Denial Order. Accordingly, the Temporary Denial Order is amended by deleting from the list of respondents named therein:

Marcel Sanders, individually and doing business as Belgian Trading Company Lokeren S.A., Sijpstraat 6, 9101 Lokeren, Belgium.

This constitutes final agency action in this matter.

Dated: March 5, 1991.

**Dennis Kloske,**

*Under Secretary for Export Administration.*

### Decision and Order

Appeance for Respondent: Marcel J. Sanders, Belgian Trading Company, Lokeren S.A., Sijpstraat 6, 9101 Lokeren, Belgium.

Appearance for Agency: Thomas C. Barbour, Esq., Louis K. Rothberg, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., room H-3839 Washington, DC 20230.

*Preliminary Statement*

In a charging letter dated September 10, 1990, the Office of Export Enforcement charged Respondent Marcel J. Sanders individually and doing business as Belgian Training Company, Lokeren S.A., with two violations of the Export Administration Act of 1979, as amended (50 U.S.C.A. app 2401–2420 (Supp. 1989)) (the "Act"), and the implementing Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1989)) ("the Regulations").[2] Count One alleged a conspiracy to export without a license and Count Two alleged an attempt to illegally export, both of which are described hereafter. Respondent did not answer and was held to be in Default on October 30, 1990. The Agency submission pursuant to the regulations and the Order of this Tribunal was filed on November 28, 1990. Agency Counsel thereafter moved for judgment citing Respondent's criminal conviction which is based on the same facts as are at issue here. The record reflects that criminal proceedings were initiated and a conviction obtained respecting the Respondent in the United States District Court for the District of Massachusetts, which had jurisdiction of the Respondent and of the charged violations of the criminal law. As noted in the administrative proceeding titled, In the Matter of Spawr Optical Research, Inc.", 51 FR 7477 (1986), and subsequent federal court decision, Spawr Optical Research, Inc. v. Baldridge, 649 F. Supp. 1366 (D.D.C. 1986), factual determinations of a Court of competent jurisdiction are not subject to redetermination before this administrative Tribunal.

*Facts*

The facts in the grand jury indictment of which this Respondent was convicted on his guilty plea are:

On or about December 9, 1983, at or around Boston in the District of Massachusetts, Marcel Sanders, Goris Christiaan Grandia, Franciscus Coveerts, and Roger Von Alphen,[3] defendants herein, in furtherance of the conspiracy [to knowingly and willfully export as] charged in Count One, did knowingly and willfully attempt to export and did aid, abet, cause, counsel, command, procure and induce the knowing and willful attempt to export the Teradyne J927 Memory Test System and M218 Laser Repair System from the United States, without first having applied for and obtained a validated export license from the United States Department of Commerce, Office of Export Licensing, knowing that the intended final destination of the equipment was Bulgaria, a controlled country.

All in violation of [title 13 United States Code section 371]; title 50, United States Code, appendix, section 2410(b); title 15, Code of Federal Regulations, §§ 370.1–370.3, § 372.1; §§ 387.1–387.3, § 399.1; title 13, United States Code, section 2.

(Agency Ex. 1; *See* Agency Ex. 2)

*Discussion*

The criminal conviction may not be collaterally attacked here. The action of

---

[1] A Temporary Denial Order was issued on April 6, 1989 (54 Fed. Reg. 14667 (1989)). The first renewal was issued on October 4, 1989 (54 Fed. Reg. 41660 (1989)); the second renewal was issued on April 2, 1990 (55 Fed. Reg. 14330 (1990)); the third renewal was issued on September 28, 1990 (55 Fedl Reg. 41366 (1990)). The third renewal to remain in effect until March 27, 1991 or the disposition of this proceeding. The dates of the temporary denial order which are printed in the **Federal Register** Table of Denied Parties appear to be in error.

[2] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373 (1990)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (Supp. 1990)).

[3] Decisions respecting the first three named Respondents are being issued concurrently. No Charging Letter has been filed with respect to the last named individual.

the Federal District Court is not open to review in this administrative proceeding.

The disposition of administrative proceedings in summary fashion predicated upon facts found in a criminal proceeding is not open to question. Such process has been approved legislatively and judicially. 50 U.S.C. App. 2410(h); *Spawr, supra.* I conclude that this is an appropriate case for such summary disposition. Comparing the charge in this proceeding to the facts alleged and found in the count in the criminal case, reflects that the essential facts and elements alleged in this administrative proceeding were found in that judicial criminal proceeding.

I do not find that there are special circumstances which preclude reliance upon the criminal court's factual findings. The assertions made on behalf of Respondent are devoid of merit.

*Conclusion*

The results of the criminal proceeding introduced in the course of this adjudication establish that Respondent Sanders violated the Act and Regulations as charged. Since his business activity Belgian Trading Company, Lokeren is but his *alter ego* or the *nom de plume* under which his operations are conducted, it too should be named.

The violation warrants denial of participation in export of the United States goods and technologies for 10 years. This is consistent with the action in other similar cases. The facts established here do not support the more harsh penalty that Agency Counsel Rothberg requests, without support, in this case only.

*Order*

I. For a period of ten years from the date of the final order the Respondents: Marcel J. Sanders, individually and doing business as Belgian Trading Company, Lokeren S.A., with addresses at: Sijpstraat 6, 9101 Lokeren, Belgium, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for re-export authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. All outstanding individual validated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Dated: February 5, 1991.

Hugh J. Dolan,

*Administrative Law Judge.*

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 139(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 91-5849 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-DT-M

## International Trade Administration

## Short-Supply Determination; Certain Type 430 Stainless Steel Wire Rod

**AGENCY:** Import Administration/International Trade Administration, Commerce.

**ACTION:** Notice of short-supply determination on certain type 430 stainless steel rod.

**SHORT-SUPPLY REVIEW NUMBER:** 42.

**SUMMARY:** The Secretary of Commerce ("Secretary") hereby denies a short-supply allowance for 3,300 metric tons of certain Type 430 stainless steel rod for March-December 1991 under the U.S.-EC, U.S.-Brazil, U.S.-Korea, and U.S.-Japan steel arrangements.

**EFFECTIVE DATE:** March 6, 1991.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Freilich or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington,

DC 20230 (202) 377-0408 or (202) 377-0159.

**SUPPLEMENTARY INFORMATION:** On Febraury 19, 1991, the Secretary received an adequate petition from the American Wire Producers Association ("AWPA"), requesting a short-supply allowance for 3,300 metric tons of certain Type 430 stainless steel rod for March-December 1991 under Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products, article 8 of the Arrangement Between the Government of South Korea and the Government of the United States of America Concerning Trade in Certain Steel Products, article 8 of the Arrangement Between the Government of Brazil and the Governmennt of the United States of America Concerning Trade in Certain Steel Products, and article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Products. The AWPA requested short supply for this product because it alleges there are no reliable domestic suppliers of this product and because of quota limitations for stainless wire rod by potential foreign suppliers.

The requested material meets the specifications for Type 430 stainless steel wire rod with the exception of the maximum carbon content. In this request, the carbon level cannot exceed 0.04 percent. The sizes and quantity requested for each size are as follows:

| Diameter (mm) | Quantity (metric tons) |
|---|---|
| 5.5 (including 6.0) | 3,050 |
| 7.0 | 90 |
| 9.5 | 80 |
| 20.0 | 80 |
| Total | 3,300 |

The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

**Action**

On February 19, 1991, the Secretary established an official record on this short-supply request (Case Number 42) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) Commerce's Short-Supply Procedures require the Secretary to apply a rebuttable presumption that a product is in short supply and to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that the importation of additional quantities of the rquested steel product was authorized during each of the two immediately preceding years. Therefore, the Secretary has applied a rebuttable presumption that this product is presently in short supply in accordance with section 4(b)(4)(B)(i)(II) of the Act and § 357.106(b)(1)(ii) of Commerce's Short-Supply Procedures.

Unless domestic steel producers provided proof that they could and would produce and supply the requested quantity of this product within the desired period of time, provided it represented a normal order-to-delivery period, the Secretary would issue a short-supply allowance not later than March 6, 1991. On February 26, 1991, the Secretary published a notice in the **Federal Register** announcing a review of this request and providing domestic steel producers an opportunity to rebut the presumption of short supply. All comments were required to be received no later than March 5, 1991.

On March 5, 1991, the Secretary received comments from Baltimore Specialty Steels Corporation (BSSC). BSSC stated it has the ability to produce the requested product, and can supply the entire 3,300 tons for which AWPA had requested short supply. Its normal order-to-delivery period for this product is 9 to 11 weeks. The AWPA did not provide comments contesting BSSC's ability to produce the requested product or supply the material within a normal order-to-delivery period.

**Conclusion**

The Secretary received comments to the **Federal Register** notice from a potential supplier that has indicated a wilingness and ability to produce and supply the requested product in its entirety. Thus, the presumption of short supply has effectively been rebutted. The Secretary hereby denies, pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, the short-supply request for 3,300 metric tons of the requested Type 430 stainless steel wire for March-December 1991 under the U.S.-EC, U.S.-Japan, U.S.-Korea, and U.S.-Brazil steel arrangements. However, if the Secretary determines that his decision in this review was based on inaccurate information submitted by a private party, the Secretary may reconsider his decision.

Dated: March 6, 1991.

**Marjorie A. Chorlins,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 91-5846 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-DS-M

## Short-Supply Review: Certain Doctor Blade Steel

**AGENCY:** Import Administration/International Trade Administration, Commerce.

**ACTION:** Notice of short-supply review and request for comments on certain Doctor Blade steel.

**SUMMARY:** The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 44 tons of certain doctor blade steel for 1991 under the U.S.-EC steel arrangement.

**SHORT-SUPPLY REVIEW NUMBER:** 45.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.104(b) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply request is under review with respect to doctor blade steel used in the printing industry. On March 6, 1991, the Secretary received an adequate petition from Nedwick Steel Company ("Nedwick"), requested a short-supply allowance for 44 net tons of this product for 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Products. Nedwick is requesting short supply because this product is not available in the United States and because its foreign supplier has insufficient quota available to meet Nedwick's needs.

The requested material meets the following specifications:

Chemical Composition:

| Grade | weight % normal | | | | |
|---|---|---|---|---|---|
| | C | Si | Mn | Pmax | Smax |
| Eberle | 1.0 | 0.25 | 0.40 | 0.015 | 0.004 |

*Width and tolerance:* 5.0 inch, ± 0.008 inch.

*Thickness and tolerance:* 0.008 inch, ± 0.000316 inch; 0.006 inch, ± 0.000236 inch.

*Straightness deviation:* Maximum of 0.024 inch/10 feet of length;

*Edges:* deburred.

*Hardness:* 580 HV nom.

*Surface finish:* bright fine polished.

*Form of Supply:* coils.

*Camber Deviation:* maximum of 0.012 inch/10 feet.

*Cleanliness:* Groz Beckart cleanliness standard of maximum 700.

*Flatness deviation:* Maximum of 0.003 inch/inch of width.

Section 4(b)(4)(B)(i) of the act and § 357.106(b)(1) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary granted short-supply allowances for this product during each of the two immediately preceding years. Therefore, in accordance with section 4(b)(4)(B)(i)(II) of the Act and § 357.106(b)(1)(ii) of Commerce's Short-Supply Procedures, the Secretary is applying a rebuttable presumption that this product is presently in short supply. Unless domestic steel producers provide comments in response to this notice indicating that they can and will supply this product within the requested period of time, provided it represents a normal order-to-delivery period, the Secretary will issue a short-supply allowance not later than March 21, 1991.

**COMMENTS:** Interested parties wishing to comment upon this review must send written comments not later than March 20, 1991 to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

**FOR FURTHER INFORMATION CONTACT:** Marissa A. Rauch or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230, (202) 377-1382 or (202) 377-0159.

**Marjorie A. Chorlins,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 91-6072 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-DS-M

## National Institute of Standards and Technology

**[Docket No. 60117-0290]**

**RIN 0693-AA48**

## Approval of Federal Information Processing Standards Publication 160, C

**AGENCY:** National Institute of Standards and Technology (NIST), Commerce.

**ACTION:** The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 160, C.

**SUMMARY:** On May 11, 1990, notice was published in the **Federal Register** (55 FR 19768) that a Federal Information Processing Standard for C was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standards Publication, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

**EFFECTIVE DATE:** This standard is effective September 30, 1991.

**ADDRESSES:** Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathryn Miles (301) 975-3156, or L. Arnold Johnson (301) 975-3247, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: March 6, 1991.

**John W. Lyons,**

*Director.*

### Federal Information Processing Standards Publication 160 (date) Announcing the Standard for C

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949, as amended by the Computer Security Act of 1987, Public Law 100-235.

1. *Name of Standard.* C (FIPS PUB 160).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard for C, ANSI X3.159–1989, as a Federal Information Processing Standard (FIPS). The American National Standard for C specifies the form and establishes the interpretation of programs written in the C programming language. The purpose of the standard is to promote portability of C programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules adopted by ANSI.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Institute of Standards and Technology (Computer Systems Laboratory).

6. *Cross Index.* American National Standard X3.159–1989, Programming Language C.

7. *Related Documents.**

a. Federal Information Resources Management Regulation 201–39, Acquisition of Federal Information Processing Resources by Contracting.

b. Federal Information Processing Standards (FIPS) Publication 29, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by ensuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems; and

—To protect the existing software assets of the Federal Government by ensuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages are applicable for computer applications and programs that are either developed or acquired for government use. FIPS C is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS C is suitable for use in programming relating to operating system level software, and applications which require very low level programming constructs that are independent of the system or hardware architecture.

b. The use of FIPS high level programming languages applies when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—THe program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

—The program is being used for "cooperative" processing across multiple processing platforms (e.g., desktops, servers, and mainframes).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the portable features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recongized that programmatic requirements may be more economically and efficiently satisfied through the use of statistical and numerical software packages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a C source program, then the resulting program should conform to the conditions and specification of FIPS C.

10. *Specifications.* FIPS C specifications are the language specifications contained in American National Standard for C, ANSI X3.159–1989.

a. The ANSI X3.159–1989 document specifies the representation, syntax, and semantics for C programs; the representation of input and output data processed by C programs; and the restrictions and limitations imposed by a conforming implementation of C.

b. The standard does not specify the mechanisms by which C programs are transformed or invoked for use by a data processing system, the mechanisms by which input data are transformed for use by a C program or output data are transformed after being produced by a C program, the limits on program size or complexity, nor all minimal requirements of a data processing system that is capable of supporting a conforming implementation.

c. A facility must be available in the processor for the user to optionally specify monitoring of the source program at compile time. The monitoring may be specified for all obsolete language elements included in the processor, or all C language elements that are not in conformance with this standard, or both. The monitoring is an analysis of the syntax used in the source program against the syntax included in the FIPS C. Any syntax used in the source program that does not conform to that included in this standard will be diagnosed and identified to the user through a message on the source program listing. Any syntax for an obsolete language element included in the processor and used in the source program will also be diagnosed and

* Refers to most recent revision of FIPS PUBS.

identified through a message on the source program listing. The determination of the need to flag any given source program syntax in accordance with these requirements cannot be logically resolved until the syntactic correctness of the source program has been established. The message provided will identify:

—The statement or declaration that directly contains the nonconforming or obsolete syntax.

—The source program line and an indication of the beginning of the location within the line of the statement or declaration which contains the nonconforming or obsolete code.

—The syntax as "obsolete" if monitoring is selected for the obsolete category.

—The syntax as "nonconforming nonstandard" if the nonconforming syntax is a nonstandard extension included in the processor and monitoring for all C language elements that are not in conformance with this standard is selected.

11. *Implementation*. The implementation of this standard involves three areas of consideration: acquisition of C processors, interpretation of FIPS C, and validation of C processors.

11.1 *Acquisition of C Processors*. This publication is effective September 30, 1991. C processors acquired for Federal use after this date should implement FIPS C. Conformance to FIPS C is applicable whether C processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce C processors conforming to the standard. The transition period begins on the effective date and continues for one year thereafter. The provisions of FIPS PUB 160 apply to orders placed after the effective date of this publication; however, a processor conforming to the FIPS PUB 160, if available, may be acquired for use prior to the effective date. If a conforming processor is not available a C language processor not conforming to this standard may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS C*. NIST provides for the resolution of questions regarding FIPS C specifications and requirements, and issues official interpretation as needed. All questions about the interpretation of FIPS C should be addressed to: Director, Computer Systems Laboratory, ATTN: FIPS C Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Telephone: (301) 975–3156.

11.3 *Validation of C Processors*. The National Institute of Standards and Technology is investigating methods for providing validation services for FIPS C. For more information, contact: Director, Computer Systems Laboratory, ATTN: FIPS C Validation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Telephone: (301) 975–3156.

12. *Waivers*. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology, ATTN: FIPS Waiver Decisions, Technology Building, Room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies*. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 160 (FIPSPUB160), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 91–5827 Filed 3–12–91; 8:45 am]

BILLING CODE 3510–CN–M

---

## National Oceanic and Atmospheric Administration

**[Docket No. 910248–1048]**

## Interim Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of interim policy.

**SUMMARY:** NMFS announces its interim policy on how it will apply the definition of species in the Endangered Species Act of 1973, as amended (ESA) in evaluating Pacific salmon stocks for listing under the ESA. A salmon stock will be considered a distinct population, and hence a species under the ESA, if it represents an evolutionarily significant unit of the biological species. The stock must satisfy two criteria to be considered an evolutionarily significant unit: (1) It must be substantially reproductively isolated from other conspecific population units; and (2) it must represent an important component in the evolutionary legacy of the species. Only Pacific salmon stocks that meet these criteria will be considered by NMFS for listing under the ESA.

**DATES:** This interim policy takes effect immediately and will be used in evaluating Pacific salmon stocks for listing under the ESA. This interim policy will remain in effect until revised or superseded. Comments on this policy will be accepted until June 11, 1991.

**ADDRESSES:** Comments should be mailed to the Director, Protected Species Management Division, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Merritt Tuttle, Environmental and Technical Services Division, NMFS, Portland, OR 97232 (503/230-5401 or FTS/429-5401), or Patricia Montanio, Protected Species Management Division, NMFS, 1335 East-West Highway, Silver Spring, MD 20910 (301/427-2322).

**SUPPLEMENTARY INFORMATION:**

## Background

In addition to an entire species, a distinct population segment of a vertebrate species may be listed and protected under the ESA. On April 2 and June 7, 1990, NMFS received petitions to list a total of five (5) stocks of Pacific salmon under the ESA.

These petitions were all found to present substantial information indicating that the petitioned actions may be warranted and information was requested from the public (55 FR 22942, June 5, 1990; 55 FR 37342, September 11, 1990). The Notices accepting the petitions specifically requested information on whether or not the petitioned stocks qualify as distinct population segments under the ESA.

Both the U.S. Fish and Wildlife Service (FWS) and NMFS, which share jurisdiction under the ESA, have made listing determinations for populations of vertebrate species. Since the Services do not have established criteria for determining what qualifies as a distinct population segment, the Services have made determinations on an *ad hoc* basis based on criteria specific for the species in question. Because of the five pending petitions and numerous other Pacific salmon stocks that in the future may be considered for listing, NMFS developed this interim policy that it will use to determine whether or nor a Pacific salmon stock qualifies as a distinct population of vertebrate species. This interim policy does not affect any past listings, such as the listing of the Sacramento River winter-run chinook salmon (final listing determination published November 5, 1990; 55 FR 46515).

## Definition of Species

The stated purposes of the ESA are to "provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species and threatened species" (ESA section 2(b)]. A review of legislative history indicates that a major motivating factor behind the ESA was the desire to preserve genetic variability, both between and within species. For example, the House of Representatives described the rationale for H.R. 37, a forerunner to the ESA, in the following terms (H.R. Rep. No. 412, 93d Cong., 1973):

> From the most narrow possible point of view, it is in the best interests of mankind to minimize the losses of genetic variations. The reason is simple: they are potential resources. They are keys to puzzles which we cannot yet solve, and may provide answers to the questions which we have not vet learned to ask.

Under the original 1973 Act, a "species" was defined to include "any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature." Use of this language established that the ESA protective measures extend to biological units below the species level. Amendments in 1978 provided the current language in the ESA: A "species" is defined to include" . . . any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature" (emphasis added).

Congress has provided limited guidance for interpreting this definition. In 1979, Congress declined to enact a provision recommended by the General Accounting Office that would have removed the authority to list vertebrate populations. The Senate Report to the 1979 amendments, however, stated that "the committee is aware of the great potential for abuse of this authority and expects the FWS to use the ability to list populations sparingly and only when biological evidence indicates that such action is warranted" (S. Rep. No. 151, 96th Cong., 1979).

Joint FWS/NMFS regulations concerning the listing process (50 CFR part 424) define "species" to include "any distinct population segment of any vertebrate species that interbreeds when mature" (50 CFR 424.02(k)). In an attempt to develop guidelines for and consistency in interpreting the language of the ESA pertaining to vertebrate populations, FWS and NMFS convened a Vertebrate Population Workshop in June 1990. Workshop participants included scientists with expertise in the fields of genetics and population dynamics. The goal of the workshop was to recommend a consistent approach for determining what qualifies as a distinct vertebrate population. Based, in part, on the results of this workshop, the FWS and NMFS intend to propose a regulation to further define what constitutes a distinct population segment. Since this proposal will not be published until much later in 1991, NMFS has developed this interim policy to use in listing determinations for Pacific salmon. The interim policy adopted here is consistent with the concepts developed at the workshop.

Because this action is a general statement of policy under 5 U.S.C. 553(b)(A), advanced notice and opportunity for comments are not required; nevertheless, comments on this interim policy are invited, and the policy may be revised through publication in the **Federal Register.** It will be superseded by any final rule published by the FWS/NMFS to further define "distinct population."

## Policy Statement

A stock of Pacific salmon will be considered a distinct population, and hence a species for purposes of listing under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. A stock must satisfy two criteria to be considered an ESU:

(1) It must be reproductively isolated from other conspecific population units; and

(2) It must represent an important component in the evolutionary legacy of the species.

The first criterion, reproductive isolation, does not have to be absolute, but it must be strong enough to permit evolutionarily important differences to accrue in different population units. Insights into the extent of reproductive isolation can be provided by movements of tagged fish, recolonization rates of other populations, measurements of genetic differences between populations, and evaluations of the efficacy of natural barriers. Each of these methods has its limitations. Identification of physical barriers to genetic exchange can help define the geographic extent of distinct populations, but reliance on physical features alone can be misleading in the absence of supporting biological information. Physical tags provide information about the movements of individual fish but not the genetic consequences of migration. Furthermore, measurements of current straying or recolonization rates provide no direct informaiton about the magnitude or consistency of such rates in the past. In this respect, electrophoretic (or DNA) differences can be very useful because they reflect levels of gene flow that have occurred over evolutionary time scales. The best strategy is to use all available

lines of evidence for or against reproductive isolation, recognizing the limitations of each and taking advantage of the complementary nature of the different types of information.

The second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. In making this determination, the following questions are relevant:

- Is the population genetically distinct from other conspecific populations?
- Does the population occupy unique habitat?
- Does the population show evidence of unique adaptation to its environment?
- And, if the population became extinct, would this event represent a significant loss to the ecological/genetic diversity of the species?

Several types of information are useful in addressing these questions. Again, the strengths and limitations of the information will be considered in making the evaluation. Phenotypic/life-history traits such as size, fecundity, and age and time of spawning may reflect local adaptations of evolutionary importance, but interpretation of these traits is complicated by their sensitivity to environmental conditions. Electrophoretic data provide valuable insight into levels of overall genetic differentiation among populations but little direct information regarding the extent of adaptive genetic differences. Habitat differences suggest the possibility for local adaptations but do not prove that such adaptations exist.

Technical Paper

In support of this policy, the Northwest Fisheries Center, NMFS, prepared a paper on "Definition of 'species' under the Endangered Species Act: Application to Pacific salmon." This technical paper is available upon request (see **FOR FURTHER INFORMATION CONTACT**) and contains more specific guidance on the application of this interim policy to Pacific salmon. The paper addresses several issues of particular concern regarding Pacific salmon, including anadromous/non-anadromous population segments, differences in run-timing, stock supplementation, introduced populations, and the role of hatchery fish.

Dated: March 7, 1991.

**Michael F. Tillman,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 91-5866 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-22-M

## Injury Determination Plan—Damage Assessment: Los Angeles Harbor, Long Beach Harbor, Palos Verdes Shelf and Ocean Dump Sites

**AGENCY:** National Oceanic and Atmospheric Administration Commerce.

**ACTION:** Notice of 60-day comment period.

**SUMMARY:** Notice is given that the draft document entitled, "Injury Determination Plan—Damage Assessment: Los Angeles Harbor, Long Beach Harbor, Palos Verdes Shelf and Ocean Dump Sites" is available for public review and comment. This document is a revised version of, and includes responses to public comments received from, the document entitled, "Damage Assessment Plan: Los Angeles Harbor, Long Beach Harbor, Palos Verdes Shelf and Ocean Dump Sites," which was put forth for public review on March 13, 1990 (55 FR 9347). The National Oceanic and Atmospheric Administration (NOAA) is a trustee for coastal and marine natural resources pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, the Federal Water Pollution Control Act of 1972 (FWPCA), the Oil Pollution Act of 1990 (OPA), subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600 and Executive Order 12580.

In coordination with the U.S. Department of the Interior and the State of California (the Co-Trustees), NOAA is undertaking an assessment of suspected damages to the natural resources of the Los Angeles Harbor, the Palos Verdes Shelf and offshore ocean dump sites that have been exposed to hazardous substances. In particular, NOAA and its Co-Trustees suspect that the resources of these areas have been exposed to DDT (dichlorodiphenyl-trichloroethane and its metabolites) and PCBs (all congeners or polychlorinated biphenyls) that have been released by certain industrial facilities. It is further suspected that this exposure has caused injury to these resources for which damages can and should be assessed.

NOAA is following the guidance of the Natural Resource Damage Assessment Regulations (the regulations) found at 43 CFR part 11 (1988), issued by the Department of the Interior. The procedure that NOAA intends to follow in conducting this damage assessment is substantially the same as that called for in these regulations, as modified by *Ohio* v. *Department of the Interior*, 880 F.2d 432 (DC Cir. 1989). The public review of this Injury Determination Plan, announced by this notice, is parallel to that provided for in 43 CFR 11.32(c) of the regulations.

Interested members of the public are invited to request a copy of this Injury Determination Plan from the Southwest Office of NOAA General Counsel at the address given below. All written comments will be considered by NOAA's Authorized Official and the Co-Trustees and included in the Report of Assessment issued at the conclusion of this damage assessment process.

**DATES:** Comments must be submitted on or before May 13, 1991.

**ADDRESSES:** Requests for copies of the Injury Determination Plan may be made to Jennifer Peacock or Paula Shields, NOAA General Counsel Southwest, 300 S. Ferry St., Terminal Island, CA 90731, (213) 514-6161.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Peacock or Paula Shields, NOAA General Counsel Southwest, 300 S. Ferry St., Terminal Island, CA 90731, (213) 514-6181.

**SUPPLEMENTARY INFORMATION:** This document concerns the assessment of natural resource damages that are the subject of the lawsuit entitled, *U.S. and California* v. *Montrose Chemical Corporation of California, et. al.*, No. CV-90-3122-AAH (C.D. Cal., filed 6/18/90). NOAA solicited comments on the original version of the document entitled "Damage Assessment Plan: Los Angeles Harbor, Long Beach Harbor, Palos Verdes Shelf and Ocean Dump Sites," (put forth for public review at 55 FR 9347, 3/13/90). Changes made in the injury determination portion of the damage assessment process are substantial enough to warrant offering this draft Injury Determination Plan for public comment.

Plans for injury quantification and damage determination will be offered separately for public review at a later date. Separating the phases of the damage assessment plan for individual treatment allow NOAA and the Co-Trustees to start working on injury determination while permitting more time for the later phases.

Dated: March 7, 1991.

**Thomas A. Campbell,**

*General Counsel, National Oceanic and Atmospheric Administration.*

[FR Doc. 91-5858 Filed 3-12-91; 8:45 am]

BILLING CODE 3510-08-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Private Act of 1974; Addition of a Record Systems Notice

**AGENCY:** Office of the Secretary (OSD), DOD.

**ACTION:** Addition of a record systems notice.

**SUMMARY:** The Office of the Secretary of Defense proposes to add a new record system to its inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

**DATES:** The Proposed action will be effective without further notice on April 12, 1991, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Mr. Dan Cragg, OSD Privacy Act Officer, OSD Records Management and Privacy Act Branch, Room 5C315, Pentagon, Washington, DC 20301-1155. Telephone (703) 695-0970.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) has been published in the Federal Register as follows:

50 FR 22090, May 29, 1985 (DoD Compilation, changes follow)
50 FR 47087, Nov. 14, 1985
51 FR 11807, Apr. 7, 1986
51 FR 17508, May 13, 1986
51 FR 44668, Dec. 11, 1986
52 FR 23334, Jun. 19, 1987
53 FR 15868, May 4, 1988
53 FR 27894, Jul. 25, 1988
54 FR 33756, Aug. 16, 1989
54 FR 43314, Oct. 24, 1989
55 FR 17655, Apr. 26, 1990
55 FR 20180, May 15, 1990
55 FR 21492, May 24, 1990
55 FR 35449, Aug. 30, 1990
55 FR 49405, Nov. 28, 1990

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on February 26, 1991, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985).

Dated: March 8, 1991.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**DODDS 25.0**

**SYSTEM NAME:**

DoDDS Internal Review Office Project File.

**SYSTEM LOCATION**

Department of Defense Dependent Schools Internal Review Office, Lindsey Air Station, Wiesbaden, German, APO NY 09634-0005.

**CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:**

DoD civilian personnel, members of the Armed Forces of the United States and their dependents; DoD contractors; individuals residing on, having authorized access to, or contracting or operating any business or other functions at any DoDDS installation or facility; and individuals not affiliated with the Department of Defense, when the conduct of their activities may be under review or investigation by the DoDDS Internal Review Office.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Reports of investigations prepared by DoDDS Internal Review Office or other DoD, Federal, or host country investigative activities; information summary reports, documenting solicited or unsolicited information of a criminal nature collected or received by the DoDDS IRO, concerning persons or incidents which are of direct interest to DoDDS or other DoD components or Federal Agencies; letters, memoranda, documents, statements; copies of individual records from official personnel and payroll files and records; audit working papers, listings, summations, and project tracking information; and other miscellaneous documentation supporting investigative and internal review functions of the DoDDS IRO.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Public Law 97-255, Federal Manager's Financial Integrity Act of 1982; and Executive Order 9397.

**PURPOSE(S):**

As an audit and financial information system, the Internal Review Office Project File is used to maintain financial accountability reviews of DoDDS operations world-wide and ensure that resources are protected from fraud, waste, mismanagement or other financial abuse. The system provides DoDDS managers with information on potential internal control weaknesses and contains supporting information for the annual DoDDS Internal Review Office Statement of Assurance. The system tracks all DoDDS audits, inquiries, reviews and investigations.

Investigative information is collected to identify offenders, to provide facts and evidence upon which to base prosecution, to effect corrective administrative action, and to recover money and property which has been wrongfully appropriated. Records are used: In the prosecution of criminal law enforcement violations; to sustain determinations in contractor responsibility and suspension/debarment decisions; to provide background information behind contractural actions and award decisions; to support statistical evaluations of DoDDS IRO investigative activities; to respond to Freedom of Information Act access request; to provide information in response to Inspector General, Equal Employment, or other complaint investigations and congressional inquiries; to obtain relevant information from Federal, state, local, and foreign agencies; to obtain employment records, if necessary, from business enterprises; and to obtain other information relevant to any on-going investigation.

**ROUTING USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:**

Information collected may be shared during reciprocal investigations conducted for and with other DoD and Federal agency investigative and law enforcement elements. Additionally, release may be made to accredited state, local, or host country law enforcement agencies, regulatory and licensing authorities, congressional committees, and the General Accounting Office.

The "Blanket Routine Uses" published at the beginning of the OSD's compilation of record system notices also apply to this record system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records are maintained in file folders. Electronic data is maintained on a microcomputer.

**RETRIEVABILITY:**

Documents are filed chronologically in sequential numeric order by DoDDS Region. Files are retrieved by subject and source name, Social Security Number, position title, employing

activity, address, telephone number, project number, DoDDS assessable unit, year, status, originator, action office, project title, location, suspense dates, and cross-reference.

**SAFEGUARDS**

The system location is a controlled-access facility that is locked when not occupied. Paper records are kept in filing cabinets and other storage devices that are secured when the office is not occupied. Access to records is restricted to DoDDS Internal Review Office personnel. The computer database is maintained on a personal computer. Access to computer records is controlled by a user identification and password system. Personnel having access are limited to those having a need-to-know who have been trained in handling Privacy Act information.

**RETENTION AND DISPOSAL:**

Paper records are retained for ten years and then destroyed. Computer files are retained for 15 years and are then deleted or media destroyed.

**SYSTEM MANAGER AND ADDRESS**

Department of Defense Dependents Schools (DoDDS), Internal Review Office, ATTN: Internal Control Officer, APO NY 09634–0005.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information about themselves should address written inquires to the Office of Dependents Schools, ATTN: Privacy Act Officer, 2461 Eisenhower Avenue, Alexandria, VA 22331–1100.

The request should include the region and/or facility where the individual was assigned, employed, affiliated, or located, and the period during which the record may have been created. Individual's Social Security Number and should be included in the inquiry for positive identification.

**RECORD ACCESS PROCEDURE:**

Individuals seeking access to records about themselves contained in this system of records should address a written request to the Office of Dependents Schools, ATTN: Privacy Act Officer, 2461 Eisenhower Avenue, Alexandria, VA 22331–1100.

The individual should reference the region and location and where assigned or affiliated applicable to the period during which the record was maintained. Social Security Number should be included in the inquiry for positive identification.

**CONTESTING RECORD PROCEDURES:**

The Office of the Secretary of Defense rules for accessing records and for contesting contents and appealing initial OSD determinations are published in OSD Administrative Instruction No. 81, "OSD Privacy Program"; 32 CFR part 286b; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Report and records of investigators, subjects, informants, witnesses, auditors, and other personnel. Source material includes official records, investigative leads, statements, depositions, business records, audit reports and studies, and other pertinent material available in the course of a review or investigation.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Parts of this system may be exempt under 5 U.S.C. 552a(k)2) as applicable.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 286b.7. For additional information contact the system manager.

[FR Doc. 91–5916 Filed 3–12–91; 8:45 am]

BILLING CODE 3810–01–M

## Settlement of Tort Claims; Correction

On February 28, 1991, the Department of Defense published a determination on the Settlement of Tort Claims. This notice is published to correct a typographical error cited for the United States Code that relates to the administrative settlement of Federal tort claims. "28 U.S.C. 2682" is corrected to read "28 U.S.C. 2672".

Dated: March 8, 1991.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 91–5917 Filed 3–12–91; 8:45 am]

BILLING CODE 3810–01–M

## Department of the Army

## Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/time of Meeting: 4 April 1991.

Time: 0800–1500 Hours.

Place: Fort Gordon, Georgia.

Agenda: Members of the C31 Issue Group of the Army Science Board will meet at Fort Gordon, Georgia to continue work on the Follow-On Radio to SINCGARS. This meeting will address in detail the emerging requirements for an objective combat net radio, the process and analysis which support the requirement, and the postulated and projected threat against which the new radio must operate. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781/0782.

**Sally A. Warner,**

*Administrative Officer, Army Science Board.*

[FR Doc. 91–5897 Filed 3–12–91; 8:45 am]

BILLING CODE 3710–8–M

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

**[Recommendation 91–1]**

## Strengthening the Nuclear Safety Standards Program for DOE's Defense Nuclear Facilities

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Notice; recommendations.

**SUMMARY:** The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a concerning strengthening the nuclear safety standards program for DOE's defense nuclear facilities. The Board requests public comments on this recommendation.

**DATES:** Comments, data, views, or arguments concerning this recommendation are due on or before April 12, 1991.

**ADDRESSES:** Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Pusateri or Carole J. Council, at the address above or telephone (202) 208–6400.

Dated: March 7, 1991.

**John T. Conway,**

*Chairman.*

Content and Implementation of DOE's Safety Standards Program

Dated: March 7, 1991.

Among other functions of the Defense Nuclear Facilities Safety Board (Board),

section 312 of the Atomic Energy Act requires that:

The Board shall review and evaluate the content and implementation of the standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at each Department of Energy defense nuclear facility. The Board shall recommend to the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected. The Board shall include in its recommendations necessary changes in the content and implementation of such standards, as well as matters on which additional data or additional research is needed.

The Defense Nuclear Facilities Safety Board is continuing its review of the adequacy of the content and implementation of applicable nuclear safety standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy. This review is not confined to the area of standards as they are sometimes understood, such as those issued by standards organizations, but includes as well all applicable Department of Energy Orders and regulations, directives, and other requirements that fall within the Board's statutory oversight responsibility, 42 U.S.C. 2286a.

During 1990, the Board communicated to senior Department of Energy (DOE) personnel its preliminary concerns about the content and the implementation of currently available standards. The Board's previous Recommendation 90-2, dated March 8, 1990, addressed certain aspects of this subject. On several occasions since Recommendation 90-2 was issued, the Board and its staff have met with DOE representatives on this subject, including an in-depth briefing given to the Board, at the Secretary's direction, by three Assistant Secretaries, major Office Directors, and their staff on December 11, 1990. That briefing was arranged to provide an opportunity for senior DOE officials to present to the Board the Deparment's overall safety management philosophy and to demonstrate DOE's commitment to fully implement Recommendation 90-2 and other aspects of its standards program. On February 13,1991, in fulfillment of a commitment given to the Board at the briefing, DOE transmitted to the Board a schedule for completing the first phase of its nuclear safety rulemaking. In a cover letter accompanying the February 13, 1991, schedule, DOE stated that safety orders "will be issued concurrently with publication of the proposed rules for comment."

The Board remains concerned that progress in issuing standards within DOE is not being made rapidly enough to meet the priorities that the Secretary of Energy has articulated regarding the implementation of safety standards at DOE's defense nuclear facilities. Existing policy, infrastructure, and management priorities relating to the safety standards program may need alteration or refinement if nuclear safety requirements are to be issued, and more importantly, implemented, in a timely fashion. Therefore, the Board recommends:

1. That the Department expeditiously issue a formal statement of its overall Nuclear Safety Policy;

2. That increased attention to given to the qualifications and background of managers and technical staff assigned to the development and implementation of standards and that the numbers of personnel suited to this activity be increased commensurate with its importance;

3. That standards program officials be given direct access to the highest levels of DOE management;

4. That the Department critically reexamine its existing infrastructure for standards development and implementation at Headquarters to determine if organizational or managerial changes are needed to (1) emphasize the priority and importance of standards to assuring public health and safety; (2) expand the program to facilitate the rapid development and implementation of standards; and (3) streamline the DOE approval process for standards; and

5. That the Department reexamine the corresponding organizational units at DOE's principal Operations and Field Offices and DOE contractor organizations to determine if those organizations' standards infrastructure, responsibilities and resources would also benefit from changes to reflect improvements at Headquarters which strengthen and expedite standards development and implementation.

In addition to these important organizational and management concerns, the Board's continuing review of the Savannah River standards program has resulted in identifying other standards issues which need to be addressed. In November 1990, the Board transmitted to the Secertary of Energy copies of a MITRE Corporation report, developed under the Board's direction and guidance, on the subject of Department of Energy standards imposed by Department Orders and supplements prepared by the Savannah River Operations Office. The MITRE report disclosed a number of deficiencies in the Department's Order program, many of which had previously been noted by other reviewing bodies.

Certain findings and conclusions reached by MITRE are of particular concern to the Board. Specifically, MITRE concluded that "the DOE Orders * * * lack the systematic approach and coherence necessary for understanding DOE's safety management philosophy." MITRE also concluded that "In many areas pertinent to safety, the DOE Orders do not provide specific requirements and supporting guidelines for implementing DOE's safety objectives * * * a great deal is left to be defined and imterpreted by the DOE contractor(s) operating the facilies."

In addition, MITRE concluded that "Certain DOE Orders that address topics important to safety do not focus on safety," and that "The DOE Orders require compliance with very few mandatory nuclear safety standards for existing reactors or nonreactor facilities." Therefore, the Board recommends:

6 That DOE review all the findings and conclusions of both the Executive Summary and of Volume 2 of the MITRE report, identify which findings and conclusions it considers vaild and appropriate in DOE's Response to this set of Recommendations, and subsequently address those findings and conclusions in the Implementation Plan.

The Board has also noted that in DOE's restructuring of the hierarchy of orders, directives, and requirements governing the performance expected of the Department and its contractors, DOE is proceeding with the simultaneous development of rule and DOE orders. Following formal adoption of rules and issuance of related DOE orders, revised directives and other requirements are to be issued. Recognizing the immediacy of need, one such directive has already been issued as an Immediate Action Directive (IAD). In view of DOE's decision to proceed with rulemaking as the means for addressing some of the subjects appropriate for articulation of Department reuirements, the Board recommends:

7. That DOE expedite the issuance of revised safety orders, directives, or other requirements as a means of addressing the need for substantive guidance on the wide variety of safety

requirements, while DOE is promulgating rules.

John T. Conway,

*Chairman.*

**Appendix—Transmittal Letter to the Secretary of Energy**

March 7, 1991.

The Honorable James D. Watkins,
*Secretary of Energy, Washington, DC 20585.*

Dear Mr. Secretary: On March 7, 1991, the Defense Nuclear Facilities Safety Board, in accordance with Section 312(5) of Public Law 100-456, approved a recommendation which is enclosed for your consideration.

Section 315(A) of Public Law 100-456 requires the Board, after receipt by you, to promptly make this recommendation available to the public in the Department of Energy's regional public reading rooms. Please arrange to have this recommendation placed on file in your regional public reading rooms as soon as possible.

The Board will publish this recommendation in the **Federal Register.**

Sincerely,

John T. Conway,

*Chairman.*

[FR Doc. 91-5943 Filed 3-12-91; 8:45 am]

BILLING CODE 6820-KD-M

## DEPARTMENT OF ENERGY

### Intent To Prepare an Environmental Impact Statement and to Conduct Public Scoping Meetings; Rocky Flats Plant, Golden, CO

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Department of Energy (DOE) announces its intent to prepare a Site-wide Environmental Impact Statement (EIS) on the operations at the Rocky Flats Plant (RFP) located near Golden, in Jefferson County, Colorado. The RFP Site-wide EIS will be prepared pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 4321 *et seq.*), as amended, in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508, and the DOE NEPA guidelines (52 FR 47662, December 15, 1987).

The DOE also announces public scoping meetings in conjunction with developing the EIS. The Site-wide EIS will identify and assess potential impacts and also present a full evaluation of the cumulative environmental impacts of current operations and reasonably foreseeable future actions, including proposed near-term (within 5 to 10 years) projects and near-term environmental restoration activities at the RFP. NEPA does not require curtailment of continuing operations while a site-wide EIS is being prepared. The DOE does not intend to delay its decision on resumption of plutonium pit manufacturing at the REP until completion of the updated Site-wide EIS.

Alternatives regarding the possible relocation of weapons production functions now performed at the RFP will be addressed in a DOE Programmatic EIS (PEIS) addressing reconfiguration of the DOE nuclear weapons complex and will not be included in this EIS. The notice of intent (NOI) for the Reconfiguration PEIS was published on February 11, 1991 (56 FR 5590). Similarly, issues concerning Department-wide long-term environmental restoration and waste management policies and practices will be assessed in a separate DOE PEIS on these subjects. The NOI for the DOE environmental restoration and waste management PEIS was published on October 22, 1990 (55 FR 42633).

Additional NEPA reviews for proposed projects at the RFP may be tiered from the final Site-wide EIS or PEISs, as appropriate. Individual environmental restoration projects subject to this Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) may be the subject of integrated NEPA/CERCLA documents as provided in DOE Order 5400.4. These documents will address the impacts of individual cleanup actions as the actions are plannned.

**PUBLIC INFORMATION MEETING:** DOE will hold a public information meeting on April 4, 1991, at the Westminster City Park Recreation Center, 10455 N. Sheridan Blvd., Westminster, Colorado, from 7 to 9 p.m. The purpose of this meeting is to give the public an oppportunity to obtain information and have questions answered regarding the proposed EIS and to facilitate public participation in the EIS scoping proceess.

**SCOPING PROCESS:** Public scoping meetings are scheduled on April 8 and April 11, 1991, from 9 a.m. to 9:30 p.m., with breaks from 12 to 1 p.m. and 5 to 6:30 p.m. each day, at the following locations:

1. April 8, 1991, Jefferson County Comissioner's Hearing Room, 1700 Arapahoe Street, Golden, Colorado
2. April 11, 1991, Westminster City Park Recreation Center, 10455 N. Sheridan Blvd., Westminster, Colorado

The purpose of the scoping meetings is to receive public input on the Site-wide EIS scope, thereby assisting DOE in determining the appropriate range of impacts and environmental issues to be considered in the EIS. The meetings will be chaired by a presiding officer. The meetings will not be conducted as evidentiary hearings and there will not be cross-examining of the speakers; however, the presiding officer may ask for clarification of statements made to ensure that DOE fully understands the comments and suggestions. The presiding officer will establish the order of speaker and provide any additional procedures necessary for the conduct of the meetings. To ensure that all persons wishing to make presentations can be heard, a 10-minute limit for a designated organization representative and a 5-minute limit for each individual speaker will be used as a guideline. People who do not pre-register to speak may register at the meeting. They will be scheduled to speak, as time permits, after all previously scheduled speakers have been given an opportunity to make their presentations.

Written and oral comments will be given equal weight in determining the scope of the EIS. Anyone wishing to provide written comments may submit such comments to DOE at the public scoping meetings or at the address listed below. Written comments postmarked by April 29, 1991, will be considered by DOE in the preparation of the EIS. Written comments postmarked after that date will be considered to the extent practicable.

The DOE will prepare transcripts of the scoping meetings. The public may review the transcripts, written comments, reference material, related NEPA documents, and background information on the Rocky Flats Plant during normal business hours at the following DOE public reading rooms:

U.S. Department of Energy, Freedom of Information Act Reading Room, room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020.

Rocky Flats Public Reading Room, Front Range Community College Library, 3645 West 112th Avenue, Westminster, Colorado 80030, (303) 469-4435.

Following the completion of the public scoping process, an EIS Implementation Plan will be issued that summarizes the comments received and describes the intended scope of the EIS. The EIS Implementation Plan is scheduled to be issued in Summer 1991 and will be publicly available.

The publication schedule for the draft EIS will be included in the EIS Implementation Plan. The availability of the draft EIS will be announced in the **Federal Register** and local media, and

public comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

**DATES:** A summary of relevant dates has been prepared to assist the public during the scoping process for the Site/wide EIS.

Public Information Meeting (Westminster, Colorado)—April 4, 1991

Scoping Meeting (Golden, Colorado)—April 8, 1991

Scoping Meeting (Westminster, Colorado)—April 11, 1991

Written Comments Due Date—April 29, 1991

Site-wide EIS Implementation Plan—Summer 1991

**ADDRESSES AND FURTHER INFORMATION:** Written comments regarding the scope of the RFP Site-wide EIS, requests to speak at a scoping meeting, requests for copies (when available) of the EIS Implementation Plan or draft EIS, or questions concerning the site should be addressed to: Ms. Beth Brainard, Office of Public Affairs, Attn: Site-wide EIS, U.S. Department of Energy, Rocky Flats Office, P.O. Box 928, Golden, CO 80402-0928, Phone: 1-800-446-7640.

For general information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Phone: (202) 586-4600.

**SUPPLEMENTARY INFORMATION:**

## Background

On February 5, 1990, the Secretary of Energy issued Secretary of Energy Notice 15-90, which directed the development of an agency policy for preparation and updating of site-wide EISs. This EIS is being prepared in response to that policy and to findings from DOE's internal environmental compliance assessment ("tiger team") that the existing 1980 RFP Site-wide EIS should be updated. NEPA does not require curtailment of continuing operations while a site-wide EIS is being prepared. DOE does not intend to delay its decision on resumption of plutonium pit manufacturing until completion of the updated RFP Site-wide EIS.

The RFP was established in 1952 as a government-owned, contractor-operated facility near Golden, Colorado, with the primary mission of producing nuclear weapons components. The RFP is part of DOE's nationwide nuclear weapons complex. The chief function at the RFP is the fabrication of plutonium and depleted uranium nuclear weapon components. The RFP is the only production facility in the nation that has the capability to perform these functions. The RFP is also responsible for the fabrication of beryllium and other nonnuclear metal parts used in nuclear weapons. In support of weapon component fabrication, the RFP operates facilities for the storage, treatment and transport of waste, chemical laboratories, research and development facilities, and special support operations for other DOE facilities. Activities and facilities involving health and safety, environmental management, security and other programs also support the primary mission.

In May 1975, an Environmental Assessment of activities at the RFP was issued by the U.S. Energy Research and Development Administration (ERDA). (ERDA was a predecessor agency of DOE, and managed the RFP from 1975 until its responsibilities were transferred to DOE in 1977.) Based on that assessment and related documents, ERDA announced its intent to prepare an EIS to assess the environmental effects of continued operation of the RFP) (40 FR 24234). The DOE continued the NEPA process started by ERDA, and in April 1980, DOE published the final EIS for the RFP (DOE/EIS-0064), followed by a Record of Decision on March 5, 1982 (47 FR 9500).

In February 1991, DOE announced its proposal to reconfigure its nuclear weapons complex to be smaller, less diverse, and less expensive to operate. This proposal will be analyzed in the Reconfiguration PEIS referenced above. As part of the reconfiguration proposal, DOE has proposed to relocate the nuclear weapons functions now located at RFP (56 FR at 5592). The Reconfiguration PEIS will analyze the environmental impacts of relocating these functions in the mid-term (in about the year 2000) as well as in the long-term (early next century). DOE does not consider that it would be feasible to shut down, dismantle and relocate these functions in the near-term (before the year 2000), because a relocation site must be selected, technology approved, and facilities designed, constructed, and tested before the existing facilities could be shut down.

## Preliminary Definition of Alternatives

The Site-wide EIS will identify the proposed action and reasonable alternatives and evaluate and compare their expected environmental impacts. As background for public comments and suggestions concerning reasonable alternatives to be considered, DOE has identified the following two alternatives:

*1. No Action*

Continue current operations and current environmental restoration activities with no new proposed projects or change in the present facilities and operations at the RFP, except for modifications necessary for safe and environmentally sound operations. For operations, this would include actions such as routine maintenance, high efficiency particulate air filter replacements, ventilation duct cleaning, glove box changes, repair or replacement-in-kind of equipment, enhanced training and procedural improvements. For environmental restoration, this would include actions such as studies, site characterization, data collection, and limited actions to reduce the spread of contamination.

*2. Proposed Action*

The proposed action is to continue operation of the RFP and implement near-term (5 to 10 years) proposed projects (i.e., those projects that can be described with sufficient specificity that their potential environmental impacts can be evaluated). The proposed action would include projects that would reduce risk to the workers, the environment, and the general public. The proposed action consists of the no action alternative plus actions in three other major areas:

(a) Facility Upgrades, Modifications and Renovations. This would include actions such as upgrades to current waste handling facilities and any other modifications and upgrades identified as needed in the near-term.

(b) New Construction Projects. This would include actions such as the construction of additional office space and facilities in the previously undeveloped areas of the RFP. This construction could include office buildings, training facilities, waste storage, treatment and loading facilities, warehouses, maintenance facilities, and a water treatment facility.

(c) Environmental Restoration. This would include activities related to an overall RFP environmental restoration program. The cumulative impacts of environmental restoration activities would be assessed and broad-scope engineering alternatives would be evaluated. Some of the activities that will be evaluated are required by the Federal Facilities Agreement and Consent Order, signed January 22, 1991, between the Environmental Protection Agency, the Colorado Department of Health, and the DOE. It is DOE's policy to integrate CERCLA and NEPA procedural and documentation

requirements where DOE remedial actions under CERCLA trigger the procedures set forth in NEPA.

Alternatives that would affect the mid- and long-term operatioin of the RFP will be analyzed in the Reconfiguration PEIS and the DOE environmental restoration and waste management PEIS and will not be considered in detail in this EIS. As stated above, DOE's proposal to relocate weapons complex functions now at RFP in either the mid- or long-term will be analyzed in the Reconfiguration PEIS. DOE does not consider the alternative of shutdown or relocation of these functions in the short-term to be a reasonable alternative for analysis in the Site-wide EIS. Continued fabrication of plutonium and depleted uranium components is essential to the Department's mission and the RFP is the only production facility in DOE's weapons complex that has the capability to perform these functions. Accordingly, these functions can only be relocated to another site in a reasoned manner. Therefore, the Reconfiguration PEIS analysis will consider the alternative of shutdown and relocation of these functions in the earliest possible timeframe.

During preparation of the Site-wide EIS, DOE plans to continue with current operations at the site as defined in the No Action alternative. DOE also may need to consider proceeding with certain actions included in the proposed action while the Site-wide EIS is being prepared. Some of these proposed projects may be required by Federal or state regulatory agencies under environmental compliance agreements or by judicial decrees. DOE will determine case-by-case whether a proposed project may proceed before the Site-wide EIS is completed, in accordance with the limitations on proceeding with "interim" actions that are under programmatic NEPA review as established in § 1506.1(c) of the CEQ regulations implementing NEPA. The CEQ criteria would also be applied case-by-case to decisions regarding proposed interim actions that are covered under the two programmatic EISs to be prepared by DOE, and any interim action that may be necessary regarding plutonium residue elimination as a result of the cancellation of the Plutonium Recovery Modification Project.

**Preliminary Identification of Issues**

The EIS will address the environmental impacts of the alternatives to the extent such data are available. In accordance with CEQ regulations (40 CFR 1500.4 and 1502.21), other environmental documents, as appropriate, may be incorporated by reference, in whole or in part, into the impact analyses. The following issues have been tentatively identified for analysis in the EIS, subject to consideration of comments received in response to public scoping.

1. Water Resources and Water Quality. The qualitative and quantitative effects of RFP operations on water resources in the region.
2. Air Quality. The effects of radiological and non-radiological emissions to the air.
3. Public and Occupational Safety and Health. The cumulative radiological and non-radiological impacts on workers and the public from routine operations and potential accidents.
4. Biological Resources. The disturbance or destruction of habitat including potential effects on threatened or endangered species.
5. Waste Management. The environmental effects of management of solid and liquid wastes, including radioactive, hazardous, mixed transuranic and low-level wastes, and wastes generated by restoration activities.
6. Environmental Restoration. Cumulative impacts from environmental restoration efforts to correct problems created by past releases to the environment, including groundwater and soil contamination.
7. Socioeconomics. The effects of construction and operations of the local community; e.g., housing, local businesses, and taxes.
8. Cultural Resources. The potential effects on historical, archaeological, scientific, or culturally important sites.
9. Transportation. Impacts from the on-site and off-site transportation of materials, equipment, products and wastes.
10. Decontamination and Decommissioning. The impacts of decontaminating and decommissioning RFP facilities.

**Related Documents**

The following documents contain background information related to the site and are available for review at the DOE public reading rooms listed earlier in this notice.

U.S. Energy Research and Development Administration, "Environmental Assessment for the Rocky Flats Plant of the U.S. Energy Research and Development Administration", Rocky Flats Area Office, Golden, Colorado, May 1975.

U.S. Department of Energy, "Final Environmental Impact Statement, Rocky Flats Plant Site", DOE/EIS-0064, Washington, DC, April 1980.

U.S. Department of Energy—Special Assignment Environmental Team, "Assessment of Environmental Conditions at the Rocky Flats Plant", Washington, DC, August 1989.

U.S. Department of Energy, "Corrective Action Plan in Response to the August 1989 Assessment of Environmental Conditions at the Rocky Flats Plant", Washington, DC, July 20, 1990.

Issued in Washington, DC, this 7th day of March 1991, for the United States Department of Energy.

Paul L. Ziemer,

*Assistant Secretary, Environment, Safety and Health.*

[FR Doc. 91-5904 Filed 3-12-91; 8:45 am]

BILLING CODE 6450-01-M

## Financial Assistance Award; Intent To Award Cooperative Agreement to the Institute for Social Research (ISR) of University of Michigan

**AGENCY:** Department of Energy.

**ACTION:** Notice of intent to make a noncompetitive financial assistance award.

**SUMMARY:** DOE announces that, pursuant to 10 CFR 600.7, it is making a discretionary noncompetitive financial assistance award of $3,148,900 (DOE share: $1,278,590 University of Michigan share: $1,861,310) under Cooperative Agreement Number DE-FC01-91E122612 to the University of Michigan, Institute for Social Research (ISR).

**SCOPE:** The objective of the proposed 33 months cooperative agreement is the design and implementation of a national area probability sampling frame for the Residential Energy Consumption Survey and other related surveys using the results of the 1990 Decennial Census.

**ELIGIBILITY:** This cooperative agreement is being awarded on a noncompetitive basis because the University of Michigan has unique experience in this area of survey research and because its survey research staff are leading experts in this area of survey design.

In accordance with 10 CFR 600.7(b)(2)(i)(B), it has been determined that the activities will be conducted by the University of Michigan using its own resources; however, DOE support of the activities would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or planning to conduct such an activity. These criteria are met in that ISR is planning a partnership with the University of Chicago to design a national area probability sample frame,

using 1990 Census data. These are the only two nonprofit, university-based social research entities which have independently undertaken this type of research. The survey frame design methods will be advanced by this research effort, and ultimately the research, private, and public communities will benefit from the results of this endeavor.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Office of Placement and Administration, Attn: Ms. Donna Williams, PR-322.2, 1000 Independence Avenue, SW., Washington, DC 20585.

**Thomas S. Keefe,**

*Director, Contract Operations Division "B" Office of Placement and Administration.*

[FR Doc. 91-5905 Filed 3-12-91; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

**[Docket Nos. QF88-418-001, et al.**

**Lakewood Cogeneration, L.P.,** *et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings*

Take notice that the following filings have been made with the Commission:

**1. Lakewood Cogeneration, L.P.**

[Docket No. QF88-418-001]

March 4, 1991.

On February 20, 1991, Lakewood Cogeneration, L.P. (Applicant), of 100 Clinton Square, Suite 400, Syracuse, New York 13202-1049, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Lakewood Industrial Park, in Lakewood Township, New Jersey. The primary energy source of the facility will be natural gas.

The original certification was issued on August 2, 1989, 48 FERC 61,174. Applicant proposes to reduce the number of combustion turbine generators from four to two and increase the electric power production capacity from 210 MW to 233 MW. In addition, the ownership of the facility has been transferred from CNG Energy Company to the Applicant. Applicant states that in all other respects the facility remains the same as set forth in the original application.

*Comment date:* Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

**2. Seminole Fertilizer, Inc. and Bartow Cogeneration Partners, L.P.**

[Docket No. QF85-521-002]

March 4, 1991.

On February 20, 1991, Seminole Fertilizer, Inc. and Bartow Cogeneration Partners, L.P., of P.O. Box 471, Bartow, Florida 33830, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located adjacent to an existing cogeneration facility, and integrated with a phosphate fertilizer manufacturing plant located in Polk County, Florida. The existing facility consists of a combustion turbine generator and a heat recovery boiler. Applicant proposes to expand the facility by addition of a combustion turbine generator, a heat recovery steam generator, a condensing steam turbine generator, and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility, in the form of steam, will be used for chemical processes for the manufacture of sulfuric acid, phosphoric acid and diammonium phosphate. The electric power production capacity of the facility will be 102 MW. The primary source of energy will be natural gas. Construction of the facility is scheduled to begin in December 1991.

*Comment date:* Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

**3. Dayton Power and Light Co.**

[Docket No. ER91-280-000]

March 5, 1991.

Take notice that The Dayton Power and Light Company (Dayton) tendered for filing on February 26, 1991, a proposed modification to the Interconnection Agreement dated March 1, 1987, between Dayton and The Ohio Edison Company (Ohio Edison) to add certain interconnection facilities between Dayton and Ohio Edison. Ohio Edison submitted a certificate of concurrence in the filing. A January 1, 1991, effective date has been requested. A copy of the filing was served upon Ohio Edison and the Public Utilities Commission of Ohio.

*Comment date:* March 19, 1991, in accordance with Standard Paragraph E at the end of this notice.

**4. Wisconsin Power & Light Co.**

[Docket No. ER91-185-000]

March 5, 1991.

Take notice that on February 20, 1991, Wisconsin Power & Light Company (WP&L) tendered for filing a Substation Facility Agreement which was inadvertently omitted from its December 26, 1990 filing.

WP&L states that this Substation Facility Agreement has been executed in conjunction with the Wholesale Power Agreement to revise the terms of service.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph E at the end of this notice.

**5. New England Power Pool**

[Docket No. ER91-279-000]

March 5, 1991.

Take notice that on February 26, 1991, the New England Power Pool tendered for filing a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by the Town of Belmont Municipal Light Board. The Two of Belmont Municipal Light Board has its principal office in Belmont, Massachusetts. NEPOOL indicates that the New England Power Pool Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

NEPOOL states that the Town of Belmont Municipal Light Board has joined the over 90 other electric utilities that already participate in the pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make the Town of Belmont Municipal Light Board a participant in the pool.

NEPOOL requests an effective date of January 1, 1991 for commencement of participation in the power pool by the Town of Belmont Municipal Light Board, and requests waiver of the Commission's customary notice requirements to permit the membership of the Town of Belmont Municipal Light Board to become effective on that date.

*Comment date*: March 19, 1991, in accordance with Standard Paragraph E at the end of this notice.

**6. PSI Energy, Inc.**

[Docket No. ER91-229-000]

March 5, 1991.

Take notice that PSI Energy, Inc. (PSI) on February 27, 1991, tendered for filing additional data with respect to a Settlement Agreement for an uncontested two step rate decrease previously filed on January 25, 1991.

Copies of the filing were served upon the Indiana Utility Regulatory Commission, the City of Logansport, Indiana, Jackson County Rural Electric Membership Corporation, the Indiana Municipal Power Agency, and the Indiana municipalities of Brooklyn, Coatesville, Dublin, Dunreith, Hagerstown, Knightstown, Lewisville, Montezuma, New Ross, Pittsboro, Rockville, South Whitley, Spiceland, Straughn, Thorntown, Veedersburg and Williamsport.

*Comment date*: March 19, 1991, in accordance with Standard Paragraph E at the end of this notice.

**7. Allegheny Power Service Corp., on behalf of Monongahela Power Corp., The Potomac Edison Co., and West Penn Power Co., (The APS Companies)**

[Docket No. ER91-189-000]

March 5, 1991.

Take notice that on February 27, 1991, Allegheny Power Service Corporation on behalf of Monongahela Power Company, the Potomac Edison Company and West Penn Power Company (The APS Companies), filed Standard Transmission Service Agreement Forms to add Potomac Electric Power Company and Public Service Electric and Gas Company as customers to the APS Companies' Standard Transmission Service Rate Schedule which is now pending action by the Federal Energy Regulatory Commission in the above referenced docket. The proposed effective date for the Potomac Electric Power Company to take service under the proposed rate schedule is December 31, 1990, and the proposed effective date for Public Service Electric and Gas Company to take service under the proposed rate schedule is January 21, 1991.

Copies of the filing have been provided to the Public Utility Commission of Ohio, the Pennsylvania Public Utility Commission, Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record in the proceeding in the above referenced docket.

*Comment date*: March 19, 1991, in accordance with Standard Paragraph E at the end of this notice.

**8. John E. Bryson**

[Docket No. ID-2524-000]

March 5, 1991.

Take notice that on February 25, 1991, John E. Bryson (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Chairman and Chief Executive Officer

Southern California Edison Company Director

First Interstate Bancorp

*Comment date*: March 19, 1991, in accordance with Standard Paragraph E at the end of this notice.

**9. James River-New Hampshire Electric**

[Docket No. ER91-274-000]

March 5, 1991.

Take notice that on February 11, 1991, James River-New Hampshire Electric Inc., (James River) resubmitted for filing a Notice of Succession which was originally filed on October 21, 1981. James River states that this filing is being made at the request of the Commission staff because the original letter in this docket cannot be located. James River further states that its copy of the 1981 letter of acceptance from the Commission cannot be located either.

*Comment date:* March 15, 1991, in accordance with Standard Paragraph E at the end of this notice.

**10. Southwestern Electric Power Co.**

[Docket No. ER91-297-000]

March 6, 1991.

Take notice that on March 1, 1991, Southwestern Electric Power Company (SWEPCO) tendered for filing the final return on common equity (Final ROE) to be used in redetermining or "truing-up" cost-of-service formula rates for wholesale service in 1990 to Northeast Texas Electric Cooperative, Inc., the City of Bentonville, Arkansas, the City of Hope, Arkansas, the Oklahoma Municipal Power Authority, Rayburn Country Electric Cooperative, Inc., Cajun Electric Power Cooperative, Inc. and TEX-LA Electric Cooperative of Texas, Inc. SWEPCO provides service to these customers under contracts which provide for periodic changes in rates and charges determined in accordance with cost-of-service formulas, including a formulaic determination of the return on common equity.

Copies of the filing were served upon the affected wholesale customers, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

*Comment date:* March 20, 1991, in accordance with Standard Paragraph E at the end of this notice.

**11. Arkansas Power & Light Co.**

[Docket No. ER91-296-000]

March 6, 1991.

Take notice that Arkansas Power & Light Company ("AP&L") filed on March 1, 1991 proposed Second Amendments to Peaking Power Agreements between AP&L and the Cities of Conway, Osceola and West Memphis, Arkansas ("Cities"). The Peaking Power Agreements supplement the Power Coordination, Interchange & Transmission Agreements between each of the Cities and AP&L. The Amendments extend the term of the Peaking Power Agreements and allow the amount of peaking capacity and associated energy to vary for each annual period on October 1 dependent on the Cities peak demand in the previous peak period May through September. The Amendments also establish Minimum Billing Quantities and fixed escalation rates for both demand and energy charges.

The proposed Amended Agreements will affect a savings for each of the Cities.

*Comment date:* March 20, 1991, in accordance with Standard Paragraph E at the end of this notice.

**12. Boston Edison Co.**

[Docket No. ER91-286-000]

March 6, 1991.

Take notice that on February 28, 1991, Boston Edison Company tendered for filing a supplement to its Rate Schedule FPC No. 47 for service to the Town of Concord, Massachusetts. The supplement provides for the payment by Boston Edison to the Town of amounts that Boston Edison estimates it will be required to refund to the Town in Docket Nos. ER86-562-001 and ER87-581-001 as a result of the Commission's Opinion Nos. 299 and 299-A in Docket No. ER84-705-001.

Boston Edison states that this filing has been posted and that copies of the filing have been served upon Concord and the Massachusetts Department of Public Utilities.

*Comment date:* March 20, 1991 in accordance with Standard Paragraph E at the end of this notice.

**13. West Texas Utilities Co.**

[Docket No. ER91-288-000]

March 6, 1991.

Take notice that on March 1, 1991, West Texas Utilities Company ("WTU") submitted for filing seventeen (17) executed Delivery Point and Service Specifications sheets providing for various minor changes to the Service Agreements between WTU and Brazos Electric Power Cooperative, Inc., Coleman County Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc., Stamford

Electric Cooperative, Inc. and Taylor Electric Cooperative, Inc., executed under WTU's FERC Electric Tariff, Original Volume No. 1.

WTU states that copies of the filing have been sent to the Public Utility Commission of Texas and the affected full-requirements wholesale customers.

*Comment date:* March 20, 1991, in accordance with Standard Paragraph E at the end of this notice.

**14. Central Vermont Public Service Corp.**

[Docket No. ER91-131-000]

March 6, 1991.

Take notice that Central Vermont Public Service Corporation on March 1, 1991 tendered for filing additional information in support of its proposed tariff providing for the sale of short term capacity at market based rates. Central Vermont states that it also has modified its proposed tariff to make affiliates of Central Vermont ineligible for service under that tariff. Central Vermont states that it has made this change in order to eliminate the possibility of abuse of an affiliate relationship.

*Comment date:* March 20, 1991, in accordance with Standard Paragraph E at the end of this notice.

**15. PSI Energy, Inc.**

[Docket No. ER91-127-000, ER91-176-000, and ER91-179-000]

March 6, 1991.

Take notice that PSI Energy, Inc., on February 27, 1991, tendered for filing amended Service Schedules to the FERC Filings in Docket Nos. ER91-127-000, ER91-176-000 and ER91-179-000.

These amended Service Schedules change the cap language for Interchange Power and Interchange Energy. These Service Schedules are in the Interconnection Agreements with Indiana Michigan Power Company, Consumers Power Company and Louisville Gas and Electric Company. Such change is the result of a request by FERC Staff.

Copies of the filing were served on Indiana Michigan Power Company, American Electric Power Service Corporation, the Michigan Public Service Commission, Consumers Power Company, Louisville Gas and Electric Company, the Public Service Commission of Kentucky and the Indiana Utility Regulatory Commission.

PSI has requested that the effective dates, per the original filings, remain unchanged. Per Docket No. ER91-127-000 the effective date is November 26, 1990, per Docket No. ER91-176-000 the effective date is May 1, 1991 and per Docket No. ER91-179-000 the effective date is January 1, 1991.

*Comment date:* March 20, 1991, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 91-5856 Filed 3-12-91; 8:45 am]

BILLING CODE 6717-01-M

---

**[Docket No. QF90-88-000]**

## Bristol-Myers Squibb Co., Inc.; Amendment to Filing

March 4, 1991.

On February 20, 1991, Bristol-Myers Squibb Co., Inc. tendered for filing an amendment to its filing in this docket.

The amendment clarifies certain aspects of the thermal energy uses of the proposed cogeneration facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 21 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 91-5857 Filed 3-12-91; 8:45 am]

BILLING CODE 6717-01-M

---

## Office of Conservation and Renewable Energy

**[Case No. F-028]**

## Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures from Armstrong Air Conditioning, Inc.

**AGENCY:** Office of Conservation and Renewable Energy, Department of Energy.

**SUMMARY:** Today's notice publishes a letter granting an Interim Waiver to Armstrong Air Conditioning, Inc. (Armstrong) from the existing Department of Energy (DOE) test procedures for furnaces regarding blower time delay for the company's GRTC series induced draft rooftop furnaces.

Today's notice also publishes a "Petition for Waiver" from Armstrong. Armstrong's Petition for Waiver requests DOE to grant relief from the DOE test procedures relating to the blower time delay specification. Armstrong seeks to test using a blower delay time of 20 seconds for its GRTC induced draft rooftop furnaces instead of the specified 1.5-minutes delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

**DATES:** DOE will accept comments, data, and information not later than April 12, 1991.

**ADDRESSES:** Written comments (five copies) and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-028, Mail Stop CE-90, room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3012.

**FOR FURTHER INFORMATION CONTACT:**

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue,

SW., Washington, DC 20585, (202) 586-9507.

**SUPPLEMENTARY INFORMATION:** The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process (45 FR 64108). Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An interim waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On December 14, 1990, Armstrong filed an Application for an Interim Waiver regarding blower time delay. Armstrong's Application seeks an interim waiver from the DOE test provisions that require a 1.5-minutes time delay between the ignition of the burner and starting of the circulating air blower. Instead, Armstrong requests the allowance to test using a 20-second blower time delay when testing its GRTC induced draft rooftop furnace. Armstrong states that the 20-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 0.6 percent, according to Armstrong. Since current DOE test procedures do not address this variable blower time delay, Armstrong asks that the interim waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to the Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990; Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; and Amana Refrigeration, Inc., 56 FR 853, January 9, 1991. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Armstrong an Interim Waiver for its GRTC series induced draft rooftop furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver to Armstrong Air Conditioning, Inc. was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, March 4, 1991.

**J. Michael Davis,**

*Assistant Secretary, Conservation and Renewable Energy.*

March 4, 1991.

Mr. Bruce R. Maike

*Vice President Product Engineering, Armstrong Air Conditioning, Inc., 421 Monroe Street, Bellevue, OH 44811*

Dear Mr. Maike: This is in response to your December 14, 1990, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for furnaces regarding blower time delay for the Armstrong Air Conditioning, Inc. (Armstrong) GRTC series induced draft rooftop furnaces.

Previous waivers for timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990; Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; and Amana Refrigeration, Inc., 56 FR 853, January 9, 1991.

Armstrong's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Armstrong will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Armstrong's Application for an Interim Waiver from the DOE test procedures for its GRTC series induced draft rooftop furnaces regarding blower time delay is granted.

Armstrong shall be permitted to test its line of GRTC series induced draft rooftop furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, appendix N, with the modification set forth below.

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved

following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5-minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5-minutes, in which case the fan control shall be permitted to start the blower, or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe with ± 0.01 inch of water guage of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may ber revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 day period, if necessary.

Sincerely,

J. Michael Davis, P.E.,

*Assistant Secretary, Conservation and Renewable Energy.*

December 14, 1990

*United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585*

Gentlemen: This is a petition for waiver and petition for interim waiver submitted pursuant to 10 CFR 430.27. Waiver is requested from the Furnace test procedure found at appendix N to subpart B of part 430.

The test procedure requires a 1.5 minute delay between burner on and blower on. Armstrong is requesting authorization to use a 20 second delay instead of 1.5 minutes. Armstrong is manufacturing a series of induced draft furnaces which includes the GRTC Series rooftop furnaces used for residential, commercial, and industrial installations.

Maximum energy efficiency is achieved by fixed timing controls installed in the GRTC series that activate the circulating air blower 20 seconds after the burner is on.

Under the appendix N procedures, the vent gas temperature climbs at a faster rate than it would with a 20 second blower on time, allowing energy to be lost out the vent system. This waste of energy would not occur in actual operation. If this petition is granted, the true blower on time delay would be used in the calculations. Proposed ASHRAE Standard 103-1988 paragraph 9.5.1.2.2 specifically addresses the use of timed blower operation.

The current test procedures do not give Armstrong credit for the energy savings which average approximately 0.6 percentage points on our A.F.U.E. test results.

Current prescribed test procedures prohibit Armstrong from taking credit for the saved energy, thus providing inaccurate comparative data.

Armstrong has been granted a waiver permitting the 20 second blower on time to be used in efficiency calculations for our Ultra series furnaces (Case Number-F-014) dated October 1985.

Several other manufacturers of furnaces have been granted a waiver to permit calculations based on timed blower operation.

Confidential comparative test data is available to you upon your request.

Sincerely,

Armstrong Air Conditioning Inc.

Bruce R. Maike,

*Vice President Product Engineering.*

[FR Doc. 91-5903 Filed 3-12-91; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-50718; FRL-3881-1]

## Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Genetically Altered Microbial Pesticide

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's receipt of a notification of intent to conduct small-scale field testing of a genetically engineered microbial pesticide, *Bacillus thuringiensis* strain EG7618, from Ecogen, Inc. of Longhorne, Pennsylvania. EPA has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), EPA is soliciting public comments on this application.

**DATES:** Written comments must be received on or before April 12, 1991.

**ADDRESSES:** Comments in triplicate, should bear the docket control number OPP-50718 and be submitted: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in Rm. 246 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690).

**SUPPLEMENTARY INFORMATION:** A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from Ecogen, Inc. of Longhorne, PA. The purpose of the proposed testing is to evaluate the efficacy of the *Bacillus thuringiensis* strain EG7618 at two concentrations of coleopterous toxin protein against Ecogen's Foil® bioinsecticide (EPA Reg. No. 55638-10) for the control of the Colorado potato beetle on spring-planted potatoes in Pennsylvania and Virginia. A total of 0.176 acres will be treated. Strain EG7618 is a recombinant *Bacillus thuringiensis* strain derived using the *Bacillus thuringiensis* strain EG2424, the active ingredient in Ecogen's Foil® bioinsecticide product.

Following the review of the Ecogen, Inc. application and any comments received in response to this Notice, EPA will decide whether or not an experimental use permit is required.

Dated: March 4, 1991.

Anne E. Lindsay,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 91-5672 Filed 3-12-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-36179; FRL-3879-7]

## Dermal Absorption Studies of Pesticides Subdivision F Hazard Evaluation: Humans and Domestic Animals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; request for comments.

**SUMMARY:** The Environmental Protection Agency is making available, for public comment, a proposed guideline for Dermal Absorption Studies of Pesticides. This guideline, when final, will serve to formalize the protocol on dermal absorption that has been in experimental development since the publication of Subdivision F in October 1982. A copy of the proposed guideline and a background document which provides the history and scientific rationale for the guideline are available at the address listed below for the Public Docket and Freedom of Information Section.

**DATES:** Comments must be received on or before June 11, 1991.

**ADDRESSES:** Submit three copies of written comments, identified with the docket control number "OPP-36179" by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 244 Bay, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-2805.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Rm. 244 Bay at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Robert P. Zendzian, Health Effects Division (H7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 816D, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-5495.

**SUPPLEMENTARY INFORMATION:** The Pesticide Assessment Guidelines, Subdivision F, describe protocols for performing toxicology and related tests to support registration of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Some of the tests are also used in tolerance reviews under the Federal Food, Drug, and Cosmetic Act (FFDCA).

Subdivision F was made available for public comment in 1978 and published in final form in October 1982. At that time the Agency published the criteria for performing a dermal absorption study on a pesticide and reserved Section 85-3, for a guideline on Dermal Absorption Studies of Pesticides. The Agency had available a preliminary protocol for dermal absorption studies but did not consider it ready for publication. Subsequently over 100 studies of dermal absorption of pesticides have been performed with the preliminary protocol and the protocol has undergone three revisions based on this experience. The Agency believes that the study design has been performed adequately in numerous laboratories to validate the experimental design, show its usefulness to the Agency, and demonstrate its practicality in the laboratory. Publication at this time will serve to formalize the Agency's accumulated experience with this study.

The basic experimental design of the proposed guideline is essentially that given in the document, *Procedure for Studying Dermal Absorption*, by Robert P. Zendzian, Ph.D., Senior Pharmacologist, Health Effects Division, Office of Pesticide Programs, Fourth Edition Revised September 18, 1987, Including California Modifications, October 9, 1985. The methodology was presented on October 31, 1989, at the Ninth Annual Meeting of the American College of Toxicology, Symposium on Epidemiology and Toxicology, Skin Absorption of Environmental Chemicals, Pesticides and Water Contaminants and published in the *Journal of the American College of Toxicology*, Volume 8, No. 5, pp 829-835, 1989.

The background document provides a detailed explanation and rationale on the requirement for a dermal absorption study, the choice of an *in vivo* study, the history of the protocol and the experimental design. The technical and scientific rationale of the experimental design are supported by data generated with the protocol.

All interested parties are encouraged to submit comments on the proposed guideline protocol for a dermal absorption study, and not on the regulatory decision as to whether or not such a study is/should be a data requirement to support the registration/reregistration of a pesticide. Specific comments should reference the specific number and paragraph or subparagraph of the proposed guideline. Recommended technical or scientific changes/modifications should be supported by current scientific/technical knowledge and include supporting references. References may be to the published literature, studies submitted to the Agency in support of registration and unpublished data. Citations should be sufficiently detailed so as to allow the Agency to obtain copies of the original documents and unpublished data supplied in sufficient detail to allow their evaluation.

Comments on the proposed guideline will be considered by the Agency and such modifications of the guideline as are considered to be of scientific and technical merit will be considered for inclusion in a revised guideline. The draft modifications will be made available to the public for further comment and will be presented to the FIFRA Scientific Advisory Panel at a public meeting for their comments before being published in a final form.

Dated: March 6, 1991.

Penelope A. Fenner-Crisp,
*Director, Health Effects Division, Office of Pesticide Programs.*

[FR Doc. 91-5947 Filed 3-12-91; 8:45 am]
BILLING CODE 6560-50-F

---

[OPTS-59294; FRL 3863-5]

## Toxic and Hazardous Substances; Test Market Exemption Applications

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemption, provides a summary, and requests

comments on the appropriateness of granting these exemptions.

**DATES:**

*Written comments by:*

T 91-9, March 24, 1991.

T 91-10, March 27, 1991.

**ADDRESSES:** Written comments, identified by the document control number "(OPTS-59294)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW, Rm. L-100, Washington, DC 20460, (202) 382-3532.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW, Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

**T 91-9**

*Close of Review Period.* April 7, 1991.

*Manufacturer.* Confidential.

*Chemical.* (G) Alkylated diesters.

*Use/Production.* (S) Lubricants, oil additives, and emulsifers. Prod. range: Confidential.

**T 91-10**

*Close of Review Period.* April 10, 1991.

*Manufacturer.* Confidential.

*Chemical.* (G) Modified bitumen.

*Use/Production.* (S) Paving bitumen. Prod. range: Confidential.

*Toxicity Data.* Acute oral toxicity: LD50 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g.kg species (Rabbit). Eye irritation: none species (Rabbit). Skin irritation: moderate species (Rabbit). Mutagenicity: negative.

Dated: March 8, 1991.

**Steven Newburg-Rinn,**

*Acting Director, Information Management Division, Office of Toxic Substances.*

[FR Doc. 91-5948 Filed 3-12-91 8:45 am]

BILLING CODE 6560-50-F

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

March 7, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0141.

Title: Application for Renewal of Private Operational Fixed Microwave Radio Station License.

Form Number: FCC Form 402-R.

Action: Revision.

Respondents: Individuals or households, state or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 4,400 responses; .33 hours average burden per response; 1,452 hours total annual burden.

Needs and Uses: The FCC Form 402-R is filed by licensees in the Private Operational Fixed Microwave Radio Service for renewal of an existing authorization. The data is used by FCC staff to determine eligibility for a renewal and to issue a radio station license. The data is also used by Compliance personnel in conjunction with field engineers for enforcement purposes.

Federal Communications Commission.

**LaVera F. Marshall,**

*Acting Secretary.*

[FR Doc. 91-5967 Filed 3-12-91; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA-895-DR]**

### Major Disaster and Related Determinations; MS

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA-895-DR), dated March 5, 1991, and related determinations.

**DATED:** March 5, 1991.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

**NOTICE:** Notice is hereby given that, in a letter dated March 5, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from severe storms and flooding beginning on February 17, 1991, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael J. Polny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

The counties of Adams, Calhoun, Itawamba, Leflore, Panola, Tallahatchie, Tishomingo, Washington, and Yalobusha for Individual Assistance and Public Assistance; and

The counties of Bolivar, Clay, Coahoma, Grenada, Lowndes, Monroe, Quitman, and Sunflower for Individual Assistance only.

**Wallace E. Stickney,**

*Director, Federal Emergency Management Agency.*

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

[FR Doc. 91-5924 Filed 3-12-91; 8:45 am]

BILLING CODE 6718-02-M

## FEDERAL MARITIME COMMISSION

### Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice that on March 1, 1991, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

*Agreement No:* 224-000083-005.

*Title:* International Longshoremen's Association Assessment Agreement

*Parties:* International Longshoremen's Association, AFL-CIO (ILA). Carriers Container Council, Inc. (Carrier).

*Synopsis:* The agreement amends the Carrier-ILA Container Freight Station Trust Fund basic assessment agreement to reflect the establishment and administration of a joint labor-management container royalty fund for the purpose of collecting and distributing additional container royalties in ILA ports from Maine and Texas.

By Order of the Federal Maritime Commission.

Dated: March 7, 1991.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 91-5845 Filed 3-12-91; 8:45 am]

BILLING CODE 6730-01-M

### CCNI/Nedlloyd Cooperative, et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 232-011322.

*Title:* CCNI/Nedlloyd Cooperative Agreement.

*Parties:* Compania Chilena De Navegacion, Interoceanica S.A., Nedlloyd Lijnen B.V.

*Synopsis:* The proposed Agreement would permit the parties to charter space from one another in the trade between U.S. Atlantic Coast ports and inland and coastal points (including Canadian inland and coastal points) via such ports and ports of Chile and Peru, and inland and coastal points (including Bolivian inland points) via such ports. It would also permit the parties to agree upon and rationalize sailings, schedules, service frequency, ports to be served, port rotations, space and slot allocations aboard the vessels used in the service, as well as the compensation for said transportation. The parties have requested a shortened review period.

Dated: March 7, 1991.

By Order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 91-5844 Filed 3-12-91; 8:45 am]

BILLING CODE 6730-01-M

### Port of Houston Authority/Port of Houston Terminal C.E.S., Inc. et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult with section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

*Agreement No.:* 224-200481.

*Title:* Port of Houston Authority/Port Houston Terminal C.E.S., Inc. Terminal Agreement.

*Parties:*

Port of Houston Authority (Port)

Port Houston Terminal C.E.S., Inc. (PHT).

*Filing Party:* Martha T. Williams, Staff Counsel, Port of Houston Authority, Port of Houston, Authority, P.O. Box 2562, Houston, TX 77252-2562.

*Synopsis:* The Agreement provides for PHT to perform or have performed freight handling services at the Port's Wharves Numbers 8 and 9 and Transit Shed Number 9 for a term ending December 31, 1992.

*Agreement No:* 224-003565-003.

*Title:* Puerto Rico Ports Authority/Sea-Land Service, Inc. Marine Terminal Agreement.

*Parties:*

Puerto Rico Ports Authority

Sea-Land Service, Inc.

*Filing Party:* Mrs. Mayra N. Cruz Alvarez, Contracts Supervisor, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, P.R. 00936-2829.

*Synopsis:* The Agreement amends the parties basic agreement to eliminate the right of preference use for 3,400 sq. ft. and reflect a $14.16 reduction in monthly rent.

Dated: March 7, 1991.

By Order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 91-5842 Filed 3-12-91; 8:45 am]

BILLING CODE 6730-01-M

### San Francisco Port Commission/Maruba S.C.A., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime

Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No:* 224-200479.

*Title:* San Francisco Port Commission/Maruba S.C.A. Marine Terminal Agreement.

*Parties:*

San Francisco Port Commission
Maruba S.C.A. (Carrier).

*Synopsis:* The Agreement provides Carrier a non-exclusive right to use the North Container Terminal located in the City and County of San Francisco as its published regularly scheduled Northern California port of call. The facilities shall be used only for the berthing of Carrier's vessels, the loading and discharging of cargoes and operations ancillary thereto. The term of the Agreement is five years.

*Agreement No:* 224-200480.

*Title:* City and County of San Francisco/Pacific Meridian Line Terminal Agreement.

*Parties:*

City and County of San Francisco (City)
Pacific Meridian Line (PML).

*Synopsis:* The Agreement provides for: PML to make San Francisco its Northern California port of call; and PML to pay dockage and wharfage rates at less than 100% of those named in the City's Tariff No. 3-C. The term of the Agreement is for five years.

Dated: March 7, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

*Secretary.*

[FR Doc. 91-5843 Filed 3-12-91; 8:45 am]

BILLING CODE 6730-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

[ATSDR-33]

### Availability of a Listing of Areas Closed or Restricted to the Public Due to Contamination by Toxic Substances

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of the list of areas closed or restricted to the public in 1990 due to toxic substance contamination. It is available under the title, "Restrictions Imposed on Contaminated Sites: A Status of State Actions."

**AVAILABILITY:** A limited supply of this report will be made available at no charge to the public upon request to: National Governors Association, National Resources Policy Studies, Center for Policy Research, Hall of the States, 444 North Capitol Street, Washington, DC, 20001-1572, Attention: Barbara Wells.

**SUPPLEMENTARY INFORMATION:** This report is required of the Agency for Toxic Substances and Disease Registry (ATSDR) by section 104(i)(1)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The law requires that ATSDR, in cooperation with the states and other Federal agencies, establish and maintain a complete listing of areas closed to the public or otherwise restricted in use because of toxic substance contamination. The ATSDR develops and maintains the required listing through an agreement with the National Governors Association. The current report indicates that 1,705 sites were found to be closed or restricted by states because of contamination by toxic substances.

**FOR FURTHER INFORMATION CONTACT:** Division of Health Education, Agency for Toxic Substances and Disease Registry, Mailstop E-33, 1600 Clifton Road, Atlanta, Georgia, 30333, telephone (404) 639-0730. For copies of the report please contact the National Governors Association at their address provided above.

Dated: March 5, 1991

William L. Roper,

*Administrator, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 91-5891 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-70-M

### Centers for Disease Control

### National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee: Meeting

Pursuant to Public Law 92-463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following committee meeting.

*Name:* NCVHS Executive Subcommittee.

*Time and Date:* 9 a.m.-5 p.m., April 4, 1991.

*Place:* Columbia Square Building, Seventh Floor, 555 Thirteenth Street, NW., Washington, DC 20004-1109.

*Status:* Open.

*Purpose:* The purpose of this meeting is for the Executive Subcommittee to review the work plan of NCVHS and other subcommittees. The Executive Subcommittee will plan for the June 5-7, 1991, NCVHNS meeting.

*CONTACT PERSON FOR MORE INFORMATION:* Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050 or FTS 436-7050.

Dated: March 5, 1991.

Elvin Hilyer,

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 91-5890 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-18-M

## Food and Drug Administration

[Docket No. 91N-0081]

### Drug Export; Anti-Human Globulin, Anti-C3b, -C3d (Murine Monoclonal) Gamma-Clone

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Gamma Biologicals, Inc., has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-C3b, -C3d (Murine Monoclonal) Gamma-clone to Australia, Italy, The Netherlands, and Spain.

**ADDRESSES:** Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20856, 301-295-8191.

**SUPPLEMENTARY INFORMATION:** The drug export provisions in section 802 of the

Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the Untied States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Gamma Biologicals, Inc., 3700 Mangum Rd., Houston, TX 77092, has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-C3b, -C3d (Murine Monoclonal) Gamma-clone to Australia, Italy, The Netherlands, and Spain. The Anti-Human Globulin, Anti-C3b, -C3d (Murine Monoclonal) Gamma-clone is an in vitro diagnostic reagent for antiglobulin tests. The application was received and filed in the Center for Biologics Evaluation and Research on February 19, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 25, 1991, and to provide an additional copy of the submission directly to the contact person identifed above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 25, 1991.

**Thomas S. Bozzo,**

*Director, Office of Compliance, Center for Biologics Evaluation and Research.*

[FR Doc. 91-5883 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-01-M

**[Docket No. 91N-0080]**

## Drug Export; Anti-Human Globulin, Anti-IgG Murine Monoclonal) Gamma-Clone®

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Gamma Biologicals, Inc., has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-IgC (Murine Monoclonal) Gamma-Clone® to Australia, Italy, The Netherlands, and Spain.

**ADDRESSES:** Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

**SUPPLEMENTARY INFORMATION:** The drug export provisions in section 80 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Gamma Biologicals, Inc., 3700 Mangum Rd., Houston, TX 77092, has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-IgG (Murine Monoclonal) Gamma-Clone® to Australia, Italy. The Netherlands, and Spain. The Anti-Human Globulin, Anti-IgG (Murine Monoclonal) Gamma-clone is an in virtro diagnostic reagent for antiglobulin tests. The application was received and filed in the Center for Biologics Evaluation and Research on February 19, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 25, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 25, 1991.

**Thomas S. Bozzo,**

*Director, Office of Compliance, Center of Biologics Evaluation and Research.*

[FR Doc. 91-5957 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-01-M

**[Docket No. 91N-0083]**

## Drug Export; Anti-Human Globulin, Anti-IgG (Murine Monoclonal) (Green) Gamma-Clone®

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Gamma Biologicals, Inc., has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-IgG Gamma-clone® (Murine Monoclonal) (Green) to Australia, Italy, The Netherlands, and Spain.

**ADDRESSES:** Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug

Export Amendments Act of 1986 should also be directed to the contact person.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Chancey, Center for Biologics Evaluation and Research (HBF-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

**SUPPLEMENTARY INFORMATION:** The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing that Gamma Biologicals, Inc., 3700 Mangum Rd., Houston, TX 77092, has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-IgG, Gamma-clone® (Murine Monoclonal) (Green) to Australia, Italy, The Netherlands, and Spain. The Anti-Human Globulin, Anti-IgG, Gamma-clone® (Murine Monoclonal) (Green) is an in vitro diagnostic reagent for antiglobulin tests. The application was received and filed in the Center for Biologics Evaluation and Research on February 19, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 25, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 25, 1991.

**Thomas S. Bozzo,**

*Director, Office of Compliance, Center for Biologics Evaluation and Research.*

[FR Doc. 91-5882 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-01-M

---

[Docket No. 91N-0082]

## Drug Export; Anti-Human Globulin, Anti-IgG, -C3d; (Polyspecific) (Murine Monoclonal) (Green) Gamma-Clone®

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Gamma Biologicals, Inc., has filed an application requesting approval of the export of the biological product Anti-Human Globulin, Anti-IgG, -C3d; (Polyspecific) (Murine Monoclonal) (Green) Gamma-clone® to Australia, Italy, The Netherlands, and Spain.

**ADDRESSES:** Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fisher Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

**SUPPLEMENTARY INFORMATION:** The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Gamma Biologicals, Inc., 3700 Mangum Rd., Houston, TX 77092, has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-IgG, -C3d; (Polyspecific) (Murine Monoclonal) (Green) Gamma-clone® to Australia, Italy, The Netherlands, and Spain. The Anti-Human Globulin, Anti-IgG, -C3d; (Polyspecific) (Murine Monoclonal) (Green) Gamma-clone® is an in vitro diagnostic reagent for direct or indirect antiglobulin tests. The application has received and filed in the Center for Biologics Evaluation and Research on February 19, 1991, which shall be considered the filing data for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 25, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commission of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 25, 1991.

**Thomas S. Bozzo,**

*Director, Office of Compliance, Center for Biologics Evaluation and Research.*

[FR Doc. 91-5884 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-01-M

---

[Docket No. 91N-0084]

## Drug Export; Anti-Human Globulin, Anti-IgG, -C3d (Polyspecific) (Murine Monoclonal) Gamma-Clone®

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Gamma Biologicals, Inc., has filed an application requesting approval for

the export of the biological product Anti-Human Globulin, Anti-IgG, -C3d (Polyspecific) (Murine Monoclonal) Gamma-clone® to Australia, Italy, The Netherlands, and Spain.

**ADDRESSES:** Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

**SUPPLEMENTARY INFORMATION:** The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Gamma Biologicals, Inc., 3700 Mangum Rd., Houston, TX 77092, has filed an application requesting approval for the export of the biological product Anti-Human Globulin, Anti-IgG, -C3d (Polyspecific) (Murine Monoclonal) Gamma-clone® to Australia, Italy, The Netherlands, and Spain. The Anti-Human Globulin, Anti-IgG, -C3d (Polyspecific) (Murine Monoclonal) Gamma-Clone® is an in vitro diagnostic reagent for direct or indirect antiglobulin tests. The application was received and filed in the Center for Biologics Evaluation and Research on February 19, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 25, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 25, 1991.

**Thomas S. Bozzo,**

*Director, Office of Compliance, Center for Biologics Evaluation and Research.*

[FR Doc. 91-5885 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-01-M

---

**[Docket No. 91E-0016]**

## Determination of Regulatory Review Period for Purposes of Patent Extension; Cardura®

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Cardura® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Nancy Pirt, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Cardura®. Cardura® (doxazosin mesylate) is indicated for the treatment of hypertension. Cardura® may be used alone or in combination with diuretics or beta-adrenergic blocking agents. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Cardura® (U.S. Patent No. 4,188,390) from Pfizer Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated January 25, 1991, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Cardura® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Cardura® is 2,843 days. Of this time, 1,510 days occurred during the testing phase of the regulatory review period, while 1,333 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:*

January 22, 1983. FDA has verified the applicant's claim that the investigational new drug application became effective was on January 22, 1983.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 11, 1987. FDA has verified the applicant's claim that the new drug application (NDA 19-668) was filed March 11, 1987.

3. *The date the application was approved:* November 11, 1990. FDA has verified that applicant's claim that NDA 19-668 was approved November 11, 1990.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, or or before May 13, 1991, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 10, 1991, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 7, 1991.

**Stuart L. Nightingale,**

*Associate Commissioner for Health Affairs.*

[FR Doc. 91-5958 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-01-M

## Health Care Financing Administration

### Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Advisory Council on Social Security.

**DATES:** The meeting will be open to the public on March 28, 1991 from 9 a.m. to 5:30 p.m.

**ADDRESSES:** Hyatt Regency Tampa, Two Tampa City Center, Tampa, Florida 33602-5187.

**FOR FURTHER INFORMATION CONTACT:** Adele Eley, Advisory Council on Social Security, room 638 G. Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington DC 20201, 202-245-0217.

**SUPPLEMENTARY INFORMATION:**

#### I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every four years. The Council examines issues affecting the Social Security retirement, disability, and survivors insurance programs, as well as the Medicare and Medicaid programs, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- The adequacy of the Medicare program to meet the health and long-term care needs of our aged and disabled populations, the impact on Medicaid of the current financing structure for long-term care, and the need for more stable health care financing for the aged, the disabled, the poor, and the uninsured;
- Major Old-Age, Survivors, and Disability Insurance (OASDI) financing issues, including the long-range financial status of the program, relationship of OASDI income and out go to budget-deficit reduction efforts under the Balanced Budget and Emergency Deficit Control Act of 1985, and projected buildups in the OASDI trust funds; and
- Broad policy issues in Social Security, such as the role of Social Security in overall U.S. retirement income policy.

The Council is composed of 12 members: G. Lawrence Atkins, Robert M. Ball, Philip Briggs, Lonnie R. Bristow, Theodore Cooper, John T. Dunlop, Karen Ignagni, James R. Jones, Paul O'Neill, A.L. "Pete" Singleton, John J. Sweeney, and Don C. Wegmiller, the Chairperson is Deborah Steelman.

The Council is to report to the Secretary and Congress in 1991.

#### II. Agenda

The Council has appointed an Expert Panel on the Future of Income Security and Health Care Financing. The Council will meet with the Expert Panel to discuss issues related to the Expert Panel's mission.

The agenda items are subject to change as priorities dictate.

(Catalog of Federal Domestic Assistance Programs Nos. 13.714 Medical Assistance Program; 13.733 Medicare-Hospital Insurance; 13.774 Medicare-Supplemenatary Medical Insurance; 13.802, Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.805 Social Security-Survivor's Insurance)

Dated: March 6, 1991.

**Barbara Cooper,**

*Deputy Director, Advisory Council on Social Security.*

[FR Doc. 91-5921 Filed 3-12-91; 8:45 am]

BILLING CODE 4120-01-M

## Health Resources and Services Administration

### Special Project Grants and Cooperative Agreements; Maternal and Child Health Services; Federal Set-Aside Program

**AGENCY:** Health Resources and Services Administration, PHS, DHHS.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), announces that Fiscal Year (FY) 1991 funds are available for grants and cooperative agreements for the following activities: Maternal and Child Health (MCH) special projects of regional and national significance (SPRANS) which contributed to the health of mothers, children, and children with special health care needs; MCH research and training; genetic disease testing, counseling and information services; and hemophilia diagnostic and treatment centers. Awards will be made under the program authority of section 6502(a) of the Social Security Act, the MCH Federal set-aside program. The HRSA, through this notice, invites potential applicants to request application packages for the particular program category in which they are interested, and to submit their applications for funding consideration. It is anticipated that $13.6 million will be available to support approximately 75 new and competing renewal projects at an average of $180,000 per award under the MCH Federal set-aside program. This is an estimated funding level. The

actual amount available for awards may vary. Contracts are made for grant periods which generally run from 1 to 3 years in duration. Funds for the MCH Federal set-aside program are appropriated by Public Law 101-517. The regulation implementing the Federal set-aside program was published in the March 5, 1986 issued of the Federal Register at 51 FR 7726 (42 CFR part 51a).

**DATES:** Deadlines for receipt of applications differ for the several categories of grants and cooperative agreements; these deadlines are as follows:

(a) Grants:

(1) Research:

(A) Cycle One: April 15, 1991.

(B) Cycle Two. August 1, 1991.

(2) Long Term Training: April 15, 1991.

(3) Genetic disease testing, counseling and information: May 5, 1991.

(4) Hemophilia diagnostic and treatment centers: June 1, 1991.

(5) Special MCH improvement projects (MCHIP) of regional and national significance relevant to MCH in the following areas:

(A) Maternal and infant health (projects contributing to the reduction of infant mortality and the improvement of maternal and infant health and the reduction of infant mortality): May 7, 1991.

(B) Child and adolescent health (projects to enhance the health of children, adolescents, and their families: through prevention of violence and unintentional injuries; development of resources for improving access to health care and health outcomes for children and youth; and promotion of comprehensive community-based programs focusing on health care for Black, male children and adolescents): May 8, 1991.

(C) Children with special health care needs. (Grant applications in this MCHIP category, which have focused on demonstrating new or innovative approaches to the provision of health care and services, will not be available during this cycle.)

(D) Child health systems development program: May 13, 1991.

Grants will assist localities and States to demonstrate public/private partnerships to assure appropriate primary care for all children in a given geopolitical area. These grants are intended to foster integration and coordination of resources to assure access to and receipt of appropriate care.

(E) Healthy Tomorrows Partnerships for Children: April 22, 1991.

Healthy Tomorrows grants will support projects for children that improve access to health services and utilize preventive strategies. The initiative encourages additional support from the private sector and from foundations to form community-based partnerships to coordinate health resources for pregnant women, infants and children.

(F) Field-initiated projects: July 1, 1991.

Field-initiated proposals are limited to categories of projects not covered under other MCH program funding categories. These proposals will address other innovative and unique approaches to improving the health of mothers, children and children with special health care needs. Applications will be accepted at any time up to July 1, 1991. Panels will be convened as needed to review these applications.

(b) Cooperative Agreements (MCHIPs): May 1, 1991.

It is anticipated that substantive Federal programmatic involvement will be required in the cooperative agreements for improvement in maternal and child health described below. This involvement will be manifested through the periodic meetings, conferences, and/or communications with the grantees, to occur not less than quarterly during the period of the agreement, to review and evaluate the goals and objectives identified in the cooperative agreement, their achievements or progress to date, and changes to or redirection of efforts related to these goals and objectives, as mutually agreed to by Federal program officials and appropriate representatives of the grantee. Specifically, Federal program officials will be responsible for the approval of issues and concerns in maternal and child health identified and addressed by the applicants.

Additional details on the degree of Federal programmatic involvement will be included in the program guidance for cooperative agreement applications.

(1) A series of related cooperative agreements will support organizations representing governmental, professional and private sector interests in improving maternal and child health. Agreements will be entered into for the following purposes: disseminating programmatic information from the Maternal and Child Health Bureau in order to maximize impact in the field; facilitating input from key information sources to guide Federal programs, and promoting enhanced understanding of State/local system functioning and provider concerns to foster collaboration in maternal and child health.

(2) One cooperative agreement will provide mental health and related consultation services for the Head Start Services Program. This project will assist local Head Start programs in implementing effective health and related activities.

(3) A series of related cooperative agreements will support promotion of governmental and professional partnerships to encourage additional private sector and foundation support for improved coordination of and access to health resources at the community-level for pregnant women, infants and children.

To receive consideration, all applications must be sent to the Grants Management Officer at the address below, and must be received by the close of business on the dates indicated. Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commerical carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Grant applications received after the deadline date will be returned.

**FOR FURTHER INFORMATION CONTACT:** Requests for technical or programmatic information should be directed to the Office of the Director, Maternal and Child Health Bureau, HRSA, room 9-03, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Requests for application materials should be made in writing to the Grants Management Officer, Office of Program Support, MCHB, suite 100-A, 12300 Twinbrook Parkway, Rockville, Maryland 20852. Requests should specify the category or categories of activities for which an application is requested so that the appropriate forms, information and materials may be provided. In addition to providing application materials, the Grants Management Officer is available to provide assistance on business management issues. Applicants for research projects will use Form PHS 398, approved by the Office of Management and Budget (OMB) under control number 0925-0001. Applicants for training projects will use Form PHS 6025-1, approved by OMB under control number 0915-0060. Applicants for all other projects will use application Form PHS 5161-1 with revised facesheet DHHS Form 424, approved by OMB under control number 0937-0189.

**SUPPLEMENTARY INFORMATION:**

*Program Background and Objectives:* Under Section 502(a) of the Social Security Act, 15 percent of the funds

appropriated for Title V of the Act in each fiscal year are to be retained by the Secretary for the purposes specified above. Support for projects covered by this announcement will come from these funds. Consistent with the statutory purpose of improving maternal and child health and with particular attention to the needs of minority and disadvantaged populations, the Department will review applications for funds under the above mentioned categories as competing applications and will fund those which, in the Department's view, best address achievement of the Healthy People 2000 objectives related to maternal, infant, child and adolescent health, and otherwise promote improvements in maternal and child health (for example, applications which enhance efforts to reduce the unacceptably high rates of infant mortality, which increase the availability of and access to services for handicapped and chronically ill children and young adults, and which enhance the health and development of adolescents).

Applicants can obtain a listing of the Healthy People 2000 Objectives. Potential applicants can obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-1 or Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office Washington, DC 20402-9325 (telephone: 202 783-3238).

**Eligible Applicants**

The statute at section 502(a)(2) provides that training grants may be made only to public or nonprofit private institutions of higher learning and that research grants may be made only to public or nonprofit private agencies and organizations engaged in research in maternal and child health or programs for children with special health care needs. Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for grants or cooperative agreements in all other program categories.

**Review Criteria**

Applications for grants will be reviewed and evaluated according to:

1. The quality of the project plan or methodology.
2. Documentation of the need for the training and technical assistance.
3. The cost-effectiveness of the proposed project relative to the number of persons proposed to be benefitted, served or trained.
4. The extent to which the project will contribute to service system improvement for the target population(s).
5. The extent to which the projects will serve all regions of the country including urban and rural settings and any special circumstances associated with providing training in various areas.
6. The effectiveness of procedures to collect the cost of care and service from third-party payment sources (including government agencies) which are authorized or under legal obligation to make such payment for any service (including diagnostic, preventive and treatment services).
7. The extent to which the project will be integrated with the administration of the Maternal and Child Health Services block grants and other related programs in the respective State(s).
8. The soundness of the project's management, considering the qualifications of the staff of the proposed project and the applicant's facilities and resources.
9. The extent to which the project gives attention to overcoming culture barriers to services for culturally distinct populations served by the project.

Applications for cooperative agreements will be reviewed and evaluated according to:

1. The evidence of capacity to identify and represent the MCH interests and/or concerns to one or more organizations.
2. The ability to identify programmatic issues in MCH of concern to the Federal MCHB and to the applicant and to specifically address relevant issues raised by the new Title V amendments (Pub. L. 101-239).
3. The ability to improve the capacity of the Federal MCHB to transmit important information to the applicant's organization or target group regarding MCH concerns and how the applicant will initiate or increase a dialogue between organization members and the MCHB to increase the prospect of effective MCH programming.
4. The soundness of the applicant's management, considering the qualifications of the staff of the proposed project and the applicant's facilities and resources.

**Executive Order 12372**

The MCHB Federal set-aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: January 23, 1991.

**Robert G. Harmon,**

*Administrator.*

[FR Doc. 91-6034 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-15-M

## Program Announcement and Proposed Review Criteria for Grants for Nurse Anesthetist Education Programs

**ACTION:** Notice of extension of application due date.

**SUMMARY:** This notice extends the due date previously published in the **Federal Register** on February 28, 1991 (56 FR 8354) for applications to provide for grants for projects to develop and operate programs for the education of nurse anesthetists. The new due date is May 31, 1991.

Dated: March 7, 1991.

**Robert G. Harmon,**

*Administrator.*

[FR Doc. 91-5886 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-15-M

## Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1991:

*Name:* Commission on the National Nursing Shortage.

*Date and Time:* April 11-12, 1991, 8:30 a.m.

*Place:* Conference Room E, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public. Identification may be needed to gain access to the building.

*Purpose:* The Commission advises the Secretary, the Assistant Secretary for Health, and the Administrator, Health Resources and Services Administration on specific projects implementing the recommendations of the Secretary's Commission on Nursing. These projects should attempt optimal utilization of available resources and expertise from Federal, State, and local government and private sector organizations.

The recommended project will target the following five focus areas: (1) Recruitment and the educational pathway; (2) retention and career development; (3) restructuring nursing services and effective utilization of nursing personnel; (4) data collection and analysis requirements; and (5) information systems and related technology in nursing.

In each focus area, the Commission shall formulate one targeted initiative designed to improve the imbalance in the nursing labor market and provide a model for broader endeavors. In addition, the Commission shall investigate ways to promote and identify specific commitments from private sector organizations and State and local government for fulfilling the projects.

*Agenda:* The purpose of the meeting is to discuss and refine the drafts of five projects that have been developed to address the recommendations of the Secretary's Commission of Nursing relative to the nursing shortage. Dr. Gloria Smith, Chairperson will preside.

There will be brief segments for public comment, once each day.

Persons interested in providing brief public comments should contact Dr. Caroline B. Burnett, Senior Consultant, Commission on the National Nursing Shortage, Health Resources and Service Administration, room 7-90, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3499, for more specific information.

Anyone requiring information regarding the subject Council should contact Dr. Caroline B. Burnett, Senior Consultant, Commission on the National Nursing Shortage, Health Resources and Service Administrative, room 7-90, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3499.

Agenda Items are subject to change as priorities dictate.

Dated: March 7, 1991.

**Jackie E. Baum,**

*Advisory Committee Management Officer, HRSA.*

[FR Doc. 91-5959 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-15-M

## National Institute on Deafness and Other Communication Disorders

### Meeting of the Board of Scientific Counselors, NIDCD

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIDCD, April 4-5, 1991, Building 31C, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. to 9 a.m. on April 4 to discuss issues related to committee business. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 9:00 a.m. until recess on April 4 and from 8:30 a.m. until adjournment on April 5. The closed portions of the meeting will be for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Monica Davies, Acting Executive Secretary of the Board of Scientific Counselors, NIDCD, Building 31, room B2C06, National Institutes of Health, Bethesda, Maryland 20892, 301-402-1129, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: February 28, 1991.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 91-5853 Filed 3-12-91; 8:45 am]

BILLING CODE 4140-01-M

## National Library of Medicine

### Meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine, on April 5, 1991, in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 9 a.m. to 3:30 p.m. for the review of research and development programs and preparation of reports of the National Center for Biotechnology Information. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on April 5, from approximately 3:30 to 5 p.m. for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. David J. Lipman, Director, National Center for Biotechnology Information, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone (301) 496-2475, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: February 28, 1991.

**Betty J. Beveridge,**

*HIH Committee Management Officer, NIH.*

[FR Doc. 91-5854 Filed 3-12-91; 8:45 am]

BILLING CODE 4140-01-M

## Public Health Service

### Indian Health Service; Method for Evaluating and Establishing Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Service Regulations—Portland Area

**AGENCY:** Public Health Service, HHS.

**ACTION:** General notice.

**SUMMARY:** The Indian Health Service (IHS) issues this General Notice to inform the public that IHS will conduct a pilot project in the Portland Area, IHS, to determine whether an alternative method of evaluating and establishing reimbursement rates for contract health services (CHS) will result in greater participation by health care providers and lower costs to IHS. The pilot project is limited to the Portland Area, and does not affect the present methods of evaluating and establishing reimbursements rates and awarding contracts for health care services in other IHS Areas. In addition, the pilot project does not change the current IHS payment policy requirement that health care services be procured at rates which do not exceed prevailing Medicare rates.

**EFFECTIVE DATE:** February 1, 1991 through March 31, 1992.

**FOR FURTHER INFORMATION CONTACT:** Ronald G. Freeman, Director, Division of Health Care Administration/Contract Health Services, room 6-12, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-8373 (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The IHS contract health services program is administered under regulations at 42 CFR 36.21 et seq. Under this program, IHS purchases health services from hospitals, physicians, and other health care providers to supplement the IHS direct care delivery system. IHS last issued a payment policy in 51 FR 23540 on June 30, 1986. This policy requires the

IHS Area Offices to negotiate contracts with the providers that they expect to use for health care services. With certain specified exceptions, the contract must provide for reimbursement for services at rates which do not exceed prevailing Medicare allowable rates (including deductibles and co-insurance), and the Service Units which report to the IHS Area Offices must procure all of their health care services under these contracts.

Although the number of contracts that the IHS has in place has been steadily increasing, it has not been possible to enter into contracts with each of the approximately 850 facilities and 4,600 professionals providers that the IHS uses on a recurring basis. The Area Offices lack the contracting staff resources to develop solicitations, review proposals, and negotiate contracts with each of these providers; and, some providers are unwilling to review the lengthy solicitations or commit to accept the extensive and restrictive contract clauses required by the Federal Acquisition Regulations (48 CFR 1). In addition, when contracts are awarded, it is sometimes difficult for the Area Offices to determine which contract provider is offering the most favorable rate.

The Portland Area will honor its existing contracts for health care services during the pilot test, but will limit new contract awards to those situations in which it is feasible to fill all requirements for a specific service or set of closely related services from a single source and a requirements contract will yield lower prices than the preferred provider approach described below.

The IHS uses most of its providers for broad categories of services rather than for a few specific services (e.g., for physician services rather than for selected medical procedures), and the pilot project is directed at testing an approach for simplifying communications and establishing favorable rates with these providers. Under this approach, the Portland Area will send each of its current providers a standard rate solicitation letter that invites the provider to submit its most competitive rates for specified categories of services on an attached form. IHS will use a specialized contractor, who is familiar with the various rate structures used within the health care industry, to analyze these rate quotations and develop a preferred provider list which will rank the providers, by Service Unit and by category of service, based upon the relative favorableness of their rate offer. The Service Unit will then use this information to place their purchase order with the lowest cost provider that meets the quality of care, geographic, and other relevant criteria. Purchase orders will be issued, with rare exceptions, only to those providers on the preferred provider list.

The pilot test will be limited to contract health care services programs administered by the IHS, in the Portland Area, which includes the states of Washington, Oregon, and Idaho. The pilot project will not apply to services rendered by traditional Indian medicine men and women under Public Law 95-341, Joint Resolution on American Indian Religious Freedom.

This method is limited to the pilot project. The IHS will evaluate the pilot project, and decide whether to institute the method in other IHS Areas based on the results. Any decision to institute the method in other IHS Areas will be announced in the Federal Register.

Monday: January 4, 1991.

Everett R. Rhoades,

*Assistant Surgeon General Director.*

[FR Doc. 91-5960 Filed 3-12-91; 8:45 am]

BILLING CODE 4160-16-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WO-220-4310-02-241A]

### Global Change Research; Ecological Change in Environmentally Stressed Ecosystems in the Western and Northern United States

**ACTION:** Notice to solicit applications to conduct research projects.

**SUMMARY:** As part of the Bureau of Land Management (BLM) Global Change Research Program (GCRP), the BLM invites applications for cooperative agreements, interagency agreements, grants, and contract proposals to conduct three research projects on the effects of global change in the western United States (U.S.).

**DATES:** Applications are due no later than April 15, 1991.

**ADDRESSES:** Applications should be submitted to: BLM Service Center, Branch of Procurement (SC-651), 390 Union Boulevard, suite 540, Lakewood, Colorado, 80228.

**FOR FURTHER INFORMATION CONTACT:** Stanley Coloff at (202) 653-9210.

**SUPPLEMENTARY INFORMATION:** The BLM announces that it will accept applications for cooperative agreements, interagency agreements, grants, and contract proposals to conduct research related to the effects of global change on ecological processes and ecosystem characterization, and monitoring of ecological systems of climate stressed environments of the public lands administered by the BLM in the intermountain west and Alaska. The BLM GCRP is part of the U.S. GCRP initiated under the direction of the Committee on Earth and Environmental Sciences (CEES), established by the Executive Office of the President, Office of Science and Technology Policy.

#### Program Goals

The basic goals of the BLM GCRP are to:

(1) Determine the sensitivity and response of ecosystems and ecological processes to existing climate conditions and other environmental factors and human influences on a local and regional scale.

(2) Evaluate how future global change may influence ecosystem structure and function, and how such influences may affect long-term viability and productivity of rangelands, forestlands, wetlands, riparian areas, tundra, and other sensitive ecosystems on the public lands.

(3) Assess implications for future natural resource management of the public lands to sustain their multiple use, productivity, health, and diversity.

To accomplish these goals, the BLM intends to utilize and expand on its existing programs and natural resource management strengths. Some portion of the program will be accomplished in-house by BLM scientists. A major portion will be accomplished cooperatively with other agencies, universities, and other organizations utilizing grants, cooperative agreements, interagency agreements and, in certain circumstances when most advantageous, through the use of contracts.

The BLM GCRP is a 5-year research effort being conducted as part of the CEES U.S. GCRP under the science element Ecological System and Dynamics. The BLM GCRP includes projects in addition to those identified in this announcement. These projects are being conducted through existing cooperative agreements and interagency agreements. The titles of these research and monitoring projects and responsible BLM Office are:

Snake River Birds of Prey, Idaho, BLM Idaho State Office, Boise, Idaho.

Intermountain Wilderness Area Ecosystem Study, Paired Ecosystem Study, BLM Global Change Data

Management Project, BLM Wyoming State Office, Cheyenne, Wyoming.
Western U.S. Remote Area Climate Monitoring, BLM Boise Interagency Fire Center, Boise, Idaho.

**Background**

The BLM manages over 270 million acres of public lands. The majority of public lands are located in the intermountain west, an area subject to climatic extremes. Cold winters, hot summers, drought, wind, and wildfires are characteristic of most of these lands, which also include several of the nation's most important natural resources. The physical and biological diversity is high including an abundance of locally adapted populations, or ecotypes, that are extremely important to maintenance of ecosystem health and productivity and the stability of the region's ecological food webs.

It is projected that a changing global climate will exhibit higher levels of carbon dioxide and increased heat and aridity throughout much of the interior of North America. This may have profound effects on public lands, leading to increased desertification and land erosion diminished productivity, and perhaps widespread threats to sensitive biological species.

The BLM also manages large areas of arctic and subarctic lands in Alaska, especially in interior and northern Alaska. In many ways these northern lands are similar to the BLM managed lands in the intermountain west in that they are also subject to environmental extremes and may be affected significantly by changing climatic factors predicted by current global change models. Increasing temperatures may cause major changes in northern biological systems, and melting permafrost may cause increased erosion and important changes in soil processes. Increasing ultraviolet radiation resulting from reduced stratospheric ozone and increasing levels of atmospheric carbon dioxide may have additional biological consequences.

Included in the brand inventory of the public lands managed by the BLM are 28 wilderness areas (WA's) and 829 wilderness study areas (WSA's). These areas are more diverse in kinds of ecosystems than those managed by other agencies. Wilderness areas are specifically set aside to remain natural and unimpaired by human activity; they have had, by definition, only minimal or no impact from human activities. As such, they offer the opportunity to monitor change in areas that will only be influenced by climate changes on large scales. They offer the potential to distinguish global change-induced influences from local and regional atmospheric influences and from changes brought about by other direct human activities and factors such as local heat island effects of cities or the effects from local/regional air pollution sources. Outside the WA's and WSA's, the diversity of managed lands provides excellent areas for studying and evaluating the changes resulting from multiple use activities and for making comparisons with changes occurring within the WA's and WSA's.

The BLM's research program is designed to provide a more comprehensive understanding of how the physical and biological components of these ecosystems on the public lands interact and respond to future changing environments. This understanding is essential to sustain the multiple use and long-term viability and productivity of natural resources on the public lands.

**Authority:** This program is authorized under sections 307 (a) and (b) of the Federal Land Policy and Management Act of 1976.

**Eligible Applicants**

Eligible applicants are universities, State agencies, Federal agencies, and research organizations.

**Availability of Funds**

Approximately $500,000 is available in Fiscal Year 1991 (October 1, 1990 through September 30, 1991) to fund 3 research projects. It is anticipated that BLM GCRP awards will be for a 12-month period with options to renew the agreement annually up to 5 years. The length of the project period for individual projects will depend upon the nature and complexity of the projects. The Great Basin Columbia Plateau project may extend over a 10-year period.

The BLM anticipates that funding will be available in Fiscal Year 1992 to continue approved projects and additional funding may be available to fund new projects. Funding estimates may vary and are subject to change. Projects will be funded on an annual basis contingent upon satisfactory progress and the availability of funds.

**Use of Funds**

Funding will be available for allowable and reasonable costs which are allocated for program purposes such as salaries and fringe benefits, travel, supplies, contract services (as authorized by BLM), equipment (when justified and consideration is given to rental and/or lease), and indirect costs (overhead) approved by the cognizant audit agency.

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services, including contractual services (as authorized by BLM), and purchase of equipment (when justified and when rental and/or lease is found not to be feasible).

**Purpose**

The purpose of this program is to conduct research and monitoring of the potential effects of global change on the climate stressed ecosystems of the public lands in the western United States and Alaska in association with the U.S. GCRP. Additionally, this research program will provide the BLM with a better understanding of the interaction and response of the physical and biological components of these ecosystems in order to sustain and improve the multiple use, biodiversity and long-term productivity of the natural resources of the public lands.

**Research Projects**

The BLM requests applications and proposals to conduct research and monitoring studies on or related to the public lands in three regional areas including: (1) Great Basin and Columbia Plateau area of the western United States which includes portions of Oregon, Idaho, Washington, Nevada, Utah and California; (2) San Pedro River National Riparian Conservation Area of southwestern Arizona; and (3) Chihuahuan Desert of southern New Mexico.

Interested parties should request in writing or by electronic facsimile (FAX machine) a Request for Application from the responsible BLM State Office identified in the following project descriptions.

*A. Great Basin and Columbia Plateau Area of the Western United States*

1. *Project title:* Vegetation Diversity—A Research and Demonstration Program to restore and maintain native plant diversity on deteriorated rangelands in the Great Basin and Columbia Plateau Area.

2. *Project background:* Several million acres of public rangelands in the Great Basin and Columbia Plateau are threatened by infestation of undesirable vegetation and exotic weedy species which contribute to loss of biodiversity, lower vegetative productivity (forage for wildlife and domestic animals), diminished wildlife habitat, and soil erosion.

Extension research over the past 50 years has addressed many of these problems and impacts. However, the potential effects of global change upon these climate stressed ecosystems

require a better understanding of the long-term influence and effects of the changing environment.

3. *Project research objectives:* The objectives of this research project are to improve the understanding of the ecological processes and other influencing factors on the ecosystems of the Great Basin and Columbia Plateau Area and advance the ability of the BLM to:

a. Determine the interaction and response of plants and plant communities to potential effects of global change.

b. Develop protocols and methods to restore and maintain natural vegetation for wildlife habitat.

c. Develop protocols and methods to restore and maintain natural forage for wildlife and domestic livestock.

d. Conduct monitoring and improve monitoring technology to distinguish changes in vegetation induced by global change including elevated levels of carbon dioxide and other environmental factors.

e. Determine protocols and methods to restore and maintain natural plant communities on selected sites in WA's and WSA's.

f. Determine strategies and methods to sustain or increase populations of special status plants (threatened or endangered species).

g. Determine strategies and methods to replace weedy plant species with native plants and retard or eliminate future spread of weedy plant species.

4. *Location of research project:* For the purposes of this research project, the Great Basin and Columbia Plateau are defined as those public lands administered by the BLM in eastern Oregon, eastern Washington, southern Idaho, western Utah, Nevada, northeast California, and other public lands with vegetation communities comparable to those found in the Great Basin and the Columbia Plateau. Although the primary focus of this research is on the public lands, activities related to this project are not restricted to public lands administered by the BLM.

5. *Responsible office:* The BLM Oregon State Office is responsible for this project. Applications regarding this project may be requested from Mr. Roger Sharp, State Procurement Analyst, BLM–OR952, Oregon State Office, Providence Office Park, 1300 NE. 44th Ave., P.O. Box 2965, Portland, Oregon 97213; telephone: (503) 280–7220, FAX (503) 280–73088.

*B. San Pedro National Riparian Conservation Area and Associated Riparian Areas*

1. *Project title:* Effects of Past and Contemporary Climate Change on the Ecological Communities and Hydrologic Regimes of the San Pedro River Watershed.

2. *Project background:* The potential effects of global change on the hydrologic regimes and ecological communities of the arid and semiarid lands of the southwestern United States may be critical to the environmental and economic well being of desert ecosystems.

The San Pedro River National Riparian Conservation Area and other associated riparian areas managed by the BLM are subject to environmental stress resulting from the combined influences and interaction of population growth, varying land use practices, competing uses for water resources, and climatic extremes characterized by high temperatures and extended periods of drought.

3. *Project research objectives:* The objective of this research project is to better understand past and present relationships of the climatic conditions, ecological communities and processes, hydrologic regimes, and human land uses upon the San Pedro river watershed in order to develop a predictive understanding to assess the potential impacts of global change on complex desert ecosystems including desertification processes.

4. *Location of research project:* The San Pedro River National Riparian Conservation Area is located in southeastern Arizona.

5. *Responsible office:* The BLM Arizona State Office is responsible for this project. Applications regarding this research project may be requested from Ms. Linda Johnson, State Procurement Analyst, BLM–AZ951, Arizona State Office, 3707 North 7th Street, P.O. Box 16563, Phoenix, AZ 85011, telephone: (602) 640–5525, FAX (602) 640–5556.

*C. Chihuahuan Desert of Southern New Mexico*

1. *Project title:* Global Change and the Dynamics of Plant Communities in the Chihuahuan Desert of Southern New Mexico.

2. *Project background:* The semiarid rangelands of the southwestern United States have undergone substantial change over the past century of human use. Originally, the northern Chihuahuan desert was dominated by perennial grasses. With historical times, shrubs have invaded and come to dominate extensive regions. Vegetation has become more diverse, less dominated by perennial grasses and more by shrubs. Desert plants display a wide diversity of growth forms, each performing best under slightly different environmental conditions.

Semiarid regions, which are transition zones between productive mesic zones and true deserts, are likely to be quite sensitive to climatic changes. Changing climatic conditions will alter the competitive balance among plant species and will be reflected in vegetational changes that may be critical to the future of the region.

3. *Project research objectives:* The objectives of this research project are to collect data needed to build a model of plant community dynamics incorporating native herbivore interactions, and to establish both modelling and experimental/observational methods for detecting alterations in composition and productivity of rangelands primarily, but not exclusively, in southern New Mexico. A further objective is to determine whether these rangelands are stable under current natural resource management practices, and how these communities and ecosystems may respond to changes in climate and other potential global change factors.

4. *Location of research project:* Research and monitoring studies for this project will be conducted primarily in the Jornada del Muerto basin (BLM Mimbres and Soccorro Resource Areas) in southern New Mexico. Additional public lands are also anticipated to be involved in this project.

5. *Responsible office:* The BLM New Mexico State Office is responsible for this project. Applications regarding this project may be requested from Ms. Peggy Dabb, State Procurement Analyst, BLM–NM951, New Mexico State Office, Joseph Montoya Federal Building, 120 S. Federal Place, P.O. Box 1449, Santa Fe, New Mexico, 87501, telephone: (505) 988–6669, FAX (505) 988–6530.

**Program Requirements**

*A. Interagency Agreements*

Interagency Agreements (IA) are agreements between one Federal agency and another. The BLM will enter into an IA when it is determined the other agency can most economically fulfill the BLM's needs.

*B. Cooperative Agreements*

In a cooperative agreement, the funding agency will actively participate with the collaborator in conducting the research, monitoring, and experimental studies described under Research

Projects in this announcement. The nature and extent of assistance will vary for each project and is described in the Request Application for each of the three research projects. Awards will be made and administered in accordance with the applicable Office of Management and Budget Circulars or the Common Rule.

The application should be presented in a manner that demonstrates the applicant's ability to address the project research objectives and successfully initiate the research project in Fiscal Year 1991.

*C. Grants*

A grant application should be presented in a manner that demonstrates the applicant's ability to address and successfully initiate the research project in Fiscal Year 1991 and indicates a high likelihood of completing the research project objectives. Awards will be made and administered in accordance with the applicable Office of Management and Budget Circulars or the Common Rule.

*D. Contracts*

A contract may be awarded as a result of this competitive announcement if it is determined by the contracting office to be in the best interest of the Federal Government. Federal acquisition regulation clauses will be included in any resulting contract.

*E. Determination of Which Instrument To Use*

Non-Federal applications must specify the type of award for which they are applying, either a cooperative agreement, grant, or contract.

*F. Awards*

Applicants may indicate their interest in conducting the entire research project or any portion thereof.

*G. Reports, Project Review, and Technology Transfer*

1. *Reports:* Progress reports will be required to be submitted semiannually (April 1, and October 1) to the BLM State Office Project Manager and the BLM Washington Office Global Change Program Coordinator. These reports will review the status of project activities and scientific findings of each task, indicate changes or deviations from the research plan, list publications and presentations, data management and data reporting activities, and activities planned for the upcoming report period.

Final reports are required of all projects and shall be submitted within 3 months of the conclusion of the project. The final report shall provide documentation of the methods and procedures used in the project, describe the quality of the data collected and analyzed, and provide the findings and accomplishments of the project relative to the project objectives.

2. *Project review:* The responsible BLM State Office will conduct a project review every 6 months following the semi-annual report to include site visits and review of work in progress. Periodic BLM Washington Office and Departmental review is anticipated including participation in Departmental and U.S. GCRP reviews and technical meetings.

3. *Technology transfer:* Project results and status shall be presented in a variety of ways to various audiences. Publication in the scientific literature will be a primary objective. Presentations will be made at scientific and professional society meetings, conferences, and symposia. Presentations in addition to the project review shall be made as requested to BLM staff and other agency personnel.

*H. Project Description*

The main body of the application and/or proposal should be a detailed description of how the statement of the work contained in the Request for Application is to be undertaken and should include: Objectives, hypotheses to be tested, methods to be used, and significance of the proposed work. Relevance of the proposed project to the objectives of the BLM GCRP and the U.S. GCRP should be clearly explained. The relationship to the present state of knowledge in the field of the research topic, and to related work in progress by the investigator or other investigators should be included.

To the extent possible, proposers are urged to provide a comprehensive project description carefully describing the work proposed including experimental design, a full description of the methods and procedures, and a list of the variables to be collected in support of each hypothesis or monitoring objective. The advantages and disadvantages of proposed methodolgies should be discussed.

*I. Data Management*

The BLM plans to establish a global change data management program in Fiscal Year 1991 to support the BLM GCRP and the data management policy established by the CEES for research conducted under the U.S. GCRP. This policy requires an early and continuing commitment to the establishment, maintenance, validation, description, accessibility, and distribution of high quality, long-term data sets. The primary objective of the policy is to achieve full and open sharing of quality global change data and supporting information. To accomplish this objective, the BLM plans to establish a central location where BLM global change data will be maintained and made available to the scientific community. Project participants will be required to submit quality-assured data and supporting information on a regular and timely basis. Data reporting formats and media may be determined by the BLM in conjunction with the project principal investigator or project leader.

Supporting documentation must be sufficient to allow others not involved in the initial data collection and processing to determine how, when, and where the data were collected, and how they have been calibrated, validated, or otherwise transformed. Schedules for the submission of data and supporting information will be specified in final research plans and/or task descriptions. Data submitted will be subjected to additional validation checks; project personnel will be expected to assist in resolving any discrepancies identified by these checks.

To facilitate comparisons of data acquired by different research and monitoring projects in the BLM GCRP, the BLM may, following consultation with the research project scientists, require the use of specified methods and protocols for measurements of some environmental parameters. These methods and protocols will be selected early in the research effort with the participation of research project scientists. The basic goal is to standardize measurement methods and protocols throughout the BLM GCRP to the extent that such standardization does not conflict with the research objectives and accomplishment of individual projects.

**Evaluation Criteria**

*A. Project Evaluation Criteria*

Specific evaluation criteria for each project will be provided in the Request for Application for each project.

*B. CEES Evaluation Criteria*

The evaluation criteria of the CEES U.S. GCRP as listed in the report "Our Changing Planet: The FY 1991 U.S. Global Change Research Program" will apply as listed below:

1. *Relevance/Contribution.* The research must address the overall goal and one or more of the three key scientific objectives (observe, understand, and predict) of the U.S. GCRP.

2. *Scientific Merit.* The proposed work must be scientifically sound and of high priority, and be the product of a documented scientific planning and review process.

3. *Readiness.* The level of planning and capabilities must be of high quality, and the research likely to produce vital and needed advances.

4. *Linkages.* The project should reflect high potential for interagency cooperation, cooperation among awardees, and/or other national and international connections.

5. *Costs.* Identified funding and other resources should be adequate to successfully undertake the project.

### Catalog of Federal Domestic Assistance Number

The catalog of Federal domestic assistance number for research projects identified in this announcement is 15.DGC.

### Application Submission Deadline Date

All research applications or proposals are due at the BLM Service Center, Branch of Procurement (SC-651), 390 Union Boulevard, suite 540, Lakewood, Colorado, 80228, by April 15, 1991.

### Where To Obtain Additional Information

Information on application procedures, copies of application forms, and project descriptions may be obtained from the appropriate BLM State Office State Procurement Analyst, previously identified in this announcement. Request for technical assistance should be directed to the appropriate State Procurement Analyst.

**Susan Recce Lamson,**

*Acting Deputy Director, Bureau of Land Management.*

[FR Doc. 91-5899 Filed 3-12-91; 8:45 am]

BILLING CODE 4310-84-M

---

[UT-060-01-4212-13; UTU-65023]

## Availability of the Proposed Planning Amendment for the Price River Resource Area Management Framework Plan

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Availability of the Proposed Planning Amendment for the Price River Resource Area Management Framework Plan.

**SUMMARY:** Notice is given to the public that the proposed planning amendment is available for the public review. The plan amendment will read as follows:

**Salt Lake Meridian, Utah**

T. 13 S., R. 11 E.,
Sec. 25, S2SW4NE4, E2NE4SW4, SE4SW4, W2SE4.
Encompassing 160.0 acres, more or less.

The following described parcel of private land will be acquired only through exchange under Section 206 of the Federal Land Policy and Management Act of 1976:

**Salt Lake Meridian, Utah**

T. 14 S., R. 11 E.,
Sec. 13, S2SW4, NE4SW4,
Sec. 24, NE4NW4.
Encompassing 160.0 acres, more or less.

**FOR FURTHER INFORMATION CONTACT:** Mark Mackiewicz, Area Realty Specialist, Price River Resource Area, 900 North 700 East, Price, Utah 84501, (801) 637-4584, or Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Road, P.O. Box 970, Moab, Utah 84532, (801) 259-6111.

**SUPPLEMENTARY INFORMATION:** This action is announced pursuant to section 202(a) of the Federal Land Policy and Management of 1976, and 43 CFR part 1610. The Proposed Planning Amendment is subject to protest from any adversely affected party who participated in the planning process. Protest must be made in accordance with the provisions of 43 CFR 1610.5-2. Protest must be received by the Director (WO-760) of the Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240, within 30 days after the date of publication of this Notice of Availability for the Proposed Planning Amendment.

Dated: February 25, 1991.

**James M. Parker,**

*State Director.*

[FR Doc. 91-5831 Filed 3-12-91; 8:45 am]

BILLING CODE 4310-DQ-M

---

## Bureau of Mines

### Information Collection submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Mangement and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032-0006), Washington, DC 20503, telephone 202-395-7340.

*Title:* Ferrous Metals Surveys.

*OMB approval number:* 1032-006.

*Abstract:* Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Surveys, Volumes I, II, and III of the Minerals Yearbook, and Mineral Commodity Summaries for use by private organizations and other Government agencies.

*Bureau form number:* 6-1066-MA ET AL (14 Forms).

*Frequency:* Monthly and Annual.

*Description of respondents:* Producers and Consumers of Ferrous Metals.

*Annual responses:* 6,926.

*Annual burden hours:* 3,602.

*Bureau clearance officer:* Alice J. Wissman, 202-634-1125.

Dated: March 5, 1991.

**T.S. Ary,**

*Director, Bureau of Mines.*

[FR Doc. 91-5836 Filed 3-12-91; 8:45 am]

BILLING CODE 4310-53-M

---

## Minerals Management Service

### Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The justification for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the justification and related information may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirements should be made directly to the bureau clearance officer at the telephone number listed below and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, telephone 202-395-7340.

*Title:* Information Collection Related to Cooperative Agreements.

*Abstract:* States and Indian tribes may voluntarily request the Director of the Minerals Management Service (MMS) for the opportunity to enter into cooperative agreements allowing the State or tribe to carry out royalty audits for MMS. The State or Indian tribe must submit an application to MMS detailing the activities to be undertaken, the term of the agreement, and the estimated budget, and also present evidence that the State or tribe can meet the standards

established by the Secretary of the Interior for audits to be conducted under the agreement. Eligible audit activities are 100 percent reimbursable upon the submission of a quarterly progress report and a voucher summarizing quarterly costs. Annual work plans and budgets are required each year the cooperative agreement is in effect.

*Bureau form number:* None.

*Frequency:* On occasion.

*Description of respondents:* States and Indian tribes.

*Estimated completion time:* 152 hours.

*Annual responses:* 3.

*Annual burden hours:* 456.

*Bureau clearance officer:* Dorothy Christopher 703-787-1239.

Dated: February 14, 1991.

**Jerry D. Hill,**

*Associate Director for Royalty Management.*

[FR Doc. 91-5901 Filed 3-12-91; 8:45 am]

BILLING CODE 4310-MR-M

[FES 91-9]

## Alaska Region; Availability of the Final Environmental Impact Statement for the Proposed Mining Program Lease Sale in Norton Sound

The Minerals Managment Service has prepared a final Environmental Impact Statement (EIS) relating to the proposed 1991 Outer Continental Shelf Mining Program Lease Sale in Norton Sound. The proposed sale will offer for lease approximately 147,050 acres.

Single copies of the final EIS can be obtained from the Regional Director, Minerals Management Service, Alaska Region, 949 East 36th Avenue, Anchorage, Alaska 99503-4302, Attention: Public Information. Copies can also be requested by telephone, (907) 261-4435.

Copies of the final EIS will also be available for inspection in the following public libraries: Alaska Historical Library, Juneau, Alaska Pacific University Library, 1531 Cresent Avenue, Anchorage, Alaska; Alaska State Library, Juneau, Alaska; Hooper Bay Public Library, Hooper Bay, Alaska; Gambell Community Library and Learning Center, Gambell, Alaska; George Francis Memorial Library, Kotzebue, Alaska; Golovin Community Library, Golovin, Alaska; Kegoyah Kozga Public Library, Nome, Alaska; Kingikme Public Library, Wales, Alaska; Koyuk City Library, Koyuk, Alaska; Kuskokwim Consortium Library, Bethel, Alaska; McQueen School Library, Kivalina, Alaska; North Slope Borough School Library, Barrow, Alaska; Northern Alaska Environmental Center Library, 218 Driveway Street, Fairbanks, Alaska; Palmer Public Library, 655 S. Valley Way, Palmer, Alaska; Savoonga Public Library, Savoonga, Alaska; Shaktoolik School Library, Shaktoolik, Alaska; Stebbins Community Library, Stebbins, Alaska; Ticasuk Library, Unalakleet, Alaska; Tikigaq Library, Point Hope, Alaska; University of Alaska, Elmer E. Rasmuson Library, Fairbanks, Alaska; University of Alaska, Government Documents Library, 3211 Providence Drive, Anchorage, Alaska; Z.J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska.

Dated: March 7, 1991.

**Thomas Gernhofer**

*Associate Director for Offshore Minerals Management.*

Approved:

**Jonathan P. Deason,**

*Director, Office of Environmental Affairs.*

[FR Doc. 91-5896 Filed 3-12-91; 8:45 am]

BILLING CODE 4320-MR-M

# INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-307]

## Probable Economic Effect on U.S. Industries and Consumers of a Free-Trade Agreement Between the United States and Mexico

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of public hearings.

**SUMMARY:** As previously announced on February 6, 1991 (56 FR 5841, February 13, 1991), the Commission will hold hearings in Scottsdale, AZ (a Phoenix suburb), Chicago, IL, and Washington, DC to solicit views and opinions of the business community, labor, consumers, and other interested parties in connection with this investigation. This notice provides further information on hearing sites, dates, and times.

**EFFECTIVE DATE:** March 7, 1991.

**SCHEDULE OF HEARINGS:** Following is the schedule of the public hearings:

| Hearing city and location | Hearing date (1991) and time |
|---|---|
| *Scottsdale, AZ:* The Inn at McCormick Ranch, 7401 N. Scottsdale Road, Scottsdale, AZ 85253. | Monday, April 8, 9:30 a.m. |
| *Chicago, IL:* The Knickerbocker Hotel, 163 East Walton Place, Chicago, IL 60611. | Wednesday, April 10, 9:30 a.m. |
| *Washington, DC* U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. | Friday, April 12, 9:30 a.m. |

Issued: March 7, 1991.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 91-5909 Filed 3-12-91; 8:45 am]

BILLING CODE 7020-02-M

# INTERSTATE COMMERCE COMMISSION

## Motor Passenger Carrier or Water Carrier Finance Applications Under 49 U.S.C. 11343-11344

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers pursuant to 49 U.S.C. 11434-11344. The applications are governed by 49 CFR part 1182, as revised in Pur., Merger & Cont.-Motor Passenger & Water Carriers, 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

MC-F-19782, filed December 27, 1990. Sidney Kuchin, et al.—Continuance in Control—Suburban Transit Corp., Suburban Trails, Inc., and H.A.M.L. Corp. Applicant's representative: Michael J. Marzano, 99 Kinderkamack Road, Westwood, NJ 07675. Applicants Sidney Kuchin, Kenneth, Ronald Kohn, and Donald Engle (Kuchin, *et al.*) are in control of: (1) Suburban Transit Corp. (MC-115116), a common carrier of passengers; (2) Suburban Trails, Inc. (MC-149081), a common carrier of passengers; and (3) H.A.M.L. Corp. (H.A.M.L.), a new carrier seeking its initial common carrier authority to transport passengers, in charter and special operations, between points in the United States (except Hawaii) (MC-194792). Upon issuance of authority to H.A.M.L., Kuchin, *et al.*, will be in control of three passenger carriers. This corrects a notice published in the ICC Register February 15, 1991.

Decided: March 7, 1991.

By the Commission, the Motor Carrier Board.

Sidney L. Strickland, Jr.,

*Secretary.*

[FR Doc. 91-5930 Filed 3-12-91; 8:45 am]

BILLING CODE 7035-01-M

---

[Docket No. AB-346X]

## Bad Water Line—Abandonment Exemption—In Fremont County, WY

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 22.544-mile line of railroad between milepost 703.068, near Shoshoni, and milepost 725.612, at the end of the line in Riverton, Fremont County, WY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 12, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 25, 1991.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by April 2, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles H. Montange, 1400 16th Street, NW., suite 301, Washington, DC 20036.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environmental (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by March 18, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 6, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

*Secretary.*

[FR Doc. 91-5807 Filed 3-12-91; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so. The request for imposition of a trail use condition by Fremont County, WY, will be considered in a subsequent decision.

---

## DEPARTMENT OF JUSTICE

## Lodging of Proposed Stipulation and Order Under the Federal Water Pollution Control Act

Notice is hereby given, in accordance with Departmental policy, 28 CFR 50.7 that on February 28, 1991, a proposed Joint Stipulation and Order ("Stipulation") was lodged with the United States District Court for the Southern District of Indiana in *United States* v. *City of Boonville, et al.,* Civil Action No. EV-84-187-C (S.D. Ind.), between the United States—on behalf of the Environmental Protection Agency ("EPA")—and defendants City of Boonville ("City") and the State of Indiana.

The claims that would be resolved under the proposed Stipulation arise from alleged violations of the Consent Decree entered by the Court in this civil action in 1987. The Decree resolved claims of the United States concerning the City's publicly owned wastewater treatment works, for both injunctive relief and civil penalties arising under the Federal Water Pollution Control Act ("Act"), 33 U.S.C. 1251, *et seq.,* including, *inter alia*: (1) The City's violation of NPDES limits for discharge of pollutants and related analytic and reporting requirements, and (2) violation of an Administrative Order that had been issued to the City under sections 308 and 309 of the Act, 33 U.S.C. 1318 & 1319. The proposed Stipulation provides the City a modified schedule for completing work relating to compliance with its NPDES Permit and the 1987 Consent Decree. Much of the work to be completed is intended to redress problems relating to combined sewer overflow and influent infiltration. Also under the proposed Stipulation, the City will pay the United States a civil penalty of $50,000.

The Department of Justice will receive comments relating to the proposed Stipulation for 30 days following the publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Boonville, et al.,* D.J. Ref. No. 90-5-1-1-2071A. The proposed Stipulation may be examined at the Office of the United States Attorney for the Southern District of Indiana, 274 United States Courthouse, Indianapolis, Indiana, or at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004 (202-347-2072). A copy of the proposed Stipulation may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $9.50 (25 cents per page reproduction costs) payable to Aspen Systems Corporation.

Richard B. Stewart,

*Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice.*

[FR Doc. 91-5832 Filed 3-12-91; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Settlement Stipulation

In accordance with the policy of the Department of Justice, 28 C.F.R. 50.7, notice is hereby given that on March 5, 1991, a proposed Stipulation and Agreement to Settle in *In re: Davis Walker Corporation.*, was lodged with the Bankruptcy Court for the Central District of California. The settlement is in connection with claims of the Environmental Protection Agency in Davis Walker's chapter 11 bankruptcy proceedings.

The proposed settlement stipulation resolves civil claims of the United States regarding the liability of Davis Walker Corporation for disposal of hazardous substances at the Operating Industries, Inc. landfill, located in Monterey Park, California, and for payment of outstanding settlement amounts under a previously agreed to settlement agreement related to the Western Processing site, in Kent, Washington. The settlement provides that the claim for past costs and for ongoing remedial action at the Operating Industries site, and for payment of the remaining settlement amounts for Western Processing, will be paid in the same fashion as all other general unsecured creditors in the bankruptcy. Davis Walker also agrees to pay 0.47% of all future response costs incurred at the Operating Industries site, up to a total payment of $2.35 million.

The Department of Justice will receive comments relating to the proposed settlement stipulation for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *In re: Davis Walker Corp.*, D.J. Ref. 90-11-2-156C.

The proposed settlement stipulation may be examined at the office of United States Attorney, 312 North Spring Street, Los Angeles, California 90012, at the Region IX office of the U.S. Environmental Protection Agency, 1235 Mission Street, San Francisco, California 94103, and at the Region X office of the U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101. A copy of the proposed settlement stipulation may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, (202) 347-7829. A copy of the proposed settlement stipulation may be obtained in person or my mail from the Document Center. In requesting a copy, please enclose a check in the amount of $4.00 (25 cents per page reproduction costs) payable to "Consent Decree Library."

**Richard B. Stewart,**

*Assistant Attorney General, Environment and Natural Resources Division.*

[FR Doc. 91-5894 Filed 3-12-91; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree Pursuant to the Resource, Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *E. I. du Pont de Nemours & Co.*, Civil Action No. 1:91cv00768, has been lodged with the United States District Court for the District of New Jersey on February 22, 1991. The proposed consent decree settles certain past disposal and testing violations of the land disposal restrictions at Du Pont's Chambers Works facility located in Deepwater, New Jeresey. The proposed consent decree requires Du Pont to pay a civil penalty of $1.85 million. In addition, the consent decree requires Du Pont to perform a compliance audit to ensure that the Chambers Works facility and other Du Pont facilities nationwide that shipped restricted wastes to the facility are currently meeting the land disposal restrictions requirements. Further, the consent decree requires Du Pont to perform certain pollution prevention activities designed to identify and assess opportunities for reducing hazardous waste.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washingotn, DC 20044, and should refer to *United States* v. *E. I. du Pont de Nemours & Co.*, D.J. Ref. 90-7-1-497.

The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, Post Office Building, 401 Market Street, Fifth Floor, Camden, New Jersey 08101; at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. A copy of the proposed consent decree and appendices can be obtained in person or by mail from the Document Center. In requesting a copy of the consent decree, please enclose a check in the amount of $14.25 (25 cents per page reproduction costs) payable to the Consent Decree Library.

**Richard B. Stewart,**

*Assistant Attorney General, Environmental and Natural Resources Division.*

[FR Doc. 91-5833 Filed 3-12-91; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree

In accordance with section 122 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622, and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Environmental Services, Inc. et. al.* was filed in the United States District Court for the District of Nebraska on October 16, 1989. On March 5, 1991, a consent decree was lodged with the Court in settlement of the allegations in that complaint. This consent decree settles the government's claims in the complaint pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, for the recovery of response costs incurred by the United States in responding to an actual or threatened release of hazardous substances from a facility located in Omaha, Nebraska known as the "Environmental Services Inc. Site." The complaint alleged, among other things, that the defendants are persons who owned or operated a facility at which hazardous subtances were disposed of, or who arranged for the disposal of hazardous substances at the site or transported or arranged for transport of hazardous substances to the site, and that the United States has incurred response costs in response to the release or threat of release of hazardous substances from the site.

Under the terms of the proposed consent decree, the defendants agree to pay the United States the sum of $466,500.00 for past response costs incurred by the government.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530. All comments should refer to *United States* v. *Environmental Services, Inc., et al.*, E.J. Ref. 90-11-3-493.

The proposed consent decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave. NW., Box 1097, Washington, DC 20004, (202) 347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $9.75 (25 cents per page reproduction costs) payable to Consent Decree Library. The proposed Consent Decree may also be reviewed at the Environmental Protection Agency:

*EPA Region VII*

*Contact:* Daniel Shiel, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VII, 725 Minnesota Ave., Kansas City, KS 66101, (913) 551-7278, and the Office of the United States Attorney: 8000 U.S. Post Office & Courthouse, 215 North 17th Street, Omaha, NE 68101.

**Richard B. Stewart,**

*Assistant Attorney General, Environment and Natural Resources Division.*

[FR Doc. 91-5834 Filed 3-12-91; 8:45 am]

BILLING CODE 4410-01-M

## Notice of Consent Judgment in Action To Enjoin Violation of the Clean Air Act ("CAA")

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States* v. *Pinetree Power-Tamworth, Inc.*, (D.N.J.), Civil Action No. 90-87-S was lodged with the United States District Court for the District of New Jersey on February 27, 1991. The Consent Decree provides for penalties for violation of the New Hampshire State Implementation Plan ("SIP") concerning permit requirements for major sources, and enjoins Pinetree from further violations of the Clean Air Act ("CAA"), 42 U.S.C. 7401 *et seq.*, and the New Hampshire SIP.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Pinetree Power-Tamworth, Inc.*, D.O.J. Ref. No. 90-5-2-1-1454.

The Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, P.O. Box 480, 55 Pleasant Street, Concord, New Hampshire 03301; at the Region I Office of the Environmental Protection Agency, J.F.K. Building, RCA-1903, Boston, Massachusetts 02203; and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072). A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $2.75 payable to Consent Decree Library.

**George Van Cleve,**

*Acting Assistant Attorney General, Environment and Natural Resources Division.*

[FR Doc. 91-5835 Filed 3-12-91; 8:45 am]

BILLING CODE 4410-01-M

# DEPARTMENT OF ENERGY

## Employment and Training Administration

[TA-W-25,051]

## SESA Fluorspar Eagle Pass, TX; Negative Determination Regarding Application for Reconsideration

By an application dated February 5, 1991, the petitioners and other former workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on December 21, 1991 and published in the Federal Register on January 17, 1991 (56 FR 1825).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers produced fluorspar which was used in the production of aluminum. The subject facility closed in July, 1990.

The former workers, among other things, requested that the Department reconsider its determination in light of the economy of their city. The former employees also stated that workers producing flurospar at Reynolds Metals in Eagle Pass received trade adjustment assistance.

The Department's denial was based on the fact that the increased import criterion of the Group Eligibility Requirements of the Trade Act was not met. U.S. imports of fluorspar decreased absolutely and relative to domestic shipments in 1989 compared to 1988 and decreased absolutely in the first six months of 1990 compared to the same period in 1989. A further review of the aggregate data shows that U.S. shipments and U.S. consumption of fluorspar declined in 1990 compared to 1989.

Investigation findings show that approximately half of the company sales were exported. A decline in export sales would not form a basis for certification. With regard to domestic sales, the major customer responding indicated that it would have continued to purchase fluorspar from the company had it remained open.

Workers at Reynolds Metals Company in Eagle Pass were certified for trade adjustment assistance under petition TA-W-18,651 issued on January 23, 1987. The workers met all the Group Eligibility Requirements of the Trade Act during the applicable period of their petition.

### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 5th day of March 1991.

**Robert O. Deslongchamps,**

*Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.*

[FR Doc. 91-5734 Filed 3-12-91; 8:45 am]

BILLING CODE 4510-30-M

# DEPARTMENT OF LABOR

## Employment and Training Administration

[TA-W-22,071]

## Southern Triangle Oil Co., Mt. Carmel, IL, Operating at Various Locations in the Following States: TA-W-22,071A IL, TA-W-22,071B IN, TA-W-22,071C OH, TA-W-22,071D WV; Revised Certification on Reconsideration

By order dated February 14, 1991, the United States Court of International Trade (USCIT) remanded this case to the Department of Labor in accordance with the opinion of the U.S. Court of Appeals for the Federal Circuit.

A review of the matter shows that all records of the subject company were destroyed in a fire, AR 10, 11, 20. As a result of a list of customers obtained from the company AR 26, the Department found that the customers imported crude oil in the relevant period and certified the workers of Southern Triangle as an integrated producer with an impact date of November 15, 1987. The certification went the full statutory limit of one year prior to the date of the petition.

Mr. Charles Pierson whose layoff was prior to the Department's impact date sought redress through the State administration process and then to the USCIT. Administrative reconsideration was not sought.

On November 14, 1990, the USCIT remanded the matter to the Department to revise its negative determination by making the retroactive provisions of the 1988 amendments to the Trade Act apply to the certification. The Department complied with the order but appealed to the Federal Court of Appeals. On January 22, 1991, the Federal Court of Appeals concluded that the record was insufficient to support USCIT's judgment and remanded the matter to the USCIT with instructions to remand it to the Department to find the legally dispositive facts.

New information received from the company during this reconsideration shows that Southern Triangle was not a producer but a service company deriving half its revenues from drilling oil wells for others and half its revenues from the operation of oil producing properties of others. The new information shows that workers have a timely petition for the retroactive provisions and had decreased oil drilling revenues and employment declines in the relevant period.

**Conclusion**

After careful review of the additional information obtained on reconsideration, it is concluded that the workers have a timely petition which falls within the purview of the retroactive provisions of the Trade Act of 1974, as amended. It is further concluded that the workers met the Group Eligiblity Requirements of the Trade Act contained in Section 222 and that this revised certification supersedes the one issued by the Department on April 13, 1990 which was published in the **Federal Register** on April 20, 1990 (55 FR 15028). In accordance with the provisions of the Act, I make the following revised certification:

"All workers of Southern Triangle Oil Company, Mt. Carmel, Illinois and operating at various other location in the States listed below who became totally or partially separated from employment on or after October 1, 1985 and before November 15, 1987, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

TA-W-22,071A Illinois
TA-W-22,071B Indiana
TA-W-22,071C Ohio
TA-W-22,071D West Virginia

Signed at Washington, DC this 1st day of March 1991.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 91-5935 Filed 3-12-91; 8:45 am]

BILLING CODE 4510-30-M

---

## Experimental and Demonstration (E & D) Solicitation for Grant Application—Economic Dislocation and Worker Adjustment Assistance (EDWAA) Job Creation Demonstration Project

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of availability of funds and of Solicitation for Grant Application (SGA).

**SUMMARY:** The Employment and Training Administration, U.S. Department of Labor announces the intent to award grants on a competitive basis for the conduct of projects to demonstrate the effectiveness of non-profit Community Development Corporations (CDCs) in creating employment and entrepreneurial opportunities for dislocated workers residing in rural and urban communities that have been adversely affected by worker dislocation. Indian and Native American Tribal Organization are also eligible to apply to conduct these projects. This notice provides a synopsis of the proposed SGA. It is anticipated tha awards will be made by June 30, 1991.

**DATES:** The applications will be available March 28, 1991. The requests shall be made in writing to the address below. Telephone and telefacsimile (FAX) requests will not be honored. The requests shall cite SGA-DAA 91-001 and shall include two (2) self-addressed labels. These requests will be honored on a first-come, first-serve basis until the supply of 300 copies is exhausted.

The closing date for receipt of proposals will be May 13, 1991 at 4:45 p.m., Eastern Standard Time. Any application not meeting the designated place, date and time of delivery will not be considered.

**ADDRESSES:** Mail requests for grant applications to Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, 200 Constitution Avenue, NW., room C-4305, Washington, DC 20210. Attention: Gwendolyn Simms, Reference SGA/DAA 91-001.

**FOR FURTHER INFORMATION CONTACT:** Gwendolyn Simms Telephone: (202) 535-8702 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:** The Employment and Training Administration (ETA), U.S. Department of Labor, announces the availability of funds to demonstrate the effectiveness of Community Development Corporation (CDCs) with the cooperation of local Job Training Partnership Act (JTPA) title III substate grantees in creating employment for eligible disclocated workers. This solicition is authorized by JTPA, section 324(a), 20 U.S.C. 1662(a). The purpose of these demonstrations is to experiment on a modest scale with novel approaches that subsequently may prove beneficial to larger dislocated worker populations. The Secretary must thoroughly research and evaluate the success of each demonstration conducted under this provision of the Act. These demonstration projects must include two of the following: (1) Self-employment opportunity program, (2) public work employment program, (3) dislocated farmer program, and (4) job creation program.

The period of performance will be 15 months from the date of execution of the grant award. It is anticipated that $2 million will be available for these projects. The maximum grant award will be $500,000. ETA may, at its option, extend the grants and provide additional funds based on grantee's performance and the available of funds, for up to two additional years. Awards under this solicitation will be made to eligible non-profit urban and rural CDCs and/or Indian and Native American tribal organizations to encourage the creation of projects intended to provide employment and business development opportunities for dislocated workers. The term "CDCs" means a private non-profit, locally initiated entity, governed by a board consisting of residents of the community and business and civic leaders, which has a record of implementing economic development projects or whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development. The term "Indian and Native American tribal organizations" as used in this announcement means those Indian

tribes, bands or groups on Federal or State reservations, Oklahoma Indians, and Alaska native villages or groups funded under Section 401 of JTPA that the Secretary determines as having demonstrated a focus on the capability of engaging in economic development projects.

*Job Creation Demonstration*—ETA is interested in demonstrating innovative, replicable and effective approaches to creating new employment opportunities for dislocated workers through cooperative efforts between EDWAA substate grantees and CDCs. Each respondent to this solicitation shall provide written commitments and assurances that a cooperative relationship exists between the applicant and the agency responsible for administering Title III of the Job Training Partnership Act in the area to be served by the project. While the focus of this solicitation is on job creation, the range of activities that could be part of the project is very open ended.

*Evaluation Component*—All grantees under this solicitation will be required to participate in an evaluation process. Evaluation will be conducted at two levels: (1) Individual project evaluations, and (2) a national evaluation across all grantee projects. This evaluation will be the basis for a report to the Congress, due in October 1992. The national evaluation will be conducted by a contractor selected by ETA.

All eligible applications will be reviewed and evaluated against the following criteria: Need for the project—10 points; Service Delivery Strategy—30 points; Significant and Beneficial Impact—20 points; Evaluation—15 points; Level of Efforts—10 points; and Organization Capability—15 points.

Signed at Washington, DC, this 27th day of February, 1991.

**Robert D. Parker,**

*ETA Grant Officer.*

[FR Doc. 91-5933 Filed 3-12-91; 8:45 am]

BILLING CODE 91-5933-M

## Mine Safety and Health Administration

### Petition for Modification

The following parties have filed petitions to modify the application of manadatory safety standards under 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Richard Sykora, P.O. Box 622, Foresthill, California 95631 has filed a petition (M-91-01-M) to modify the application of 30 CFR 57.4431 (surface storage restrictions) to his DeMaria Mine (I.D. No. 04-04468) located in Placer County, California. The petitioner proposes to store a 550 gallon fuel tank 57 feet from the mine opening.

2. Manalapan Mining Company, Inc., P.O. Box 311, Brookside, Kentucky 40801-0311 has filed a petition (M-91-17-C) to modify the application of 30 CFR 75.1710-1(a) (canopies or cabs; self-propelled electric face equipment; installation requirements) to its No. 7 Mine (I.D. No. 15-16733) located in Harlan County, Kentucky. Due to low mining heights, the petitioner proposes that the use of canopies on electric face equipment will result in a dimunition of safety.

3. J & S Colleries, Inc., P.O. Box 3544, Pikeville, Kentucky 41502 has filed a petition (M-91-18-C) to modify the application of 30 CFR 75.1710 (canopies or cabs; self-propelled electric face equipment; installation requirements) to its No. 1 to low mining heights, the petitioner requests relief from the use of canopies on shuttle cars.

4. Webster County Coal Corporation, P.O. 128, Clay, Kentucky 42404 has filed a petition (M-91-19-C) to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device sysems; installation; minimum requirements) to its Dotiki Mine (I.D. No. 15-02132) located in Webster County, Kentucky. The petitioner is requesting to amend their existing petition to change the location of carbon monoxide sensors.

### Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 12, 1991.

Dated: March 5, 1991.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations and Variances.*

[FR Doc. 91-5944 Filed 3-12-91; 8:45 am]

BILLING CODE 4510-43-M

## LEGAL SERVICES CORPORATION

### Announcement of Availability of Grant Funds for Provision of Legal Services in the States of Alabama, Arkansas, Mississippi, and Tennessee

**AGENCY:** Legal Services Corporation.

**ACTION:** Notice.

**SUMMARY:** The Legal Services Corporation (LSC) announces the availability of grant funds for the provision of legal services to the eligible migrant farmworker client population in the states of Alabama, Arkansas, Mississippi, and Tennessee.

**DATES:** All applications must be received on or before April 22, 1991.

**ADDRESSES:** A solicitation package, setting out the grant application guidelines, proposal content requirements, and specific selection criteria, is available upon request. Address all inquiries and solicitations to the Grants and Budget Division, Office of Field Services, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024-2751.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Doriot, Manager, Grants and Budget Division, at the address given above; telephone (202) 853-1837.

**SUPPLEMENTARY INFORMATION:** The Legal Services Corporation is the national organization charged with administering federal funds provided for civil legal service to the poor. LSC is seeking applicants from the private bar and/or other organizations (including currently funded LSC grantees) with a demonstrated sensitivity and commitment to service delivery to low-income persons to provide civil legal services to the eligible migrant farmworker client population in the state of Alabama, Arkansas, Mississippi, and Tennessee.

A total of $42,397 in one-time grant funds is available for Alabama, $49,140 for Arkansas, $179,735 for Mississippi, and $12,527 for Tennessee. Grant funds will be awarded no earlier than June 1, 1991.

### Selection Criteria

Each proposal will be reviewed to insure that it meets the minimum requirements set forth in this solicitation. The following summarizes selection criteria to be used in conducting the review:

*I. Objectives of Program Development/ Expansion (25%)*

The extent of the applicant's objectives (e.g., the number of clients to be served, or the complexity and special characteristics of cases to be closed by the program) and quality of the applicant's objectives (e.g., program characteristics that would enhance the quality of basic legal services which it would provide) will be assessed in the context of the amount of funding requested and the applicant's prior grant history, if any.

*II. Capability of Applicant to Accomplish Objectives (40%)*

The proposed project design, management plan, staff level and experience, and program structure as well as the qualifications and experience of the program director and staff will be evaluated. The applicant should also explain how it will provide opportunity for involvement by the private bar in the direct delivery of legal service.

*III. Reasonableness of Costs in Relation to Objectives (25%)*

The applicant's budget submission (part B) will be reviewed in the context of its stated objectives to determine whether projected costs are reasonable.

*IV. Community Support (10%)*

The applicant should explain how the proposed program activities and services will complement the civil legal services provided by other local entities to low-income migrant farmworkers. The extent to which a cooperative effort exists between the applicant and local courts and bar associations should also be described.

Any grant application(s) recommended for funding by LSC will, pursuant to section 1007(f) of the LSC Act, be announced in the **Federal Register**, and additional comments and recommendations will be requested at least thirty days prior to final approval of the grant(s).

Dated: March 8, 1991.

**Ellen J. Smead,**

*Director, Office of Field Services.*

[FR Doc. 91-5953 Filed 3-12-91; 8:45 am]

BILLING CODE 7050-01-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Organizations: Theater Section) to the National Council on the Arts will be held on March 26, 1991 from 9:15 a.m.-6 p.m. and March 27-29 from 9 a.m.- 6 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 26 from 9:15 a.m.-10:30 a.m. and March 29 from 2:45 p.m.-6 p.m. The topics will be opening remarks, general program overview and policy discussion.

The remaining portions of this meeting on March 26 from 10:30 a.m.-6 p.m., March 27-28 from 9 a.m.-6 p.m. and March 29 from 9 a.m.-2:45 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of December 11, 1990, as amended, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 522b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Martha Y. Jones, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 26, 1991.

**Martha Y. Jones,**

*Acting Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 91-5837 Filed 3-12-91; 8:45 am]

BILLING CODE 7537-01-M

### Media Arts Advisory Panel, Amended Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Section) to the National Council on the Arts will be held on March 27, 1991 from 9:30 a.m.-6:30 p.m. and March 28 from 9 a.m.-5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 27, from 9:30 a.m.-10 a.m. and on March 28 from 5 p.m.-5:30 p.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on March 27 from 10 a.m.-6:30 p.m. and on March 28 from 9 a.m.-5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of December 11, 1990, as amended, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Martha Y. Jones, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 26, 1991.

**Martha Y. Jones,**

*Acting Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 91-5838 Filed 3-12-91; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

### The Cleveland Electric Illuminating Company, et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 55.45(b)(2)(iii) to the Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company, (the licensees), for the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed exemption would allow a 3-month delay in the submittal of the certification of the Perry Nuclear Power Plant, Unit 1, control room simulator. Title 10 CFR 55.45(b)(2)(iii) requires that the certification be submitted by March 26, 1991. Because of delays resulting from the licensee's decision to purchase a new simulator, as opposed to upgrading the existing simulator as was originally envisioned, the licensee proposes to submit the required certification by June 28, 1991.

The first operator examinations using the new simulator are scheduled for February 1992. The licensees do not anticipate any delay in the administration of the simulator portion of these operator examinations. The licensees have not requested an exemption to the provision of 10 CFR 55.45(b)(2)(iv) which requires that, after May 26, 1991, the simulator portion of the operating test be administered on a certified or approved facility.

The proposed action is in accordance with 10 CFR 55.11, Specific Exemptions, and is based on the information provided to the NRC in letters from the licensees dated November 21, 1989, January 30, 1990, and February 12, 1991.

*The Need for the Proposed Action*

The proposed exemption is needed to allow the licensees to complete the factory acceptance testing of the new plant-referenced simulator. This will permit the licensees to use the factory acceptance testing as the testing portion of the certification process.

*Environmental Impacts of the Proposed Action*

The proposed action will have no incremental impact relative to current practice because the exemption will affect the schedule for activities related to simulator certification but will not otherwise alter the actions being taken to install a new plant-referenced simulator at the Perry Nuclear Power Plant, Unit 1.

*Alternative to the Proposed Action*

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts attributed to this facility but would impose on the licensees a less efficient and more costly certification process.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to operation of the Perry Nuclear Power Plant, Unit No. 1, dated August 1982.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated November 21, 1989, supplemented by letters dated January 30, 1990, and February 12, 1991, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 7th day of March 1991.

For the Nuclear Regulatory Commission.

**John N. Hannon,**

*Director, Project Directorate III-3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-5938 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

### Toledo Edison Co. et al.; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 55.45(b)(2)(iii) to the Toledo Edison Company, (the licensee), for the Davis-Besse Nuclear Power Station located in Ottawa County, Ohio.

**Environmental Assessment**

*Identification of Proposed Action*

The revision to 10 CFR part 55, "Operators' Licenses," became effective on May 26, 1987, which established requirements for the administration of operating tests on nuclear power plant simulators. These regulations, in conjunction with 10 CFR 50.54(i-1), require facility licensees to use simulation facilities when administering operating tests for initial licensing and requalification. These regulations further require that a certified or NRC-approved simulation facility must be used to administer operating tests after May 26, 1991. By letter dated November 5, 1990, the Toledo Edison Company (the licensee) requested a temporary exemption from the schedule requirements for certification of a plant-referenced simulator. The licensee intends to comply with 10 CFR 55.45(b) by certifying a plant-referenced simulator. Section 55.45(b)(2)(iii) of 10 CFR Part 55 requires that facility licensees preparing to use a simulation facility consisting solely of a plant-referenced simulator submit NRC Form-474, "Simulation Facility Certification," no later than 46 months after the effective date of this rule, that is, by March 26, 1991. The November 5, 1990, submittal by the licensee requested an exemption from this filing requirement to allow for the submittal of NRC Form-474 after March 26, 1991, but no later than September 1, 1991.

The proposed action is in accordance with 10 CFR 50.12 and 55.11, "Specific Exemptions," and is based upon the information provided to the NRC in the licensee's request dated November 5, 1990.

*The Need for the Proposed Action*

The proposed exemption is needed to assure that 93 plant modifications and the resulting modifications made in the Control Room are accurately included in the simulator.

*Environmental Impacts of the Proposed Action*

The proposed action will have no incremental impact on the environment because the exemption only delays final certification of the simulator until after it becomes operable. The exemption will merely defer the required administrative burden of reporting that certification is complete for a nominal period of time to allow the licensee an opportunity to more fully comply with the spirit of the rule. In the mean time, operators will continue to be trained and examined on the offsite simulator (Power Safety International) as they have since 1977. Final certification of the new simulator, and compliance with 10 CFR 55.45, shall be accomplished by September 1, 1991.

*Alternative to the Proposed Action*

Since the Commission concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility and would still result in operators being trained and examined on the offsite facility.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement" related to operation of the facility.

*Agencies and Persons Consulted*

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated November 5, 1990 which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the University of Toledo Library, Document Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 5th day of February 1991.

For the Nuclear Regulatory Commission.

**John N. Hannon,**

*Director, Project Directorate III-3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-5941 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

## Advisory Committee on Reactor Safeguards Subcommittee on Improved Light Water Reactors; Meeting Postponed

Notice of an open meeting of the ACRS Subcommittee on Improved Light Water Reactors to be held on Thursday and Friday, March 14 and 15, 1991, at EPRI, 3412 Hillview Avenue, Palo Alto, CA was published in the **Federal Register** on Friday, March 1, 1991 (56 FR 8807). The meeting has been rescheduled for Tuesday, April 9 (8:30 a.m.-5 p.m.) and Wednesday, April 10 (8:30 a.m.-10:30 a.m.), 1991, at 7920 Norfolk Avenue, room P-110, Bethesda, MD.

The Subcommittee will review NRC staff's Draft Safety Evaluation Reports corresponding to Chapters 6-13 of the EPRI-ALWR Requirements Document for the Evolutionary Designs and other related issues.

For further information contact: Mr. Medhat El-Zeftawy, ACRS Senior Staff Engineer (telephone 301/492-9901) between 7:30 a.m. and 4:15 p.m.

Dated: March 6, 1991.

**Gary R. Quittschreiber,**

*Chief, Nuclear Reactors Branch.*

[FR Doc. 91-5936 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

## Privacy Act of 1974; Minor Amendments

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Minor amendments to system of records.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending several of its systems of records notices. The amendments are minor in nature and are necessary to let employees know addresses where personal information is maintained, to inform them of new system managers due to a reorganization in NRC's Office of Personnel, and to add the street address of the NRC Technical Training Center.

**EFFECTIVE DATE:** The proposed amendments will take effect without further notice on April 12, 1991, unless comments received on or before that date require a different decision. If, based on NRC's review of comments received, changes are made, NRC will publish a new final notice.

**ADDRESSES:** Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments may be examined at the NRC Public Document Room at 2120 L Street, NW., Lower Level, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** David L. Meyer, Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone: 301-492-7086 or toll free 800-368-5462.

**SUPPLEMENTARY INFORMATION:** The NRC is experiencing a period of great demand for highly qualified health physicists, nuclear engineers, and engineers in certain specialty disciplines. This demand is also being experienced by utilities; other Federal agencies, including the Department of Energy; laboratories; and the nuclear industry. To meet stronger competition for highly trained nuclear specialists and maintain a base of technical expertise, the NRC Graduate Fellowship seeks to encourage highly qualified bachelor-level graduates in science and engineering to pursue an education and a career in nuclear power regulation. The Graduate Fellowship Program will assist the NRC in meeting its workforce needs by sponsoring graduate scientists and engineers in either an applied health physics/radiation protection or an applied nuclear engineering, specialized engineering discipline Master's program. Information provided on the application for the NRC Graduate Fellowship Program will be used solely for the purpose of selecting fellows and administering the fellowship program, and the application will be copied for that purpose only. NRC will review all applications and individually select each fellow and alternatives.

The amendments set forth below amend paragraphs entitled "System Manager(s) and Address" in four systems of records to reflect a recent reorganization within the Office of Personnel, and paragraphs entitled "System Location" in each of two systems of records notices to add a new address to those indicated under duplicate systems. In addition, the street address for the NRC Technical Training Center is added to Addendum I.

1. NRC-8, Employee Appeals, Grievances, and Complaints Records—

NRC, is being amended to indicate the correct title of the system manager.

**NRC-8**

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Policy and Labor Relations, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

2. NRC-11, General Personnel Records (Official Personnel Folder and Related Records)—NRC, is being amended to indicate a new location for duplicate systems.

**NRC-11**

* * * * *

**SYSTEM LOCATION:**

Primary system—For Headquarters and Region V personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For the remaining Regional personnel, at Regional Offices I-IV listed in Addendum 1, Part 2.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; at the National Institutes of Health Computer Facility, Bethesda, Maryland; and at the NRC Graduate Fellowship Program, Science/Engineering Education Division, Oak Ridge Associated Universities, P.O. Box 117, Oak Ridge, Tennessee. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

* * * * *

3. NRC-13, Incentive Awards Files—NRC, is being amended to indicate the correct title of the system manager.

**NRC-13**

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Recruitment, Incentive and Executive Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

4. NRC-14, Employee Assistance Program Files—NRC, is being amended to indicate the correct title of the system manager in the Safeguards, System Manager(s) and Address, and Record Source Categories.

**NRC-14**

* * * * *

**SAFEGUARDS:**

Files are maintained in a safe under the immediate control of the Employee Assistance Program Manager.

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Manager, Employee Assistance Program, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

**RECORD SOURCE CATEGORIES:**

Information compiled by the Manager, Employeee Assistance Program, during the course of counseling with an NRC employee or members fo the employee's family.

5. NRC-19, Official Personnel Training Records Files—NRC, is being amended to indicate a new location for duplicate systems.

**NRC-19**

* * * * *

**SYSTEM LOCATION:**

Primary system—Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the location listed in Addendum I, Parts 1 and 2; and at the NRC Graduate Fellowship Program, Science/Engineering Education Division, Oak Ridge Assocaited Universities, P.O. Box 117, Oak Ridge, Tennessee.

* * * * *

6. NRC-22, Personnel Performance Appraisals—NRC, is being amended to indicate the correct titles of the system managers.

**NRC-22**

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Part A. Chief, Benefits and Operations Support, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For the remaining Regional personnel, at the Regional Offices I-IV listed in Addendum I, Part 2.

Part B. Chief, Recruitment, Incentive and Executive Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Wasington, DC 20555.

* * * * *

7. NRC-28, Recruiting, Examining, and Placement Records—NRC, is being amended to indicate the correct titles of the system managers and the types of records for which each is responsible.

**NRC-28**

* * * * *

**SYSTEM MANAGER(S) AND ADDRESS:**

Part A: Chief, Recruitment, Incentive and Executive Programs, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (for records from outside the agency).

Part B: Chief, Employment and Staffing Programs, Office of Peronnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (for merit promotions).

* * * * *

8. Addendum I—List of U.S. Nuclear Regulatory Commission Locations, is being amended to read as follows:

**Addendum I**

* * * * *

*Part 1—NRC Headquarters Offices*

* * * * *

j. NRC Technical Training Center, Osborne Office Center, 5700 Brainerd Road, Suite 200, Chattanooga, Tennessee.

* * * * *

Dated at Rockville MD,. this 28th day of February, 1991.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Executive Director for Operations.*

[FR Doc. 91-5942 Field 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

---

**[Docket No. 50-219]**

## GPU Nuclear Corp; Issuance of Amendment To Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 150 to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey. The amendment is effective as of the date of issuance.

The amendment modified the Technical Specifications to permit the removal of seven main steam safety valves with the two highest setpoints.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on

February 1, 1990 (55 FR 3502). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) The application for amendment dated December 18, 1989, as supplemented April 30, October 16, and November 16, 1990, (2) Amendment No. 150 to License No. DPR-16, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Local Public Document Room, Ocean County Library Reference Department, 101 Washington Street, Toms River, New Jersey 08753. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—I/II.

Dated at Rockville, Maryland this 6th day of March 1991.

For the Nuclear Regulatory Commission.

**Alexander W. Dromerick, Sr.,**

*Project Manager, Project Directorate I-A, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-5937 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

---

**[Docket No. 50-458]**

## Gulf States Utilities Co.; Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-47, issued to Gulf States Utilities Company (GSU) (the licensee) for operation of the River Bend Station, Unit 1, located in West Feliciana Parish, Louisiana.

The proposed amendment would revise Technical Specification (TS) Table 3.3.2-1, "Isolation Actuation Instrumentation" to correctly identify actuation of the emergency mode of the main control room area ventilation system at reactor vessel water low, low level 2 instead of low, low, low level 1, as currently reflected in the table.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The proposed change would not increase the probability or consequences of a previously evaluated accident because:

The proposed change to the TS table will reflect initiation of the main control room area ventilation system (MCRAVS) at low, low level 2 (−43 inches) as opposed to initiating low, low, low level 1 (−143 inches), which is currently reflected in TS Table 3.3.2-1, "Isolation Actuation Instrumentation." The safety analysis was performed assuming initiation of the system at level 2. Operation of the plant is now in full compliance with the safety analysis as a result of the work performed during the forced outage beginning February 27, 1991. The control circuitry for the charcoal filter start logic was modified so that the system will start on reactor water low, low level 2, which is more conservative than the previous initiation at low, low, low level 1. The modification was discussed in the February 28, 1991, GSU letter to the NRC.

2. The proposed change would not create the possibility of a new or different kind of accident from any previously evaluated because:

As a result of the modification, plant operation is in conformance with the existing safety analysis which assumes initiation of the MCRAVS at level 2. No new or different accidents will result from the proposed TS change.

3. The proposed change would not involve a significant reduction in the margin of safety because:

The proposed TS change does not alter any part of the existing safety analysis. The proposed TS change would accurately reflect current plant design.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 12, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an

Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner shall also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George F. Dick: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Winston & Strawn, ATTN: Mark Wetterhahn, Esq., 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 1, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 7th day of March 1991.

For the Nuclear Regulatory Commission.

**George F. Dick,**

*Acting Director, Project Directorate IV-2 Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-5939 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

---

**[Docket Nos. 50-266 and 50-301]**

## Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units No. 1 and No. 2); Exemption

I

Wisconsin Electric Power Company (Wisconsin Electric or the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27, which authorize operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2. The licenses provide, among other things, that the Point Beach Plant is subject to all rules, regulations, and orders of the Commission now or hereafter in effect. The facility consists of two pressurized

water reactors located on the licensee's site in Manitowoc County, Wisconsin.

The revision to 10 CFR part 55, "Operators' Licenses," which became effective on May 26, 1987, established requirements for the administration of operating tests on nuclear power plant simulators. These regulations, in conjunction with 10 CFR 50.54(i-1), require facility licensees to use simulation facilities when administering operating tests for initial licensing and requalificaiton. These regulations further require that a certified or NRC-approved simulation facility must be used to administer operating tests after May 26, 1991. By letter dated December 17, 1990, Wisconsin Electric requested an exemption from the schedular requirements for certifications of a plant-referenced simulator.

II

The licensee intends to comply with 10 CFR 55.45(b) by certifying a plant-referenced simulator. Section 55.45(b)(2)(iii) of 10 CFR part 55 requires that facility licensees proposing to use a simulation facility consisting solely of a plant-referenced simulator submit Form NRC-474, "Simulation Facility Certification," no later than 46 months after the effective date of this rule, that is, by March 26, 1991. On December 17, 1990, Wisconsin Electric requested an exemption from this filing requirement to allow for the submittal of NRC Form-474 after March 26, 1991, but no later than July 24, 1991.

Wisconsin Electric began writing the specifications for the purchase of a plant-referenced simulator in early 1986. These specifications were issued to prospective bidders in December 1986. After extensive negotiations with qualified bidders, the contract for the construction of the Point Beach Plant simulator was let on April 15, 1988.

In accordance with 10 CFR 55.45(b)(5)(vi), any certification report must include, among other things, a description of performance testing completed for the simulation facility. It has always been the intent of Wisconsin Electric to use the Factory Acceptance Testing (FAT) of the plant-referenced simulator as the testing portion of the certification process. The FAT of the simulator was originally scheduled for a 90-day period beginning on September 3, 1990. Due to delays in hardware delivery and software development, the FAT was not actually commenced until October 9, 1990.

This 5-week delay, of itself, would not have necessitated a late submittal of NRC Form-474. However, once the FAT began, the simulator did not perform as well as expected. Wisconsin Electric, therefore, augmented its staff at the simulator vendor's site by three people in order to better support test administration and documentation. The licensee also increased the testing schedule from one shift a day, 5 days a week, to two shifts a day, 6 days a week. These actions have achieved some positive results, but the resolution of some of the test discrepancies and failures still requires the attention of expert vendor technical personnel. Additional resources of this nature have not been available. Because of the late testing start and the unexpectedly poor performance of the simulator, Wisconsin Electric has concluded that the Point Beach Plant simulator will not be ready for certification until after the March 26, 1991 deadline.

Wisconsin Electric proposes to comply with 10 CFR 55.45(b) for the Point Beach Plant by certifying a plant referenced simulator by July 24, 1991. During the period from May 26, 1991 until certificaiton of the simulator, no initial or requalification operating tests are scheduled.

III

The Commission has determined, pursuant to 10 CFR 55.11, that this exemption is authorized by law and will not endanger life or property and is otherwise in the public interest. Furthermore, the Commission has determined, pursuant to 10 CFR 50.12(a), that special circumstances of 10 CFR 50.12(a)(2)(v) are applicable in that the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. This exemption grants a temporary relief period of 4 months from the March 1991 date for submittal of the Point Beach Plant simulation facility certification. Good faith efforts to comply with the regulation were made as follows:

(1) Wisconsin Electric began writing specifications for a plant-referenced simulator in early 1986 and issued invitations for bids in December 1986.

(2) On April 15, 1988, Wisconsin Electric entered into contract for construction of a plant-referenced simulator. The simulator was originally scheduled for delivery by December 1990 and was to be ready for training by February 1991.

(3) Wisconsin Electric has kept the NRC informed of the status of the Point Beach Plant simulator project. In letters dated October 11, 1989, and March 13, 1990, the licensee provided updated estimated certification dates. On April 10, 1990, in a meeting at NRC headquarters, Wisconsin Electric presented the details of the project and its status.

(4) Upon identifying unexpectedly poor performance during simulator testing, Wisconsin Electric allocated additional resources to the project. Three people were added to the licensee's staff at the simulator vendor's site and testing was increased from five to twelve shifts per week.

Wisconsin Electric intends to comply with 10 CFR 55.45(b)(2)(iv) by not administering the simulation facility portion of the operating test on other than a certified simulator after May 26, 1991.

The Commission hereby grants an exemption from the schedular requirements of 10 CFR 55.45(b)(2)(iii) for submittal of NRC Form-474, "Simulation Facility Certification." This exemption is effective until July 24, 1991.

Purusant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** on March 5, 1991 (56 FR 9238). Accordingly, based upon the environmental assessment, the Commission has determined that the issuance of this amendment will not have a significant effect on the quality of the human environment.

The licensee's exemption request dated December 17, 1990 is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washingtom, DC and at the local public document room located at the Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 5th day of March 1991.

For the Nuclear Regulatory Commission.

**Bruce A. Boger,**

*Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-5940 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

---

[Docket No. 50-482]

## Wolf Creek Nuclear Operating Corp.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-42 issued to Wolf Creek Nuclear

Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station located in Coffey County, Kansas.

The amendment would revise the Technical Specifications and associated bases to increase the surveillance test intervals and allowed outage times for the analog channels of the Engineered Safety Features Actuation System (ESFAS). Spurious spiking has been experienced on one of three channels of containment pressure that provide input to ESFAS for actuation of Safety Injection (SI) and Steam Line Isolation (SLI). While performing the monthly Analog Channel Operational Tests (ACOTs) these containment pressure channels are individually placed in "test" mode, generating a trip input to the ESFAS logic. The receipt of a spike during testing of another containment pressure channel would complete the two-of-three ESFAS logic and result in a full SI and SLI actuation and a reactor trip.

When the licensee identified spurious spiking of the containment pressure channel, immediate troubleshooting and repair efforts were initiated. Initial efforts included the installation of instrumentation to monitor the channel followed by the replacement of the component's power supply. However, the spiking continued and on January 23, 1991, the licensee requested, and was subsequently granted, a temporary waiver of compliance to remove the spiking channel from service while performing the monthly ACOTs on the remaining channels. The licensee then determined that the next repair effort required the replacement of a custom built circuit card for the pressure transmitter. Due to the necessary lead time in obtaining such a card, on February 22, 1991, the licensee requested, and was again granted, the same temporary waiver of compliance for conducting the monthly ACOTs. By changing the test frequency from monthly to quarterly, and revising the action statements to provide additional flexibility, the technical specification changes in this proposed amendment are intended to preclude the need for additional requests for temporary waivers of compliance relative to this issue. Considering that the next scheduled ACOT does not allow sufficient time for normal staff review, the staff is issuing this notice under exigent circumstances.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind fo accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application. The staff has reviewed the licensee's analysis as follows:

1. The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The determination that the results of the proposed changes are acceptable was established in the NRC Safety Evaluation Report (SER) and Supplemental SER (SSER) prepared for WCAP-10271, Supplement 2 and WCAP-10271, Supplement 2, Revision 1 (issued by letters dated February 22, 1989 and April 30, 1990). Implementation of the proposed changes is expected to result in an acceptable increase in total ESFAS unavailability. This increase, which is primarily due to less frequent surveillance, results in a small increase (less than 6 percent) in core damage frequency (CDF) and public health risk. The values determined by the Westinghouse Owners Group (WOG) and presented in the above WCAP for the increase in CDF were verified by Brookhaven National Laboratory as part of an audit and sensitivity analyses for the NRC staff. Based on the small value of the increase compared to the range of uncertainty in the CDF, the increase was considered to be acceptable. Applicability of these conclusions to WCGS has been verified through a plant-specific review.

Removal of the requirement to perform the RTS analog channel operational test (ACOT) on a staggered basis will have a negligible impact on the RTS unavailability. Staggered testing was initially imposed to address the concerns of common cause failures. Wolf Creek Nuclear Operating Corporation's implementation of a program to evaluate failures for common cause, process parameter signals diversity, and normal operational test spacing yield most of the benefits of staggered testing.

Allowable out-of-service time and surveillance test interval extensions for the ACOT of the refueling water storage tank (RWST) Level Low-Low Coincident with Safety Injection (for Automatic Switchover from the RWST to Containment Sump), Functional Unit 7.b, were not included in the generic analysis presented in WCAP-10271, Supplement 2 and Supplement 2, Revision 1. However, a separate qualitative evaluation performed for this item showed the associated unavailability and risk to be equivalent to, or less than, that of other functional units included in the WCAP evaluation.

2. The proposed amendment would not create the possibility of a new or different kind of accident from any previously analyzed. The proposed changes do not involve hardware changes and do not result in a change in the manner in which the Reactor Trip System (RTS) or the Engineered Safety Features Actuation System (ESFAS) provide plant protection. No change is being made which alters the functioning of the RTS or ESFAS. Rather the likelihood or probability of the RTS or ESFAS functioning properly is affected as described above. Therefore the proposed changes do not create the possibility of a new or different kind of accident.

3. The proposed amendment would not involve a significant reduction in a margin of safety. The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determination. The impact of reduce testing, other than as addressed above, is to allow a longer time interval over which instrument uncertainties (e.g., drift) may act. The review of existing monthly calibration/setpoint drift data for ESFAS instrumentation addresses this concern. Implementation of the proposed changes is expected to result in an overall improvement in safety, as follows:

a. Reduced testing will result in fewer inadvertent reactor trips, less frequent actuation of ESFAS components, and less frequent distraction of operations personnel.

b. Improvements in the effectiveness of the operating staff in monitoring and controlling plant operation will be realized. This is due to less freuqent distraction of the operators and shift supervisor to attend to instrumentation testing.

c. Longer repair times associated with increased AOTs will lead to higher quality repairs and improved reliability.

Therefore, based on the above considerations, the Commission

proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2010 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 12, 1991, the license may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceeings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document rooms located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing on an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide reference to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30 days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves a no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a signficant hazards consideration, any hearing held would take place before the issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George F. Dick: petitioner's name and telephone number; date petition was mailed; plant name; and publication

data and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 1, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Rooms, Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 11th day of March 1991.

For the Nuclear Regulatory Commission.

**George F. Dick, Jr.,**

*Acting Director, Project Directorate IV-2, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-6083 Filed 3-12-91; 8:45 am]

BILLING CODE 7590-01-M

## NUCLEAR WASTE TECHNICAL REVIEW BOARD

### Notice of Meeting

Pursuant to the Nuclear Waste Technical Review Board's (Board) authority under section 5051 of Public Law 100-203 of the Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the full Board will hold a meeting on analogues on April 16, 1991, from 8:30 a.m. to 5 p.m. and on April 17, 1991, from 8:30 a.m. to early afternoon. The meeting will be held at the Peppermill Hotel, 2707 South Virginia Avenue, Reno, Nevada 89502; (702) 826-2121.

Board members will be briefed on the use of analogues to assess the long-term performance of a potential site for the disposal of spent nuclear fuel and high-level defense waste. In its "Second Report to the U.S. Congress and the U.S. Secretary of Energy (November 1990)," the Board recommended that the Department of Energy (DOE) investigate the use of natural analogues in helping to assess performance of the Yucca Mountain Site. The site, which is located in Nevada, is currently being studied by the DOE as a potential site for a permanent repository.

Analogues are naturally occurring geologic settings, such as uranium ore bodies, or other material that have been subjected to environmental forces over long periods of time. Measurements taken from analogues can provide useful information on material behavior, and radionuclide and elemental transport. This information, in turn, may prove helpful in characterizing a potential repostory site, such as the one at Yucca Mountain.

On April 16 and 17, the Board will hear from a number of individuals involved in identifying, studying, or evaluating the potential usefulness of natural analogues. On April 16, representatives from Lawrence Livermore National Laboratory and the U.S. Geological Survey will provide information on field studies at the Nevada Test Site and the use of natural analogues in archaeological studies. Staff from the Office of Research, Nuclear Regulatory Commission (NRC) will discuss recent research activities. Also, the Center for Nuclear Waste Regulatory Analysis, or the Office of Research, NRC will discuss analogue sites in Mexico and on the Nevada-Oregon border. Staff from the NRC Office of Nuclear Materials, Safety and Safeguards (NMSS) will speak on their own behalf (versus presenting a Commission position) on the potential usefullness of natural analogues in the licensing process.

Following the presentations on April 16, the DOE will begin a briefing on its international and domestic analogue activities. This briefing will continue on April 17. The remaining time on April 17 will be used by the Board to hold a general discussion among participants on the potential usefulness and applicability of analogues to the DOE waste management program.

Members of the public are welcome to attend the meeting as observers. Transcripts of the meeting will be available on a library-loan basis from Victoria Reich, Board librarian, beginning May 6, 1991.

For further information, contact Paula N. Alford, Director, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473.

Dated: March 7, 1991.

**William D. Barnard,**

*Executive Director, Nuclear Waste Technical Review Board.*

[FR Doc. 91-5880 Filed 3-12-91; 8:45 am]

BILLING CODE 6820-AM-M

## OFFICE OF PERSONNEL MANAGEMENT

### Excepted Services; Schedules

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service as required by civil service rule VI, Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** John Daley, (202) 606-0950.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on February 11, 1991 (55 FR 12973). Individual authorities established or revoked under Schedules A, B, or C between January 1 and January 31, 1991, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1991.

**Schedule A**

The following exceptions were established:

*General Services Administration*

All law clerk positions in the Board of Contract Appeals' Law Clerk Fellows Program. Appointments under this authority at GS-11 and GS-12 will be limited to 2 years with provisions for a 1-year extension at the GS-13 level only in cases of exceptional circumstances, as determined by the Chief Judge and Chairman. Effective January 15, 1991.

**Schedule B**

The following exception was established:

*Department of the Navy*

One position of Staff Assistant, in the Navy's Executive Dining facilities at the Pentagon. Effective January 28, 1991.

**Schedule C**

*Department of Agriculture*

One Confidential Assistant to the Director, Intergovernmental Affairs, Office of Public Affairs. Effective January 3, 1991.

One Confidential Assistant to the Administrator, Federal Grain Inspection Service. Effective January 9, 1991.

One Director, Press and Media Relations, to the Director, Office of Public Affairs. Effective January 16, 1991.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective January 23, 1991.

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective January 29, 1991.

One Confidential Assistant to the Assistant Secretary for Administration. Effective January 29, 1991.

*Department of Commerce*

One Confidential Assistant to the Secretary. Effective January 2, 1991.

One Confidential Assistant to the Director, White House Liaison. Effective January 8, 1991.

One Chief, Intergovernmental Affairs Division to the Director, Legislative Affairs. Effective January 16, 1991.

One Director, Congressional Affairs Staff, to the Under Secretary for Export Administration. Effective January 16, 1991.

One Special Assistant to the Director, Office of Public Affairs. Effective January 24, 1991.

One Congressional Affairs Officer to the Director, Bureau of the Census. Effective January 30, 1991.

One Intergovernmental Affairs Specialist to the Chief, Intergovernmental Affairs Division. Effective January 31, 1991.

*Department of Education*

One Confidential Assistant to the Director, Office of Public Affairs. Effective January 18, 1991.

One Confidential Assistant to the Director of Bilingual Education and Minority Languages Affairs. Effective January 29, 1991.

One Executive Secretary to the Chief of Staff, Counselor to the Secretary. Effective January 29, 1991.

One Special Assistant to the Director, Intergovernmental Affairs. Effective January 29, 1991.

One Special Assistant to the Assistant Secretary for Vocational and Adult Education. January 30, 1991.

One Confidential Assistant to the Assistant Secretary for Vocational and Adult Education. Effective January 30, 1991.

One Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective January 30, 1991.

One Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective January 30, 1991.

*Department of Energy*

One Staff Assistant to the Director, Office of Management and Resources. Effective January 3, 1991.

One Staff Assistant to the General Counsel. Effective January 18, 1991.

*Department of Transportation*

Two Staff Assistants to the Secretary. Effective January 8, 1991.

One Staff Assistant to the Director, Office of the Executive Secretariat. Effective January 17, 1991.

*Environmental Protection Agency*

One Program Advisor to the Assistant Administrator for Administration and Resources Management. Effective January 3, 1991.

*Federal Communications Commission*

One Special Assistant to the Chief, Public Affairs. Effective January 9, 1991.

*Federal Emergency Management Agency*

One Secretary (Typing) to the Deputy Director. Effective January 30, 1991.

*Federal Mine Safety and Health Review Commission*

One Attorney-Adviser to a Commissioner. Effective January 31, 1991.

One Confidential Assistant to a Commissioner. Effective January 31, 1991.

One Confidential Assistant to the Chairman. Effective January 31, 1991.

*General Services Administration*

One Confidential Assistant to the Regional Administrator, Region 8 (Denver). Effective January 4, 1991.

One Confidential Assistant to the Associate Administrator for Public Affairs. Effective January 4, 1991.

One Staff Assistant to the Chief of Staff. Effective January 7, 1991.

One Confidential Assistant to the Regional Administrator, Region 4. Effective January 11, 1991.

*Department of Health and Human Services*

One Confidential Assistant to the Special Assistant to the Secretary for Civil Rights. Effective January 11, 1991.

One Writer to the Secretary. Effective January 16, 1991.

One Special Assistant to the Deputy Assistant Secretary for Public Affairs. Effective January 16, 1991.

One Special Assistant to the Deputy Assistant Secretary for Public Affairs (Media). Effective January 16, 1991.

One Speechwriter to the Surgeon General. Effective January 16, 1991.

One Special Assistant to the Administrator, Alcohol, Drug Abuse and Mental Health Administration. Effective January 17, 1991.

One Executive Assistant to the Secretary for Public Affairs. Effective January 29, 1991.

*Department of Housing and Urban Development*

One Special Assistant to the Deputy Assistant Secretary for Multifamily Housing. Effective January 2, 1991.

One Special Assistant to the Secretary. Effective January 2, 1991.

One Special Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner. Effective January 2, 1991.

One Special Assistant to the Secretary for Field Coordination to the Deputy Under Secretary for Field Coordination. Effective January 4, 1991.

One SpecialAssistant to the Secretary. Effective January 15, 1991.

One Special Assistant to the Deputy Secretary. Effective January 15, 1991.

One Special Assistant to the Deputy Assistant Secretary for Single Family Housing. Effective January 15, 1991.

One Special Assistant to the Regional Administrator, Regional Housing Commissioner. Effective January 24, 1991.

*Department of Interior*

One Director, External Affairs, to the Commissioner of Reclamation. Effective January 8, 1991.

*International Trade Commission*

One Staff Assistant (Legal) to a Commissioner. Effective January 3, 1991.

*Department of Justice*

One Secretary (Typing) to the Director, Office of Public Affairs. Effective January 3, 1991.

One Staff Assistant to the Attorney General. Effective January 11, 1991.

One Staff Assistant to the Attorney General. Effective January 23, 1991.

One Staff Assistant to the Attorney General. Effective January 29, 1991.

*Department of Labor*

One Confidential Staff Assistant to the Assistant Secretary for Employment and Training. Effective January 29, 1991.

*Office of National Drug Control Policy*

One Staff Assistant to the Director of Congressional Relations. Effective January 3, 1991.

One Staff Assistant to the Director. Effective January 18, 1991.

*Small Business Administration*

One Special Assistant to the Regional Administrator, Boston, Massachusetts. Effective January 22, 1991.

*Securities and Exchange Commission*

One Confidential Assistant to a Commissioner. Effective January 3, 1991.

*Department of State*

One Program Analyst to the Deputy Assistant Secretary for Policy and Counterterrorism. Effective January 3, 1991.

One Legislative Management Officer to the Principal Deputy Assistant Secretary for Legislative Affairs. Effective January 3, 1991.

One Program Assistant to the Deputy Assistant Secretary for Policy and Counterterrorism. Effective January 3, 1991.

One Secretary to the Assistant Secretary, Bureau of Public Affairs. Effective January 25, 1991.

One Special Assistant to the Coordinator, Bureau of International Communications and Information Policy. Effective January 16, 1991.

*Department of the Treasury*

One Special Assistant to the General Counsel. Effective January 2, 1991.

One Associate Director for Public Affairs to the Director. Office of Thrift Supervision. Effective January 29, 1991.

One Senior Legislative Manager to the Deputy Assistant Secretary (Legislative Affairs). Effective January 29, 1991.

One Special Assistant to the Director, Office of Public Affairs. Effective January 30, 1991.

*United States Information Agency*

One Special Assistant to the Senior Advisor to the Director. Effective January 11, 1991.

One Special Assistant to the Associate Director for Programs. Effective January 30, 1991.

One Chief, Voluntary Visitors Division, to the Director, Office of International Visitors. Effective January 30, 1991.

*Office of U.S. Trade Representative*

One Confidential Assistant to the Deputy United Trade Representative. Effective January 3, 1991.

*Department of Veterans Affairs*

One Special Assistant to the Assistant Secretary for Congressional and Public Affairs. Effective January 30, 1991.

One Special Assistant to the Assistant Secretary. Effective January 29, 1991.

**Authority:** 5 U.S.C. 3301; E.O. 10555, 3 CFR 1954–1958 Comp. P.218.

U.S. Office of Personnel Management

**Constance Berry Newman,**

*Director.*

[FR Doc. 91–5829 Filed 3–12–91; 8:45 am]

BILLING CODE 6325-01-M

## SES Positions That Were Career Reserved During 1990

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** As required by the Civil Service Reform Act of 1978, this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during 1990.

**FOR FURTHER INFORMATION CONTACT:** Charles Vaugh, Office of Executive and Management Policy, (202) 606–1927.

**SUPPLEMENTARY INFORMATION:** Below is a list of titles of SES positions that were career reserved any time in calendar year 1990 whether or not they were still career reserved on December 31, 1990. Section 3132(b)(4) of title 5, United States Code, requires that the head of each agency publish the list by March of the following year. OPM is publishing a consolidated list for all agencies.

U.S. Office of Personnel Management.

**Constance Berry Newman,**

*Director.*

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990

| Agency organization | Career reserved positions |
|---|---|
| Action: | |
| Office Inspector General | Inspector General. |
| Assoc Director for Mgmt & Budget | Associate Director for Management & Budget. |
| | Asst Dir, for Financial Management. |
| Administrative Conference of the U.S.; | |
| Administrative Conference of the U.S. | Executive Director. |
| | Research Director. |
| | General Counsel. |
| Advisory Council on Historic Preservation: | |
| Ofc of the Exec Director | Executive Director. |
| Department of Agriculture: | |
| Ofc of the Inspector General | Asst Inspector General for Investigations. |
| | Dep Asst Inspector General for Investigation. |
| | Asst Inspector General for Audit. |
| | Dep Assistant Inspector General for Audit. |
| | Dep Asst Inspector General for Audit. |
| | Asst Inspector Gen for Pol Dev & Res Mgmt. |
| Office of Operations | Director Office of Operations. |
| | Dep Dir, for E/S, Real Property, F/P Division. |
| Office of Finance and Management | Director, Applications Systems Division. |
| | Dir. Info Resources Management Division. |
| | Director, Financial Services Division. |
| | Dir, Thrift Savings Plan Development Division. |
| Farmers Home Administration | Deputy Administrator for Management. |
| | Assistant Administrator, Finance Office. |
| | Asst Admr for Automated Information Services. |
| | Asst Admr, Community and Business Programs. |
| Federal Crop Insurance Corporation | Asst Mgr for Actuarial & Underwriting Svcs. |
| | Deputy Administrator, Management. |
| | Director, Fruit & Vegetable Division. |
| | Director, Cotton Division. |
| | Director, Dairy Division. |
| | Director, Livestock Division. |
| | Director, Tobacco Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Agricultural Marketing Svc, Dir Poultry Div. |
| | Director, Compliance Staff. |
| | Dir, Commodity Scientific Support Division. |
| Animal & Plant Health Inspection Service | Deputy Administrator for Management & Budget. |
| | Assoc Dep Administrator for Mgt. & Budget. |
| | Dep Admr, Regulatory Enforcement/Animal Care. |
| Veterinary Services | Dir Natl Veterinary Services Labs, Ames. |
| | Director, Northern Region. |
| | Dir, S E Region, Veterinary Services. |
| | Director, Western Region. |
| | Director, South Central Region. |
| | Assistant Deputy Administrator. |
| | Dep Admr, Animal Damage Control. |
| | Dir, Operational Support, Veterinary Services. |
| Plant Protection & Quarantine Service | Dep Admr, International Services. |
| | Director Northeastern Region. |
| | Director, South Central Region. |
| | Director, Western Region. |
| | Director, Southeastern Region. |
| | Asst to the Asst Dep Admr, Natl Programs, PPQ. |
| | Director Operational Support PPQ. |
| Science and Technology | Director Science and Technology. |
| Food Safety and Inspection Service | Asst Deputy Admin Technical Services. |
| | Dep Admir-Administrative Mgmt. |
| | Dir, Northeast Region, Phila., Pa. |
| | Regl Director, Atlanta Georgia. |
| | Dir, North Central Region, Des Moines, Iowa. |
| | Director, Southwestern Region, Dallas, Texas. |
| | Dir, Western Region, Alameda, California. |
| | Asst Dep Admr Comp & Staff Operations. |
| | Asst Dep Admr Inspection Mgmt Program. |
| | Asst Dep Admr. Scientific Staff Services. |
| | Asst Dep Admin (Admin Mgt). |
| | Deputy Administrator, Science. |
| | Dep Admr Internal Programs. |
| | Associate Deputy Administrator. |
| | Asst to the Dep Admr International Programs. |
| Food & Nutrition Service | Deputy Admin for Financial Management. |
| | Deputy Admr for Management. |
| Agricultural Stabilization & Conservation Service | Accounting Officer. |
| | Director, Budget Division. |
| Foreign Agricultural Service | Dir, Grain & Feed Div. |
| Agriculture Research Service | Dep Admr for Adm Mgmt. |
| | Assoc Dep Admin for Administrative Management. |
| | Asst Adm for Cooperative Interactions. |
| | Global Change Research Staff Assistant. |
| | Corr for Sci & Educ Agencies for Intl Activ. |
| National Program Staff Office | Deputy Administrator National Program Staff |
| | Assoc Dep Admr. |
| | Assoc Dep Admr. Natl Prog Staff. |
| Beltsville Area Office | Dir, Beltsville Human Nutrition Research Ctr. |
| | Director Beltsville Area Office. |
| | Assoc Dir, Beltsville Area. |
| North Atlantic Area Office | Director, Eastern Regl Research Center. |
| | Dir, Plum Island Animal Disease Ctr. |
| | Director, North Atlantic Area. |
| | Assoc. Dir, North Atlantic Area. |
| South Atlantic Area Office | Research Leader-Forage and Turf Research. |
| | Res Leader-Plant Physio & Photosynthesis Res. |
| | Director South Atlantic Area . |
| | Associate Dir South Atlantic Area. |
| Midwest Area Office | Dir, Midwest Area. |
| | Dir, Northern Regional Research Ctr. |
| | Assoc Dir, Midwest Area. |
| | Supervisory Veterinary Medical Officer. |
| Midsouth Area Office | Dir, Southern Regional Res Center, New Orleans. |
| | Director, Mid-South Area. |
| | Associate Director, Mid South Area. |
| Central Plains Area Office | Dir Natl Animal Disease Ctr. |
| Southern Plains Area Office | Director Southern Plains Area. |
| | Director Conservation & Production Res Lab. |
| | Assoc Dir, Southern Plains Area. |
| Northern Plains Area Office | Director, Northern Plains Area. |
| | Associate Director, Northern Plains Area Ofc. |
| | Dir, R.L. Hruska US Meat Animal Res Center. |
| Northwest Area Office | Director, Northwest Region. |
| Pacific West Area Office | Director, Western Regional Research Center. |
| | Res Leader Natural Products Chemistry Res. |
| | Dir, Western Human Nutrition Research Center. |
| | Director, Pacific West Area Office. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Director, Plant Gene Expression Center. |
| | Associate Director, Pacific West Area Office. |
| | Dir, Western Cotton Reserach Laboratory. |
| | Supervisory Research Plant Pathologist. |
| | Supervisory Research Plant Pathologist. |
| | Supervisory Soil Scientist. |
| Cooperative State Research Service | Assoc Administrator for Grants & Program Sys. |
| Extension Service | Deputy Admin Management. |
| Soil Conservation Service | Director Engineering Division. |
| | Dir, Ecological Sciences and Technicoly Divisi . |
| | Dep Chf for Administration. |
| | Dir, Consv Planning and App. |
| | Director, Watershed Projects Division. |
| | Dir, Basin & Area Planning (Soil Conserv). |
| | Assoc Dep Chief for Administration. |
| | Dir, Soils (Soil Scientist). |
| | Dir, Land Treatment Program. |
| | Dir, Information Res Management Division. |
| | Dir, South National Technical Center. |
| | Special Asst for Science & Technol. |
| Forest Service | Dep Chf for Administration. |
| | Associate Deputy Chief—Administration. |
| | Dir, Forest Pest Mgmt Staff. |
| | Dir, Fiscal and Accounting Management. |
| | Associate Deputy Chief for Administrator. |
| | Director, Fire and Aviation Staff. |
| Research | Director, Timber Mgmt Research Staff. |
| | Dir, Insect and Disease Research Staff. |
| | Dir, Forest Environment Research Staff. |
| | Director, Forest Resource Economics Staff. |
| | Dir, Forest Prod & Harvesting & Research Staff. |
| | Dir, Forest Fire & Atmos Sciences Res Staff. |
| Nat'l Forest System | Dir, Range Management Staff. |
| | Dir, Recreation, Mgmt Staff. |
| | Dir, Timber Management Staff. |
| | Director, Engineering Staff. |
| | Director, Lands Staff. |
| | Dir, Land Management Planning Staff. |
| | Dir, Wildlife & Fisheries Mgmt Staff. |
| | Dir, Minerals & Geology Staff. |
| | Director, Watershed & Air Management Staff. |
| | Dir, Ecological Management. |
| State & Private Forestry | Dir, Cooperative Forestry. |
| Field Units | NE Area Dir, State & Private Forestry, U Darb. |
| | Dir, Intermountain Forest & Range Exp Stat, OGD. |
| | Dir, N Eastern Forest Experiment Station. |
| | Dir, North Central Forest Exp Station. |
| | Dir, Pacific NW Forest & Range Range Exp Station. |
| | Dir, Pacific SW for & Range Exper Sta. |
| | Director Rocky Mt. Forest & Range Exper Stat. |
| | Dir, S Eastern Forest Experiment Station. |
| | Dir, S. Forest Experiment Station, New Orleans. |
| | Director, Forest Products Laboratory. |
| Economic Research Service | Admr. Economic Research Service. |
| | Associate Administrator-Economic RSCH Svc. |
| | Director Agriculture & Trade Analysis Div. |
| | Director Commodity Economics Division. |
| | Director Resources & Technology Division. |
| | Director Agriculture & Rural Econ Division. |
| | Deputy Administrator for Situation & Outlook. |
| Economics Management Staff | Director, Economic Management Staff. |
| National Agricultural Statistics Service | Admr National Agricultural Statistics Serv. |
| | Deputy Administrator for Operations. |
| | Dir, Estimates Div. |
| | Dir, Research and Applications Division. |
| | Dir, State Statistical Division. |
| | Deputy Administrator for Programs. |
| | Dir, Systems & Information Division. |
| World Agricultural Outlook Board | Chairperson. |
| | Dep Chairperson. |
| Board for International Broadcasting: | |
| Board Staff | Exec Director. |
| | Dir, for Research & Engineering. |
| | Dep Exec Director/Director of Program Review. |
| | General Counsel. |
| | Director of Financial & Congressional Affairs. |
| Department of Commerce: | |
| Office of Technology | Executive Director. |
| Office of the General Counsel | Asst General Counsel for Finance & Littigation. |
| | Director, Office of Intelligence Liaison. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| OFC of Asst Secy for Administration | Director for Finance & Federal Assistance. |
| Director for Management and Information | Dir, OFC of Information Resources Management. |
| Director for Procurement & Administrative Services | Director for Procurement & Admin Services. |
| | Dep Dir, for Procurement & Admin Services. |
| | Director, Office of Security. |
| | Deputy Director for Procurement. |
| Director Personnel and Civil Rights | Director of Personnel. |
| | Depury Director of Personnel. |
| Director for Planning Budget and Evaluation | Director, Office of Budget. |
| OFC of the Under Secy for Economic Affairs | DEP Asst Secy for Statistical Affairs. |
| | Dir, Office of Business Analysis. |
| | Supervisory Economist. |
| Bureau of Economic Analysis | Director. |
| | Dep Dir, Bur of Economic Analysis. |
| | Assoc Dir, for Natl Economic Accounts. |
| | Assoc Dir, for Regional Economics. |
| | Assoc Dir, for International Economics. |
| | Chief Economist. |
| | CHF Statistician. |
| | Asst to the Director for Economitrics. |
| | CHF. Natl Income & Wealth Div. |
| | Chief, Current Business Analysis Div. |
| | Chief, Business Outlook Div. |
| | Chief International Investment Division. |
| Bureau of the Census | Dep Dir, |
| | Asst Director for ADP. |
| | Chief, Technical Services Division. |
| | Assoc Dir, for Management Services. |
| | Chief, Personnel Division. |
| | Chief Admin & Publications Services Division. |
| | Senior Program Analyst. |
| | Asst Dir, for Administration. |
| | Chief, Computer Services Division. |
| Demographic Programs | Associate Director for Demographic Fields. |
| | Chf, Population Div. |
| | Chf, Geography Div. |
| | Chief Demographic Surveys Division. |
| | Chf, Housing & Household Econ Statistics Div. |
| | Chief, Statistical Methods Division. |
| | Chief Intl Statistical Programs Center. |
| | Chief, Statistical Support Division. |
| Decennial Census | Associate Director for the Decennial Census. |
| | Asst Dir, for Publicity and outreach. |
| | Chief, Decennial Planning Division. |
| | Chief, Decennial Operations Division. |
| Statistical Standards and Methodology | Chief Statistical Research Division. |
| | Senior Program Analyst. |
| Field Operations | Assoc Dir, for Field Operations. |
| | Chief, Field Div. |
| | Chief Data Preparation Division. |
| | Chief Data User Services Division. |
| Economic Programs | Associate Director for Economic Programs. |
| | Asst Dir, for Economic & Agric Censuses. |
| | Chief, Agriculture Div. |
| | Chf, Business Div. |
| | Chf, Construction Statistics Div. |
| | Chf, Econ Surveys Div. |
| | Chf, Foreign Trade Div. |
| | Chf, Industry Div. |
| | Chf, Census Programming Division. |
| Institute for Telecommunications Sciences | Assoc Admr for Telecommunications Science. |
| | Deputy Dir, for Systems & Networks. |
| | Deputy Director for Spectrum. |
| Economic Development Administration | Deputy Asst Secretary for Management Support. |
| | Dep Director for Program Operations. |
| Ofc of the Inspector General | Assistant Inspector General for Auditing. |
| | Asst Inspector General for Investigations. |
| | Asst Insp Gen for Compl & Audit Resolution. |
| | Deputy Assistant Inspector Gen for Auditing. |
| | Asst Insp Gen for Plng, Eval & Inspections. |
| | Counsel to the Inspector General. |
| | Dep Asst Insp Gen for Investigations. |
| Ofc of the Under Sec for Export Administration | Director of Administration. |
| Ofc Dep Asst Secy for Cap Goods & Intl Const | Dir, Office of Special Industrial Machinery. |
| Ofc of Dep Asst Secy for Automotive Aff & Cons Gds | Director Office of Consumer Goods. |
| Ofc of Dep Asst Secy for Compliance | Dir, Office of Agreements Compliance. |
| | Dir. Office of Antidumping Compliance. |
| Ofc of Dep Asst Secy for Investigations | Dir, Office of Antidumping Investigations. |
| | Dir, Office of Countervailing Investigations. |
| National Oceanic and Atmospheric Administration | Dir, Natl Ocean Pollution Program Office. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Dir, NOAA Coastal Ocean Program Office. |
| Office of Administrative & Management Services | Director for Personnel & Civil Rights. |
| | Dir for Procurement, Grants & Adm Services. |
| National Marine Fisheries Service | Senior Scientist for Fisheries. |
| | Dir, Ofc of Research & Environmental Info. |
| Fisheries Resource Management | Director, Office of Enforcement. |
| Fisheries Centers | Science & Research Dir Northeast Region. |
| | Science & Research Dir. |
| | Science & Research Dir Southwest Region. |
| | Science & Research Dir. |
| | Science and Research Director. |
| Natl Environ Satellite, Data & Info Services | Poes Program Manager. |
| | Dir, Ofc of Sys Development. |
| Deputy Asst Admr for Satellites | Poes Program Manager. |
| | Goes Program Manager. |
| Dep Asst Admr for Information Services | Dir, Natl Oceanographic Data Center. |
| | Director, National Climatic Data Center. |
| | Dir, National Geophysical Data Center. |
| Office of Oceanic and Atmospheric Research | Director, Forecast Systems Laboratory. |
| Office of Sea Grant & Extramural Programs | Dep Dir, Ofc of Oceanic Research Programs. |
| Environmental Research Laboratories | Dep Dir, Environmental Research Laboratories. |
| | Dir, Space Environment Laboratory. |
| | Dir, Climate Monitoring & Diagnostics Lab. |
| Atlantic Oceanographic and Meterological Labs | Dir, Atlantic Oceanographic & Meteorological. |
| | Depy Dir, Atlantic Oceanographic & Meteorologi. |
| Wave Propagation Lab | Director. |
| Aeronomy Lab | Director, Aeronomy Laboratory. |
| | Senior Scientist/Deputy Director. |
| Geophysical Fluid Dynamics Laboratories | Director. |
| | Supervisory Rsch Meteorologist. |
| | Supervisory Rsch Meteorologist. |
| | Supervisory Rsch Meteorologist. |
| Great Lakes Environmental Research Lab | Dir, Great Lakes Environmental Research Lab. |
| National Severe Storms Laboratory | Dir, Nat'l Severe Storms Lab. |
| Air Resources Laboratory | Director Air Resources Laboratory. |
| Pacific Marine Environmental Lab | Dir, Pacific Marine Environmental Lab. |
| Ocean Services & Coastal Zone Management | Director, Office of Ocean Services. |
| Ocean and Coastal Resources Management | Spec Asst to Dir Ofc of Ocean & Coastal Res. |
| Oceanography & Marine Services | Chief, Ocean Systems Division. |
| | Chief, Ocean Resources Assessment Division. |
| | Chf, Physical Oceanography Division. |
| National Ocean Service | Dir, Geodetic Research & Development Lab. |
| | Assoc Dir Ofc of Aeronautical Charting & Cart. |
| | Chief Geodesist. |
| National Weather Service | Director, NOAA Data Buoy Office. |
| | Dir, Transition Program Office. |
| | Dir, Nexrad Joint Systems Program Ofc. |
| | Chief, Management and Budget Staff. |
| | Chief, International Affairs Division. |
| | Chf, Ofc of the Fed Coordinator for Meteorolg. |
| | Deputy Assistant Administrator for Operations. |
| | Dir, Nexrad Operational Support Facility. |
| Office of Meteorology | Dir, Office of Meteorolgy. |
| | Chief Operations Division. |
| | Chf, Prog Requirements & Plng Division. |
| Office of Hydrology | Director, Office of Hydrology. |
| | Chief, Hydrologic Services Division. |
| | Chief, Hydrologic Research Laboratory. |
| Office of Systems Operations | Chief, Engineering Division. |
| | Chief, Systems Operations Center. |
| | Chief, Systems Integration Division. |
| | Dir, Office of Systems Operations. |
| Office of Systems Development | Director, Office of Systems Development. |
| | Chief, Integrated Systems Laboratory. |
| | Chief, Techniques Devel Laboratory. |
| | Program Manager. |
| | Dep Dir, Office of Systems Development. |
| | CHF/AWI Interactive Processing System/1990's. |
| National Meteorological Ctr | Director National Meteorological Center. |
| | Deputy Director. |
| | Director, Climate Analysis Center. |
| | Chief, Automation Division. |
| | Chief, Development Div. |
| | CHF, Meteorological Operations Division. |
| | Dir, Natl Severe Storms Forecast Center. |
| | Director Natl Hurricane Center. |
| Regional Offices & Centers | Dir Southern Region, Ft Worth. |
| | Dir, Salt Lake City Region. |
| | Dir, Alaska Region, Anchorage. |
| | Dir Eastern Region NWS. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Director Central Region. |
| Natl Institute of Standards & Technology | Assoc Dir for International & Academic Affs. |
| | Dir, Ofc of Res & Technology Applications. |
| | Dep Dir Center for Chemical Technology. |
| | Director for International & Academic Affairs. |
| | Assoc Dir for Programs, Budget, and Fianance. |
| | Dir, Office of Technology Commercialization. |
| | Chf, Phy Meas S/P Ofc of Measurement Services. |
| | Chief, Program Office. |
| | Dep Assoc Dir for International Affairs. |
| | Chf Standard Reference Materials Program. |
| | Director, Center for Chemical Technology. |
| | Director for Academic Affairs. |
| | Associate Director for Quality Programs. |
| | Dep Assoc Dir for Industry & Standards. |
| | Associate Director. |
| | Dir, Office of Standards Services. |
| | Dir, Ofc of Inventions Evaluation Programs. |
| | SR Advr to the Dir, Technology Services. |
| National Measurement Lab | Senior Mathematical Statistician. |
| | Chief Molcular Phsics Div. |
| | Chief Inorganic Analytical Research Division. |
| | Chief Gas and Particulate Science Division. |
| Deputy Director for Programs | Deputy Director for Programs. |
| | Director, Standard Reference Data. |
| Center for Basic Standards | Dir, Center for Basic Standards. |
| | Chief, Electricity Division. |
| | Senior Scientist. |
| | Senior Scientist & Fellow of JILA. |
| | Senior Scientist & Fellow of JILA. |
| | Chief, Atomic and Plasma Radiation Division. |
| | Physicist (Nuclear). |
| | Group Leader for Far Ultraviolet Physics. |
| | Dir, Cntr for Atomic, Molecular & Optical Phy. |
| | Chief, Quantum Metrology Division. |
| | Mgr, Fundamental Constants Data Center. |
| | Chief, Time and Frequency Division. |
| | Chief, Surface Science Div. |
| | Mgr, Tech Applications of Measurement Stds. |
| | Dep Dir, Cntr for Molecular & Optical Phy. |
| Organization Abolished | Chief, Quantum Physics Division. |
| Center for Analytical Chemistry | Director-Center for Analytical Chemistry. |
| | Chief Organic Analytical Research Division. |
| Center for Radiation Research | Dir Center for Radiation Research. |
| | Dep Dir, Ctr for Radiation Research. |
| | Chief Radiometric Physics Division. |
| Ionizing Radiation Division | Chief Ionizing Radiation Division. |
| Center for Radiation Research | Physicist (Nuclear). |
| | Chief Radiation Physics Division. |
| Materials Science & Engineering Laboratory | Dir, Materials Sci & Eng Laboratory. |
| | Chief, Reactor Radiation Division. |
| | Senior Scientist. |
| | Physicist (Solid State). |
| | Group Leader for Crystallography. |
| | Chf, Ofc of Nondestructive Evaluation. |
| | Chf, Metallurgy Division. |
| | Chief, Polymers Division. |
| | Scientific Assistant to the Director, IMSE. |
| | Chief Materials Reliability Div. |
| | Manager, Cold Neutron Program. |
| | Chief Ceramics Division. |
| | Dep Dir, Materials Sci & Eng Lab. |
| | Chief, Reactor Operations. |
| Reactor Radiation Division | Group Leader Neutron Condensed Matter Science. |
| Center for Chemical Physics | Director Center for Chemical Physics. |
| | Deputy Director, Center for Chemical Physics. |
| | Chief, Chemical Process Metrology Division. |
| National Engineering Lab | Assoc Dir for Technical Evaluation. |
| | Chf, Office of Energy Related Inventions. |
| Center for Fire Research | Director-Center for Fire Research. |
| | Chief, Fire Measurement & Research Division. |
| | Deputy Director, Center for Fire Research. |
| Center for Building Technology | Dir, Center for Building Technology. |
| | Deputy Director, Center for Building Tech. |
| | Chief, Structures Division. |
| | Chf, Building Materials Div. |
| | Chief, Building Envirnment Division. |
| Ctr for Manufacturing Engring | Dir, Center for Manufacturing Engineering. |
| | Chief, Precision Engineering Division. |
| | Chief, Robot Systems Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Program Manager Automated Manufacturing Res. |
| | Chief, Factory Automation Systems Division. |
| | Chief, Thermophysics Division. |
| Center for Applied Mathematics | Dir, Ctr for Computing & Applied Mathematics. |
| | Dep Dir, Ctr for C & A Mathematics. |
| | Chief, Computer Services Division. |
| | Chief Scientific Computing Division. |
| | Chief, Statistical Engineering Division. |
| | Asst dir for Management Information Technolog. |
| | Associate Director for Computing. |
| Center for Electronics and electrical Engring | Dir, Ctr for Electronics & Electrical Eng. |
| | Chief, electrosystems Division. |
| | Chf-Electromagnetic Technology Division. |
| | Senior Research Scientist. |
| | Chief, Electricity Division. |
| | Dep Dir, Ctr for Electronics & Electrical Eng. |
| | Chief Semiconductor Electronics Division. |
| | Associate Director for Program Development. |
| Organization Abolished | Deputy Director Ctr for Chemical Engineering. |
| | Director Center for Chemical Engineering. |
| National Computer Systems Laboratory | Chief systems & Network Architecture Division. |
| | Chf, Advanced Systems Division. |
| | Chf, Infor syst Engineering Division. |
| | Chf, Systems Software Technology Division. |
| | Associate Director for Computer Security. |
| | Chief, Computer Security Division. |
| Patent and Trademark Administration | Asst Commissioner for Finance and Planning. |
| | Assistant Commissioner for External Affairs. |
| | Dir. Office of Interdisciplinary Programs. |
| Office of Assistant Commissioner for Patents | Adm'r for Documentation. |
| | Dep Assistant Commissioner for Administration. |
| Chemical | Group Director—110. |
| | Group Director—20. |
| | Group Director—130. |
| | Group Director—150. |
| | Group Director—180. |
| | Deputy Group Dir—150. |
| | Deputy Group Director—180. |
| Electrical | Group Director—260. |
| | Group Director—210. |
| | Group Director —220. |
| | Group Director—230. |
| | Group Director—240. |
| | Group Director—250. |
| Mechanical | Group Director—310. |
| | Group Director—320. |
| | Group Director—330. |
| | Group Director—340. |
| | Group Director—350. |
| Office of Assistant Commissioner for Trademarks | Chairman, Trademark Trial & Appeal Board. |
| | Deputy Asst Commissioner for Trademarks. |
| | Director, Trademark Examining Operation. |
| Commodity Futures Trading Commission: | |
| Office of the General Counsel | Deputy General Counsel (Opinions & Review). |
| | Deputy General Counsel (Litigation). |
| | Deputy General Counsel (Reg & Adm). |
| Office of the Executive Director | Dep Exec Dir. |
| | Dir, Ofc in Information Resources Mgmt. |
| Office of Economic Analysis | Dep Chf Economist. |
| | Chf, Analysis Section. |
| | Associate Director for Surveillance. |
| | Director of Economic Research. |
| Division of Enforcement | Deputy Director (Western Operations). |
| | Deputy Director (Eastern Operations). |
| Division of Trading and Markets | Deputy Director (Contract Markets). |
| | Chief Counsel. |
| Consumer Product Safety Commission: | |
| Ofc of Executive Dir | Associate Executive Dir for Field Operations. |
| | Dir, Office of Program Management & Budget. |
| Office of Aed for Epidemiology | Associate Exec Dir for Epidemiology. |
| Ofc of Aed for Compliance & Administrative Litigation | Assoc Exec Dir for Compl & Admin Litigation. |
| Ofc of Aed for Administration | Assoc Exec Dir for Adm. |
| Ofc of the Aed for Economics | Associate Executive Director for Economics. |
| Ofc Secy of Defense: | |
| Office of the Secretary | Asst to the Secy of Defense (Intel Oversight). |
| Ofc of Deputy Under Secy for Policy | Dir, C/I Programs. |
| Ofc of Asst Secy (Solic) | Asst for Res Assessment & Acquisition Issues. |
| Director Operational Test and Evaluation | Dir, Strategic Def Syst Operational Test Org. |
| | Dep Dir for Resources & Administration. |
| OFC of Inspector General | Deputy Inspector General. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Asst Inspector General for Investigations. |
| | Dep Asst Inspector Gen for Investigations. |
| | Dep Asst Inspector General for Inspections. |
| | Assistant Inspector General for Auditing. |
| | Asst Inspector Genl for Analysis & Followup. |
| | Asst Insp Gen for Adm & Info Management. |
| | Aig for Departmental Inquiries. |
| | Asst I/G for Criminal Investigations P & O. |
| | Dep Asst Inspector Gen for Adm & Info Mgmt. |
| | Dir, Audit Planning & Technical Support. |
| | Dep Asst Insp Gen for Audit, Pol & Oversight. |
| | Director, Acquisition Management. |
| | Director, Logistics Support. |
| | Director, Contract Management. |
| | Dir, Readiness & Operational Support. |
| | Director, Financial Management. |
| | Asst Inspector Gen for Audit, Pol & Oversight. |
| | Deputy Asst Inspector General for Auditing. |
| | Dep Asst Insp Gen for Insp S & T Evaluation. |
| | Asst Ig for Inspections. |
| | Freedom of Appellate Rev Auth Spec Proj Ofc. |
| | Asst Inspector General for Auditing. |
| | Dir for Investigative Operations. |
| Ofc of Asst Secy of Defense (Reserve Affairs) | Principal Director (Manpower and Personnel). |
| Ofc Dep Asst Sec (Civilian Personnel Policy & Req) | Dep Dir Compensation & Overseas Emply Policy. |
| | Dir for W/R, Training & Staffing Policy. |
| | Director, Personnel Management. |
| | Dept Dir C/E Stability, N/F Special Projects. |
| Ofc of Dir of DOD Dependents Schools | Dir Pacific Region Dodds. |
| | Director, Germany Region. |
| | Dep Dir Dep of Defense Dependents School. |
| | Assoc Dir for Financial, Logistl, & Info Mgmt. |
| ODASD (Mobilization Planning & Requirements) | Asst Dir for Syst Engineering & Integration. |
| Office Assistant Sec Health Affairs | Dir, Defense Medical Systems Support Center. |
| | Das of Defense for Medical Resource Adm. |
| Office of Assistant Secretary, Public Affairs | Dir, Freedom of Information & Security Review Dep Dir, Armed Forces Radio & Television Serv. |
| DASD (Theater Assessments & Planning) | Assistant for Planning. |
| Washington Headquarters Services | Director of Personnel and Security. |
| | Dep Dir, Real Estate & Facilities. |
| | Dep Dir, Personnel and Security. |
| Office of the General Counsel | Chief Counsel to the Inspector General. |
| Ofc of Under Secy of Def for Acquisition | Exec Director, Adv Boards & Committees. |
| | Adusd (Asia/Southern Hemisphere Affairs). |
| | Deputy Dir Program Assessment. |
| | Dep Dir, Program & Budget Integration. |
| | Dir, DOD Contracted Advisory & Asst Services. |
| | Asst Dep Under Secy of Def (Plnng & Eval). |
| | Asst Dep Under S/D (Manuf & Industrial Prog). |
| | Asst Dep Under S/D (Intl Technol & Trade). |
| | Asst Dep Under S/D (Intl Dev & Prod Prog). |
| Office of the DD (Test & Evaluation) | Director Test Facilities and Resources. |
| | Director Live Firetest. |
| | Director Weapon System Assessment. |
| | Director Special T&E Programs. |
| Ofc of DD (Research and Advanced Tech) | Dir (Engineering Technology). |
| | Staff Specialist for Vehicle Propulsion. |
| | Staff Specialist for Materials & Structures. |
| | Staff Specialist for Weapons Technology. |
| | Dir Environmental & Life Sciences. |
| | Staff Spec/Mobility, Logistics & Adv Concepts. |
| | Dir, Research & Laboratory Management. |
| | Spec Asst for MCTL & Long-Range Plnng Matters. |
| | Staff Spec for Electronic W/C, Ctrl & Comms. |
| | Staff Specialist for Electronic S/D. |
| | Staff Specialist for Spec Technology Programs. |
| | Dir, Balanced Technology Initiative. |
| Ofc of DD (Strategic & Theater Nuclear Forces) | Director Offensive and Space Systems. |
| | Director Defensive Systems. |
| | Dir Strategic Aeronautical & Theater N/S. |
| | Staff Specialist for Space & Advanced Systems. |
| | Staff Spec for Techn & Analysis (Off Sys). |
| | A/D Under S/D (Start & Arms Control). |
| | Staff Spec for Ball Missile Def Sys. |
| | Director Force Analysis Concepts and Plans. |
| Ofc of DD (Tactical Warfare Progs) | Asst Dep Under Secretary of Def (Air Warfare). |
| | Director, Naval Warfare & Mobility. |
| | Staff Spec for Interdiction/Naval Strike. |
| | Staff Specialist for Ground Air Defense Sys. |
| | Staff Spec, Close Air Sup/Battlefield Int. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Staff Specialist for Antisub & Mine Systems. |
| | Staff Spec for Naval Proj & Anti-Air Warfare. |
| | Director, Office of Munitions. |
| | Staff Spec Intertheater & Intratheater Mobil. |
| | Staff Specialist for Propulsion. |
| | Director, Land Warfare. |
| | Dir, Ofc of Conventional Initiatives. |
| | Spec Asst Dusd(Twp) for Tact Syst Acq Prog. |
| | Staff Spec for Ship Sys & Naval Technology. |
| Office of DD (Plans & Resources) | Deputy Director, Plans & Resources. |
| Ofc Dep Asst Secy (Installations) | Dir, Base Closure and Utilization. |
| Ofc Dep Asst Secy (Production Resources) | Dir Standardization & Acquisition Support. |
| | Dir Computer Aided Logistics Support Office. |
| | Dir, Industrial Productivity & Quality. |
| | Dep Dir for Manufacturing and Quality. |
| Ofc Dep Asst Secy (Procurement) | Dep Asst Sec of Defense (Procurement). |
| | Director Cost Pricing and Finance. |
| | Dir, Contract Policy and Administration. |
| | Dir, Defense Systems Procurement Strategies. |
| | Dir, Def Acquisition Reg Sys & Council. |
| | Dir Foreign Contracting. |
| | Asst for Acquisition Reform & Contract Simpl. |
| Ofc Dep Asst Secy (Environment) | Principal Dir (Environmental Restoration). |
| Ofc Dep Asst Secy (Systems) | Dir Acqusition Logistics & Production Supp. |
| Director, Electronic Combat | Asst Dir for Elec Combat C3 Countermeasures. |
| | Dir, Electronic Combat. |
| Director, Strategic & Theater Nuclear Forces | Dir Strategic & Theater Nuclear Forces C3. |
| | Staff Asst S/C, Control & Communications. |
| Director, Theater & Tactical C3 | Dir Theater & Tactical Commun Command & Contr. |
| | Dep Dir Theater & Tactical Command Control. |
| Director, National Intelligence Systems | Director National Intelligence Systems. |
| | Dep Dir, National Intelligence Systems. |
| Director, Tactical Intelligence Systems | Director Tactical Intelligence Systems. |
| | Dep Dir Tactical Intelligence Systems. |
| Director, Special Technology Support | Dir, Special Technology Support. |
| Director, Intelligence Resources & Training | Dir, Intelligence Resources & Training. |
| Director, Information Systems | Director, Information Systems. |
| Director, C3 Mobilization Systems | Director C3 Mobilization systems. |
| Organization Abolished | Dir Strategic & Critical Materials. |
| Organizaiton Abolished | Asst Dir. Elec Combat Sys (Elec Warfare). |
| Defense Advanced Research Projects Agency | Chief Advanced Technology. |
| | Special Assistant for Technology Assessment. |
| | Deputy Director, Management. |
| | Deputy Director. |
| Technology Assessment & Long Range Planning Office | Special Assistant for Special Operations. |
| Tactical Technology Office | Dir-Tactical Technology Office. |
| | Dep Dir Tactical Technology Office. |
| | Assistant Dir for Armor/Anti-Armor. |
| | Asst Dir Smart Weapons & Sensors. |
| | Assistant Director, Special Programs. |
| | Assistant Director, Undersea Warfare. |
| Advanced Vehicle Systems Technology Office | Dir, Advanced Vehicle Systems Technology Ofc. |
| | Deputy Director Aero-Space Technology Office. |
| | Deputy Director, Advanced Vehicle Systems. |
| | Assistant Director, Undersea Systems. |
| Information Science & Technology Office | Assistant Director, Electronics Sciences. |
| | Assoc Dir, Research. |
| | Executive Director (Software). |
| Defense Sciences Office | Dir Defense Sciences Office. |
| | Assistant Director for Material Sciences. |
| Defense Manufacturing Office | Dep Dir. Defense Manufacturing Office. |
| | Mgr M & M Wave Integrated Circuit Prog. |
| Contracts Management Office | Dir, Contracts Management Office |
| Nuclear Monitoring Office | Dir Nuclear Monitoring Research Ofc. |
| | Dep Dir, Nuclear Monitoring Res Office. |
| Office of the Joint Chiefs of Staff | Dep Dir for C3 Systems Integration. |
| | Dep Dir for Technical Operations. |
| Strategic Defense Initiative Organization | Assistant Director for Interceptors. |
| | Asst Dir for Sensors Demonstration. |
| | Assistant Director for Sensor Technology. |
| | Deputy Director, Resource Management. |
| | Asst Dir for Interceptors & Communications. |
| | Chief, Program Control. |
| | Director, Information Systems. |
| | Deputy for Program Operations. |
| Defense Contract Audit Agency | Director, DCAA. |
| | Deputy Director, DCAA. |
| | Assistant Director, Operations. |
| | Asst Dir, Policy & Plans. |
| | Director, Filed Detachment. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Regional Managers | Regional Director, Eastern. |
| | Regional Director, Northeastern. |
| | Regional Director, Central. |
| | Regional Director, Southwestern. |
| | Regional Director, Mid-Atlantic. |
| | Regional Director, Western. |
| | Deputy Regional Director Northeastern Region. |
| | Deputy Regional Dir Central Region. |
| | Deputy Regional Dir Western Region. |
| Defense Logistic Agency | Special Asst for Integrity in Contracting. |
| | Dir, Defense Manpower Data Center. |
| | Chief Actuary. |
| | Admr, Defense Logistics Agency Finance Center. |
| Directorate for Contract Management | Executive Directive, Contract Management. |
| | Chief, Plans, Policies & Systems Division. |
| | Chf, Plans, Policies & Systems Division. |
| Directorate of Quality Assurance | Dep Exec Dir, Quality Assurance. |
| Ofc of Staff Dir-Small & Disadvantaged Business Until | Staff Dir, Small & Disadv Busin Utilization. |
| Office of Civilian Personnel | Staff Director, Civilian Personnel. |
| | Deputy Staff Director, Civilian Personnel. |
| Directorate of Contracting | Executive Director, Contracting. |
| | Chief, Contracts Division. |
| Directorate of Program and Technical Support | Dep Exec Dir Program & Technical Support. |
| Directorate of Tech & Logistic Services | Chf, Property Disposal Div. |
| Defense Personnel Support Center | Exec Dir, Acquisition Mgmt Plan & Support. |
| Defense Training & Performance Data Center | Dir Defense Training and Performance Data Ctr. |
| Stockpile Management | Executive Director for Stockpile Management. |
| Ofc of Assoc Dir for Eng, Technol & Corporate Planning | Assoc Dir for Eng, Technology & Corp Plng. |
| Special Programs Organization | Dep Dir, Special Programs Organization. |
| | Spec Asst to the Dir, Spec Prog Organization. |
| National Communications System | Deputy Manager, Natl Communications Systems. |
| | Asst Mgr, NCS, Technology & Standards. |
| | Asst Mgr, NCS, Plans & Operations. |
| Center for Command, Control & Communications (C3) Sys | Dir, CTR for CMD, CTL & Communications Sys. |
| | Dep Dir, Theater Systems. |
| | Dep Dir, Mil Satellite Communication System. |
| | Dep Dir for Switched Network Engineering. |
| | Assoc Dir NMCS/WWMCCS Engineering Integration. |
| | S/A to the Dir, CPSI for Satellite Com Sys. |
| | Asst Dir for Prog Development & Coordination. |
| | Spec Asst to Dir, Ctr for C3 for Int Dig Arch. |
| | Dep Dir Strategic Systems Directorate. |
| Defense Communications System Organization | Dep Dir, Defense Comm System Organization. |
| | Dep Dir, DCS Telecommunications Networks. |
| | Deputy Director for DCS Integration. |
| Defense Communications Engineering Center | Dir, Def Communications Engineering Center. |
| Defense Commercial Communications Office | Dir Defense Commercial Communications Office. |
| Center for Agency Services | Director, Center for Agency Services. |
| Resource Management Directorate | Deputy Director, Resource Management. |
| Joint Data Systems Support Center | Director, Joint Data Systems Support Center. |
| | Tech Dir, WWMCCS Adp Tech Support Directorate. |
| | Deputy Director, NMCS Adp Directorate. |
| | Assoc Dir for Technical & Management Support. |
| Joint Tactical Command, Control & Communications Agency | Asst Dir for Washington Operations. |
| | Assistant Director, JTC3A. |
| | Dep Dir, Architecture Directorate. |
| | Deputy Director for Testing. |
| Office of the Director | Deputy Director. |
| | Special Assistant to the Deputy Director. |
| Acquisition Management Office | Dir, Acquisition Management. |
| Plans, Programs & Requirements Directorate | Director for Plans, Programs & Requirements. |
| Office of the Director, AFRRI | Scientific Director, AFRRI. |
| Operations Directorate | Deputy Director, Operations Directorate. |
| | Chief, Structural Dynamics Division. |
| Radiation Sciences Directorate | Dir for Radiation Sciences. |
| | Chief, Atmospheric Effects Division. |
| | Chief, Electronic Effects Division. |
| | Chief, Electromagnetic Applications Division. |
| Shock Physics Directorate | Director for Shock Physics. |
| | Chief, Weapons Effects Division. |
| Test Directorate | Director for Test. |
| | Chf, Nevada Operations Ofc, Test Directorate. |
| DMA Headquarters | Asst Dep Dir for Plans and Requirements. |
| | Director of Personnel. |
| | Asst Deputy Dir for Programming. |
| | Director of Acquisition. |
| | Dep Dir for Progs, Production & Operations. |
| | Dep Dir for Research & Engineering. |
| | Dep Dir, Management & Technology. |
| | Asst Dep Dir for Production & Distribution. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Deputy Dir for Transition Management. |
| | Asst Deputy Dir for Research & Engineering. |
| DMA Field Activities | Tech Dir, DMA Aero Center. |
| | Tech Dir, DMA Hydrographic-Topographic Center. |
| | Dep Dir for Prog, Prod & Operations DMA HTC. |
| | Dept Dir for Progs, Production and Operations. |
| | Chf, Digital Products Department AC. |
| | Chf, Digital Products Department HTC. |
| | Dep Dir for Program Integration & Operations. |
| | Tech Dir/Dep Dir, Combat Support Center. |
| | Chief, Scientific Data Dept. |
| | Chief, Scientific Data Department. |
| | Director, Systems Center. |
| | Technical Director, Reston Center. |
| | Dep Dir for Prog, Production and Operations. |
| | Dep Dir for Modernization Development. |
| | Dir Telecomm Ser C/D Dir for Info Systems. |
| | Chief, Digital Products Department. |
| | Chief, Data Services Department. |
| Defense Investigative Service | Dir, Defense Investigative Service. |
| | Deputy Director (Investigations). |
| | Dep Dir (Industrial Security). |
| | Deputy Director (Resources). |
| | Dir, Personnel Investigations Center. |
| Department of Air Force: | |
| Ofc of Administrative Assistant to the Secretary | Administrative Assistant to the Secy. |
| | Dep Administrative Assistant. |
| Ofc of Small & Disadv Bus Utilization | Dir, Ofc of Small & Disadv Bus Utilization. |
| Office of the Inspector General | Dep Asst Inspector Gen/Spec Investigations. |
| Office of ASAF for Financial Management & Comptroller | Dep Comptroller. |
| | Principal Dep Asst Secry (Financial Mgmt). |
| ODAS Budget | Deputy for Budget. |
| | Director of Budget Investment. |
| | Director of Budget Management & Execution. |
| | Deputy Director of Budget Operations. |
| ODAS Cost & Economics | Assoc Dir of Mgmt Analysis. |
| | Dir Cost Applications & Dir AF Cost Center. |
| ODAS Accounting, Finance & Banking | Dep Asst Secy (Acct, Banking & Finance). |
| | Deputy for Financial Policy & Banking. |
| Office of ASAF for Acquisition | Automated Info Syst Prog Executive Ofcr. |
| ODAS Acquisition Management & Policy | Dep Asst Secy (Acquisition). |
| | Dep for Acquisition. |
| | Competition Advocate General. |
| | Director, Test & Evaluation. |
| Directorate of Contracting & MFG Policy | Assoc Dir of Contracting & Manufacturing Pol. |
| ODAS Communications, Computers & Logistics | Dep for Supply, Maintenance & Log Plans. |
| | Dep for Transportation & Federal Aviation. |
| Ofc of ASAF for Manpower, Reserve Affairs, Install & Env | Dep for Air Force Review Boards. |
| ODAS Installations | Deputy for Installations Management. |
| Office of ASAF for Space | Deputy for Contracting. |
| Office, Asst Vice Chief of Staff | Chief Office of Air Force History. |
| Asst Chief of Staff for C3 and Computers | Dir of Technology & Architecture. |
| | Director of C4 Software, Architecture & Pol. |
| Ofc of Dep Chief of Staff, Logistics and Engineering | Assoc Dir for Logistics Plans & Programs. |
| | Chief Modification & O&M Programs Division. |
| | Chief Combat Support Programs Division. |
| | Assoc Dir for Engineering & Services. |
| | Deputy Director for Programs. |
| | Deputy Director for Construction. |
| | Assoc Dir of Maintenance Engineering & Supply. |
| Organization Abolished | Deputy Director of Programs and Evaluation. |
| Office of Deputy Chief of Staff, Personnel | Dir of Civilian Personnel. |
| | Deputy Director of Personnel Management. |
| | Deputy Director for Plans and Requirement. |
| | Dep Dir for Work Force Effectiveness. |
| | Spec Project Ofcr for Personnel Management. |
| Air Force Systems Command | Principal Deputy ACS Personnel. |
| | Asst for Intelligence. |
| | Chief Engineer. |
| DCS/Contracting | Prin Asst/Contracting & Manufacturing. |
| | Dir Contract Clearance & Policy Development. |
| DCS/Engineering & Technology Management | Principal Asst DCS/Product A/A Logistics. |
| | Technical Director, Product Assurance. |
| Deputy Chief of Staff/Comptroller | Asst to the DCS/Comptroller. |
| DCS/Technology | Asst Dep Chief of Staff/Plans and Programs. |
| | Director of Plans & Programs. |
| Space Systems Division | Asst for Acquisition Management & Competition. |
| | Deputy Program Dir Launch Systems. |
| Air Force Space Technology Center | Deputy Director (AFSTC). |
| Space Physics Division | Dir, Space Physics Div, AFGL. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Meterology Division | Ch, Atmospheric Structure Br. |
| Optical & Infrared Technology Division | Director Optical & Infrared Technology Div. |
| Astronautics Laboratory | Dir, Astronautics Laboratory. |
| | Dir, Solid Rocket Div. |
| Electronic Systems Division | Executive Director. |
| | Asst Dep for Contracting & Manufacturing. |
| | Assistant Deputy Commander/Tactical Systems. |
| | Tech Dir, Dep CMD Tactical Syst, J-TIDS/AWACS. |
| | Technical Director. |
| | Prog Dir for Air Base Decision Systems. |
| | Deputy for Product Assurance & Acquis Logist. |
| Rome Air Development Center | Director (Plans). |
| | Techn Dir (Intelligence & Reconnaissance). |
| | Technical Dir (Surveillance). |
| | Technical Director (Command & Control). |
| Aeronautical Systems Division | Deputy Comptroller. |
| Deputy for Development Planning | Director (Mission Analysis). |
| Deputy for Contracting & Manufacturing | Asst Deputy for Contracting & Manufacturing . |
| Deputy for Engineering | Engineering Advisor Product Assurance Engr. |
| | Technical Dir Avionics Engineering. |
| | Dir, Flight Systems Engineering. |
| | Director, Systems Engineering. |
| Directors of Engineering | Director of Engineering (F-16). |
| | Dir of Eng Reconnaissance & Elec Warfare Sys. |
| | Dir Engineering Propulsion Systems. |
| | Director of Engineering (Strategic Systems). |
| | Dir of Engineering (Advanced Technol Bomber). |
| | Dir of Eng, Advanced Tactical Fighter. |
| | Dir of Engineering C-17. |
| Systems Program Offices | Deputy Program Director Propulsion SPO. |
| | Deputy Program Director Systems SPO. |
| Wright Research and Development Center | Dir Manufacturing Technology Directorate . |
| Materials Laboratory | Dir, Metals & Ceramics Div. |
| | Dir, Metals & Ceramics Div. |
| | Dir, Nonmetallic Materials DN. |
| Organization Abolished | Technical Advisor, 3246 TW. |
| Foreign Technology Division | Technical Director (Aerospace Systems). |
| | Technical Director (Technology and Threat). |
| USAF School of Aerospace Medicine | Research Director (Crew Technology). |
| Aerospace Medical Research Lab | Dir, Toxic Hazards Div. |
| | Director Human Engineering. |
| Organization Abolished | Chief Scientist. |
| Air Force Development Test Center | Assistant for Contract Administration Service. |
| Air Force Logistics Command | Asst DCS—Comptroller. |
| | Asst Dep Chf of Staff, Maintenance. |
| | Chairman A F Logistics Command Procur Committ. |
| | Assistant DCS/PLANS & Programs. |
| | Director of Civilian Personnel. |
| | A/D Chf of Staff-Contracting & Manufacturing. |
| | Asst Dep to the Commander for Intl Logistics. |
| | Asst Deputy Chief of Staff, Materiel Mgt. |
| | Asst Deputy Chief of Staff Logis Magnt System. |
| | Asst Deputy Chief of Staff/Distribution. |
| | Asst to the Comdr AF Electornic Combat OFC. |
| | Principal Asst for Sci, Technol & Engineering. |
| | Special Asst for Depot Maintenance Mgt Sys. |
| Air Force Acquisition Logistics Center | Asst to the Commander AFALC. |
| | Asst to the Commander, Logistics Oper Center. |
| | A/D Aeronautical Prog AF Acquisition Log Ctr. |
| Air Logistics Center, San Antonio | Dep Dir, Directorate of Maintenance. |
| | Dep. Dir. Material Mgt. San Antonio Log. Ctr. |
| | Dep Director, Contracting and Manufacturing. |
| Air Logistics Center, Oklahoma City | Dep Dir, Directorate of Materiel Mgmt. |
| | Dep Dir, Directorate of Maintenance. |
| | Dep Director, Contracting and Manufacturing. |
| Air Logistics Center, Warner Robins | Deputy Director, Directorate of Materiel Mgt. |
| | Deputy Dir, Dir of Maintenance. |
| | Dep Director, Contracting and Manufacturing. |
| Air Logistics Center, Ogden | Dep Dir, Directorate of Maintenance. |
| | Deputy Director, Materiel Management. |
| | Dep Dir Contracting & Manufacturing. |
| Air Logistics Center, Sacramento | Dep Dir Directorate of Materiel Management. |
| | Dep Dir, Directorate of Maintenance. |
| | Dep Director Contracting & Manufacturing. |
| Air Force Audit Agency | Auditor General of the Air Force. |
| | Asst Aud Gen (Field Activities). |
| | Asst Aud Gen (Operations). |
| | Asst Aud Gen (Financial + Support Audits). |
| | Asst Aud Gen (Acq + Logistics Audits). |
| Electronic Security Command | Asst to the Commander. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Air Force Communications Command | Dir, Air Force Comms Computer Syst I/OFC. |
| | Deputy Commander Standard Systems Center. |
| Military Airlift Command | Asst Dep Chf of Staff/Air Transportation. |
| Strategic Air Command | Chief, Operations Analysis Division. |
| | Chief, Applied Research Division. |
| Tactical Air Command | Chief Scientist Tactical Air Warfare Ctr. |
| Headquarters, Pacific Air Forces | Chief, Operations Analysis. |
| U.S. Air Forces in Europe | Director of Civilian Personnel. |
| Shape Technical Centre | Deputy Director. |
| AF Space Command | Sr Scientist & Tech Advisor for Afspacecom. |
| AF Operational Test & Eval Ctr (AF OTEC) | Scientific Advisor (Test & Evaluation). |
| Air University | Director of Academic Affairs. |
| Joint Electronic Warfare Center (JEWC) | Technical Director. |
| Air Force Commissary Service | Deputy to the Commander, AF Commissary Serv. |
| Air Force Accounting & Finance Center | Dep Asst Comptroller for Accounting & Finance. |
| | Director of Plans & Systems. |
| | Dir, Security Assistance Accounting Center. |
| U.S. Central Command | Scientific Advisor. |
| Department of Army: | |
| Office of the Under Secretary | Operations Research Analyst. |
| | Chf, Ops Res Analyst for Forces & Readiness. |
| | Operations Research Analyst for Systems. |
| | Opers Research Analyst for Cmd. Cont, C&I. |
| | Special Asst to the Under Secretary. |
| Ofc of the Administrative Assistant | Adm Asst to the Secy of the Army. |
| | Dep Administrative Assistant. |
| | Director, Defense Supply Service—Washington. |
| HQDA Army Acquisition Executive | Dep Prog Mgr, Light Helicopter Program. |
| | Deputy Peo, Close Combat Vehicle. |
| | Program Exec Officer—Strategic Info Sys. |
| | Dep Prog Exe Ofcr, Army Cmd & Ctrl Syst. |
| | Deputy Prog Executive Officer Comm Systems. |
| | Dep Program Executive Officer, Fire Support. |
| | D/Prog Exec Ofcr Hgh Med Air Def/Thr Msle Def. |
| | Peo Troop Support. |
| | Program Executive Officer Stamis. |
| | Prog Exec Ofc for Chemical/Nuclear. |
| | Progr Exec Officer, Close Combat Armament. |
| | Program Manager Sustaining Base Network. |
| | Dep Program Executive Officer for Aviation. |
| | Dep Peo, Intelligence & Electronic Warfare. |
| | Program Executive Officer, Combat Support. |
| Dir of Infor Sys for Command, Control, Comms & Computers | Army Spectrum Manager. |
| | Ofc, U.S. Army Info Syst & Sel Acq Activity. |
| | Dir Command Systems Integration Agency. |
| | Vice Dir For information Management. |
| OASA Research Development and Acquisition | Dir for Program & Technology Assessment. |
| | Dep Dir US Contracting Support Agency. |
| | Chief, Policy & Procedures Division. |
| | Assistant Deputy for Plans & Programs. |
| ODASA Research and Development | Dep Asst Secy for Res & Tech Scientist. |
| | Dir for Program Review. |
| | Dir for Space and Strategic Systems. |
| | Director for Research Laboratory Management. |
| | Director for Technology. |
| | Director for Adv Concepts & Tech Assessment. |
| ODASA Systems Mgmt Integration & Coord | Dir Sys Mgt Integ & Coordination Ofc. |
| ODASA Procurement | Deputy Asst Secy of the Army (Procurement). |
| | Director for Procurement Policy. |
| ODASA Management and Programs | Deputy for Program Evaluation. |
| | Dep Asst Secy for Plans & Programs. |
| Ofc of Asst Secretary (Installations, Logistics & Envmt) | Dep for Programs & Install Assistance. |
| | Dep Program Exec Officer for Chem-Demil. |
| Ofc of Asst Secy (Financial Mgmt) | Assistant Deputy ASA for Army Budget. |
| | Assoc Dep Assistant Comptroller. |
| | Deputy Director of Operations & Maintenance. |
| | Deputy for Cost Analysis. |
| | Dir Investment Directorate. |
| | Dep Asa for Review & OVersight. |
| | Dep Asa for Finance & Accounting. |
| | Special Asst for Finance & Accounting. |
| | Spec Adv for Economic Pol & Productivity Prog. |
| | Dir of Fin Management System Integration. |
| | Deputy Director Operations Directorate. |
| Off of Asst Secretary, Manpower & Reserve Affairs | Dep Asst Secy (Rev Bds & EEO Compl). |
| Ofc of Asst Secretary Civil Works | Deputy for Policy & Evaluation. |
| | Deputy for Management and Budget. |
| | Deputy for Plnng Pol & Legislation. |
| | Deputy for Project Management. |
| Office, Director of Army Staff | Dep Dir of Management (Installation M & R). |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Office, Deputy Chief of Staff, Intelligence | Director Missle & Space Intelligence Center. |
| | Deputy & Technical Director, FSTC. |
| | Deputy Director, US Army Intelligence Agency. |
| USA Strategic Defense Command Huntsville AL OSCA FOA | Proj Mgr, Ground Based Interceptor Proj OFC. |
| | Director, Directed Energy Weapons Directorate. |
| | Proj Mgr High Endo Atmos Def Int Proj. |
| | D/S Lethality & Key Technologies Directorate. |
| | Dir Kinetic Energy Weap Directorate. |
| | Chief, Battle Management Division. |
| | Prin Assistant Resp. for Contracting. |
| | Chief, Passive Sensors Division. |
| | Chf, Active Sensors Div Sensors Directorate. |
| | Chf, Discrimination Div Sensors Directorate. |
| | Dir, Advanced Technology Directorate. |
| | Proj Mgr, G-B Surveillance & Tracking Syst. |
| Program Management Systems Development | Dir, Program Management Systems Dev Agency. |
| Army Center of Military History | Chief Historian, Army Ctr of Military History. |
| Office, Dep Chief of Staff for Personnel | Director for Manprint. |
| | Director of Manpower. |
| | Dir, Test and Evaluation Management Agency. |
| Directorate of Civilian Personnel | Director of Civilian Personnel. |
| | Dep Director of Civilian Personnel. |
| | Chief Employment and Classification Office. |
| US Total Army Personnel Command | Director, Civilian Personnel Mgt. |
| Army Research Institute for Behavioral & Social Sciences | Dir. Systems Rsch Lab & Assoc Dir ARI. |
| | Dir, Trng Res Lab & Assoc, Ari.. |
| | Dir, Manp & Pers Res Lab & Assoc Dir, Ari. |
| Office, Deputy, Chief of Staff for Logistics | Asst Director for Supply Mgmt. |
| | Asst Dir for Maintenance Mgmt. |
| | Spec Asst to DCSLOG & Chf Av Log OFC. |
| | Asst Dir for Transportation. |
| | Asst Dir for Energy & Troop Support. |
| | Deputy for Troop Support Agency. |
| | Director for Security Assistance. |
| | Director for Resources and Management. |
| | Executive Director, Strategic Logistics Agcy. |
| Army Audit Agency | The Auditor General, U.S. Army. |
| | Deputy Auditor General. |
| | Director, Logistical & Financial Audits. |
| | Director, Acquisition & Systems Audits. |
| | Dir Personnel and Force Management Audits. |
| | Dir Audit Policy Plans and Resources. |
| | Regional Auditor General (European Region). |
| | Director Acquisition & Systems Audits. |
| Ofc Dep Chf of Staff for Operations & Plans | Tech Adv. |
| | Technical Director, US Army Nuc & Chem Agency. |
| | Dir. US Army Ctr of Mil His & Chf of Mil His. |
| US Army Information Systems Command | Dir. Info Systems Command Pentagon. |
| Concepts Analysis Agency (OCSA) | Assistant Dir for Res and Analysis Support. |
| U.S. Army Med Res Inst of Infectious Dis. Ft Detrick Md | Deputy for Science. |
| Training and Doctrine Command (TRADOC) | Scientific Advisor to CG. |
| | Scientific Advisor. |
| | Asst Deputy Chief Staff Personnel Admin Logis. |
| | Asst Deputy Chief of Staff for Resources Mgmt. |
| | ADCOS for Training Policy Plans and Programs. |
| Combat Developments Experimentation Command | Dir. USA Combat Develop Experimentation Ctr. |
| TRADOC Analysis Command | Director of Operations. |
| | Deputy Director, TRAC. |
| | Director of Operations. |
| TRADOC Combined Arms Test Facility | Scientific Advisor. |
| Military Traffic Mgmt Commd | Special Assistant for Transportation Engr. |
| | Executive Director. |
| U.S. Army Forces Command | Civilian Personnel Director. |
| | Deputy Comptroller. |
| U.S. Army Corps of Engineers | Chief, Office of Personnel. |
| | Director Resource Management. |
| | Dir. Engineering and Housing Support Center. |
| Directorate of Civil Works | Deputy Director, Civil Works. |
| | Chf-Ofc of Policy. |
| | Chf, Programs Div. |
| | Chf-Planning Division. |
| | Chief Dredging Division. |
| | Chief Operations & Readiness. |
| | Chief Engineering Division. |
| | Chf, Ops, Construction & Readiness Division. |
| Directorate of Engineering & Construction | Dep/Dir Engineering and Construction. |
| | Deputy Chief Construction Division. |
| | Chief Construction Division. |
| | Chief Engineering Division. |
| | Chief, DAEB, Engineering Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Directorate of Military Programs | Deputy Director, Military Programs. |
| Board of Engineers for Rivers and Harbors | Tech Dir. Bd Engr Rivers and Harbors. |
| Planning Divisions, COE | Chf Planning Div. Ohio River Div. |
| | Chf Planning Div. No Pacific Div. |
| | Chf, Planning Div, South Atlantic Div. |
| | Chief, Planning Div Lower Miss Valley Div. |
| | Chf, Planning Div, South Pacific. |
| | Chief Planning Div, N. Atlantic Div. |
| | Chf Planning Div-Southwestern Div. |
| | Chf Planning Dir North Central Div. |
| Engineering Divisions, COE | Chief, Engineering Div., Ohio River Div. |
| | Chief, Engineering Div., Southwestern Div. |
| | Chief, Engineering Div., N. Central Div. |
| | Chief, Engineering Div., S. Pacific Div. |
| | Chief, Engineering Div., N Atlantic Div. |
| | Chief, Engineering Div., S. Atlantic Div. |
| | Chief, Engineering Div Lower Miss Div. |
| | Chief, Engineering Div. Missouri River Div. |
| | Chief, Engineering Div, North Pacific Div. |
| | Chief, Engineering Div, Pacific Ocean Div. |
| | Chf Engineering Div, Europe Div. |
| | Chief Engineering Div, Huntsville Div. |
| Construction Divs-Coe | Chief Construction-Operations Div Satl. |
| | Chief Construction-Operations Div S Western. |
| | Chief Construction-Operations Div, Ohio River. |
| | Chief Construction-Operations Div, LR MS VAL. |
| | Chief Construction Operations Division. |
| | Chief Construction Operations Division. |
| | Chief Construction-Operations Div, Natl. |
| | Chief Construction-Operations Div Pacific. |
| | Chf, Construction-Operations Division. |
| Army Materiel Command (AMC) | Chief Scientist. |
| | Deputy Chief of Staff for Production. |
| Office of DCS Supply Maintenance & Transportation | Asst Dcs for Supply Maintenance & Trans. |
| Office of the Chief of Staff | Dep Chief of Staff for Product Assur/Testing. |
| Ofc Dep Cmdg Gen Material Dev Darcom | Prin Asst Dep for Res Develop and Acquisition. |
| | Asst Dep Int'l Cooperative Programs. |
| Dir for Devel Engineering & Aquisition | Asst Dcs Develop Engineering & Acquisition. |
| | Asst Dcs Acquisition Management. |
| | Asst Dcs for Program Management. |
| Ofc Dep Cmdg Gen Matl Readiness | Asst Dep for Materiel Readiness. |
| Direc for Material Management | Asst Dep Chf of Staff for Policy & Procedures. |
| Asst Chf of Staff for Ammunition | Asst Deputy Chief of Staff for Ammunition. |
| Office of DCS for Procurement | Asst DCS for Readiness. |
| Office of DCS for Procurement | Asst DCS for Procurement. |
| Direc for Test, Measurement & Diag Eq | Deputy Executive Director for Tmde. |
| Direc for Personnel Tng & Force Dev | Asst Deputy Chf of Staff for Personnel. |
| Office of Comptroller Darcom Hq | Adcs for Resource Mgmt. |
| | ADCS for Cost Analysis. |
| Program Analysis & Evaluation Directorate | Dcs for Program Analysis & Evaluation. |
| USA Security Affairs Command | Deputy. |
| Systems Integration Management Activity | Dir Automated Logistics Mgt. Systems Activity. |
| | Dir, Syst Integration Mgmt Activity. |
| Armament, Munitions & Chemical Command (MCCOM) | Comptroller. |
| | Deputy for Procurement and Production. |
| | Deputy for Logistics Readiness. |
| | Director of Product Assurance. |
| | Dep for Indust Preparedness & Installations. |
| Amccom, Ardec | A/Tech/Dir/ (Sys Development & Engineering). |
| | Assoc Tech Dir (Producib & Process Technol). |
| | Director, Armament Engineering Directorate. |
| Close Combat Armanentcenter | Chf Fire Control Systems Division. |
| Chemical Sys Lab Amccom | Dir Munitions Directorate. |
| | Director, Research Directorate. |
| U.S. Army Def Ammunition Center & School | Dir, U.S. Army Def Ammunition Center & School. |
| Aviation Systems Command (AVSACOM) | Dir of Procurement and Production. |
| | Dir Avionics Research & Development Act. |
| | Dep Director, Applied Technology Directorate. |
| | Logistics Director. |
| Aviation Research Development & Engineering Center | Dir US Army Aviation Res & Tech Activity. |
| | Director of Engineering. |
| | Director Aeroflight Dynamics. |
| | Director Propulsion Directorate. |
| | Director Aero Structures Dir. |
| Communications & Elect Comd (CECOM) | Comptroller. |
| | Dir, of Product Assurance and Test.. |
| US Army Communication Electronics Comm | Dir Communications/ADP Directorate. |
| | Assoc Techn Dir (Research & Technology). |
| | Dir, Comd, Control, C/I (C3I) L & R Center. |
| Program Mgr. Army Tactical Data Systems (CORADCOM) | Dir, Life Cycle Software Engineering Dir. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Depot Systems Command (DESCOM) | Deputy for Command Operations. |
| | Dep for Supply, Maintenance & Transp. |
| US Army Laboratory Command | ADC for Technology Planning & Management. |
| | Assoc Tech Dir for Elec Warfare and Intel. |
| Harry Diamond Labs (HDL) | Director, Harry Diamond Laboratories. |
| | Dir Technical Applications Lab. |
| Army Research Office (AMC) | Director, Materials Science Division. |
| | Dir, Engr Sci Div. |
| | Dir, Research & Technology Integration. |
| | Dir Chem & Bio Sci Div. |
| US Army Ballistic Research Laboratory | Chf, Sys Engineering & Concepts Analysis Div. |
| | Chief Interior Ballistics Division. |
| | Chief-Launch and Flight Division. |
| | Chief Terminal Ballistics Div. |
| | Chief Vulnerability Lethality Division. |
| Missile Command (MICOM) | Director for Procurement. |
| | Dir, Missile Logistics Ctr. |
| | Director of Product Assurance. |
| | Deputy for Procurement and Readiness.. |
| Research Development & Engineering Center | Dir for System Engineering & Production. |
| | Dir for Test and Evaluation. |
| | Director for Advanced Sensors. |
| | Associate Director for Systems. |
| | Director for Directed Energy. |
| Troop Support Command (TROSCOM) | Director of Procurement and Production. |
| | Deputy to the Commander. |
| Belvoir Research & Development Center | Dir, Combat Engineering Directorate.. |
| | Director, Logistics Support Directorate. |
| Natick Research Development & Engineering Center | Director Individual Protection Laboratory. |
| | Director, Science & Adv Tech Directorate. |
| | Dir Soldier Sustainment Directorate.. |
| Tank-Automotive Comd (TACOM) | Director of Resource Mgt. |
| | Dir for Procurement and Production. |
| | Director of Product Assurance & Test. |
| | Asst Deputy for Procurement and Readiness. |
| | Associate Director for Systems. |
| | Dir, Tank-Automotive Technology Directorate. |
| Test and Evaluation Command, (TECOM) | Technical Director Combat Syst Test Activity. |
| | Dir for Test and Assessment.. |
| Army Materiel Systems Analysis Activity | Director. |
| | Chief Combat Support Div. |
| | Chief Air Warfare Div. |
| | Chief, Reliability, Availability & Maintainabil. |
| | Chief, Ground Warfare Division-AMSAA. |
| | Chief, Logistics Readiness & Analysis Division. |
| Army Information Systems Command | Deputy Chief of Staff for Resource Management. |
| | Technical Director. |
| Headquarters, U.S. Army, Europe | Asst Dep Chf of Staff, Personnel (Civ Pers). |
| | Asst Dep Chief of Staff Eng for Eng & Housing. |
| | Asst Dep Chf of Staff, Resource Mgmt USAREUR. |
| Army Intel and Security Command | Deputy for Policy & Development. |
| Acisa, NATO | Asst Dir, Command, Control and Comms Syst. |
| Defense Systems Management College | Deputy Commandant (PROVOST). |
| DOD Wage Fixing Authority | Director, Technical Staff. |
| National Defense University | Dir. Information Resources Management College. |
| Department of Navy: | |
| Office of the Secretary | Dir, Naval Industrial Management Program. |
| Office of the Under Secretary of the Navy | Assistant for Administration. |
| Office of the Auditor General | Auditor General of the Navy. |
| Naval Audit Service | Director, Plans and Policy. |
| | Dir, Naval Audit Service Western Region. |
| | Dir, Naval Audit Service Capital Region. |
| | Director, Plans and Policy. |
| | Director, Audit Operations. |
| Ofc of the Assit Secy of Navy (Manpwr & Res Affs) | Staff Dir Dir Manpower Analysis Staff. |
| Office of Civilian Personnel Management | Dir, Ofc of Civilian Personnel Management. |
| | Associate Director (OCPM-30). |
| | Associate Director (OCPM-20). |
| | Associate Director (OCPM-10). |
| OCPM—Pacific Region | Director Pacific Region. |
| OAS of Navy (Installations & Environment) | Director, Contracts & Business Management. |
| | Asst Dep Chf Nav Mat (Reliability and Eng). |
| | Assistant Director, Contracts & Pricing Div. |
| | Specification Control Advocate General. |
| OAS of the Navy (Research, Dev & Acquisition) | Program Exec Ofcr, Expeditionary Force Prog. |
| | Dir, Acquisition Workforce Policy. |
| | Dir for Low Observable & Technol & Spec Prog. |
| | Deputy Director, Air Warfare. |
| Program Executive Officers | Director, Plans & Programs Division. |
| | HD, Guidance Section. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Head Fire Control Section. |
| | Head Operations Engineering Section. |
| | Test & Instrumentation Branch Engineer. |
| | Branch Engr, Launcher Branch. |
| | HD, Navigation Equip Sect. |
| | Chf Engr, Missile Branch. |
| | Chief Engr. |
| | Br Engr Fire Control & Guidance Br. |
| | Branch Engr, Ship Installation & Design Br |
| | Dep Prog Mgr, Seawolf Class Submne Acq Prog. |
| | Asst Dep Comm ASW & Undersea Warefare Sys. |
| | Program Manager, MK-50 Torpedo Program Office. |
| | Prog Dir, Air, for Weapon & Armament Programs. |
| | Prog Dir/Air for EW & Mission Support Prog. |
| | Sect Head, Reentry Systems Sect, Missle Br. |
| | Deputy Logistics Support Coordinator. |
| | Dep P/E Officer for Unmanned Aerial Vehicles. |
| | Director Plans & Programs Division. |
| | Deputy Director, Plans & Programs Division. |
| | Head, Resources Branch. |
| | Branch Engineer, Navigation Branch. |
| | Dep P/E Officer for Cruise Missiles Program. |
| | Prog Mgr for Comms (RF) Satellite Systems. |
| | Dep Prog Dir, Space & Sensor Sys Directorate. |
| | Asst for Systems Integration & Compatibility. |
| | Dep Prog Exec Ofcr for Asw, A/S Mission Prog. |
| | Dep Prog Exec Ofcr for Tactical Air Programs. |
| | Exec Dir, Aegis Shipbuilding Program. |
| Ofc of the Asst Secy of Navy (Financial Management) | Spec Asst for Info Res Mgmt (IRM) Cost Anal. |
| | Assoc Dir, Information Resources Management. |
| Naval Center for Cost Analysis | S/A for Cost A/T Dir, Naval Ctr for Cost Anal. |
| Office of the Comptroller of the Navy | Assoc Dir, Budget & Reports/Fiscal Manag Div. |
| | Exec Asst Compt for Financial Mgmt Systems. |
| | Counsel. |
| | Dir, Investment & Dev Div. |
| | Dir, Budget & Mgmt, Policy and Procedures Div. |
| | Exec Asst Comptroller for Accounting Policy. |
| | Dir, Budget Evaluation Group. |
| | Director Financial Control Division, |
| | Director, Civilian-Contractor Manpower Div. |
| Navy Comptroller Standard Systems Activity | Dir, Navy Comptroller Standard Syst Activity. |
| Office of the Naval Inspector General | Deputy Naval Inspector General. |
| Office of the General Counsel | Asst General Counsel (Acquisition) |
| | Asst Gen Counsel (Civilian Personnel Law). |
| Director-Naval Administration/Asst Vice CNO | Dir Naval History/Dir, Naval Historical Ctr. |
| | Asst for Educational Resources. |
| | CNO Executive for Total Quality Management. |
| Director, Navy Program Planning | Head, Studies & Analysis Branch. |
| | Asst Dir, for Readiness Appraisal. |
| | Deputy Director for Programming. |
| | Head, Logistics & Fleet Support Branch. |
| Director Naval Medicine & Surg General | Director Resources Division. |
| Director Space Command and Control | Dir, Electromagnetic Spectrum Management. |
| Director, Naval Warfare | Advanced Technology Advisor. |
| | Technical Director. |
| | Techn Dir, Naval Warfare Anal A/F Level Plans. |
| Office of the Oceanographer of the Navy | Technical Director. |
| Advanced Technology Development Branch | Director, Advanced Tech Dev Branch. |
| Director, Naval Intelligence | Technical Director. |
| | Advisor for Research & Development Programs. |
| | Deputy Director of Naval Intelligence. |
| | Director, Special Liaison Group. |
| | Asst for History/Intelligence Community Affs. |
| DCNO (Manpower, Personnel & Training) | Dir, Total Force Info Res & Sys Mgnt Div. |
| | Dir, Civilian Personnel Programs Division. |
| Office ACNO (Undersea Warfare) | Tech Dir, Submarine & SSBN Security Program. |
| Office DCNO (Logistics) | Dir, Ilsp. Technol & Assessment Division. |
| | D/Dir Joint Operatnl Logis Plans & Progs Div. |
| | Director Strategic Sealift Division. |
| Office ACNO (Air Warfare) | Spec Asst for Aviation Budget and Acquisition |
| | Special Asst for Technology and Analysis. |
| Naval Military Personnel Command | Dir Military Pay Financial Mgmt Directorate. |
| Navy Personnel Rsch & Devl Center | Technical Director, NPRDC. |
| Naval Observatory | Dir, Time Service Div. |
| Naval Data Automation Command Headquarters | Technical Director. |
| | Dir, Naval Data Automation Command. |
| Naval Investigative Service Command | Dep Dir, Naval, Investigative Service. |
| Naval Technical Intelligence Center | Technical Director. |
| | Director of Analysis. |
| Bureau of Medicine & Surgery | Dep Commander for Fin Mgmt & Comptroller. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Naval Medical Research Institute | Scientific Director |
| Military Sealift Command | Counsel. |
| | Engineering Officer. |
| | Comptroller. |
| | Deputy Commander. |
| Naval Tactical Support Activity | Dir, Navy Tactical Support Acty. |
| Naval Space Command | Technical Director. |
| Naval Oceaography Command | Technical/Deputy Director. |
| Ofc of Commander, Operational Test & Evaluation Force | Technical Director. |
| Ofc of Commander in Chf/Allied Forces/Southern Eur | Director, Tactical Development & Training. |
| Office of the Commander-in-Chief, U.S. Pacific Fleet | Deputy Fleet Inspector General |
| Ofc of the Commander-in-Chief, U.S. Pacific Command | Scientific Advisor. |
| | Chief, Research & Analysis. |
| Ofc of the Chief of Naval Education and Training | Comptroller. |
| | Deputy Chief of Naval Education & Training. |
| | Director NROTC Selection and Placement. |
| Executive Development Cadre | Director, Civilian Resources Management Dir |
| | Science and Technology Advisor. |
| | Technology Assessment Consultant. |
| | Asst for RDT&E/Acquisition Management. |
| | Spec Asst for Total Quality M&S Acquisition. |
| | Spec Asst Prin Dep Asst Secy Navy (Res E & S). |
| | Spec Asst to the Chf Engineer of the Navy. |
| Naval Air Systems Command Headquarters | Deputy Dir Logistics/Fleet Support & Group. |
| | Executive Director, Management Plans & Progr. |
| | Exec Dir Acquisition Mgt. |
| | Exec Dir, Procurement Management. |
| | Deputy Comptroller. |
| | Counsel, Naval Air Systems Command. |
| | Technical Director, Weapons Engineering Div. |
| | Dir, Engineering Sup & Prod Integ Mgmt Div. |
| | Techn Dir, Computer Resources & Avionics Div. |
| | Director, Weapons Division. |
| | Dir, Evaluation Div. |
| | Techn Dir, Res & Techn. |
| | Technical Director Air Vehicle Division. |
| | Asst Dir Logistics Mgmt Div. |
| | Dir Aircraft Weapons Systems Purchase Div. |
| | Dir, Missile Weapons Systems Contracts Div. |
| | Dir, Systems Acquisition Directorate Special Asst for Tom. |
| | Director Cost Analysis Division. |
| | Dir, Surveillance and Avionics Division. |
| | Dir, Systems Alternatives Directorate. |
| | Techn Dir, Navy Ranges & Field Activity Mgmt. |
| | Director, Aircraft Division. |
| | Asst Dir Propulsion & Power Division. |
| | Assoc Dir Systems Engineering Mgmt. |
| | Deputy Commander, Naval Air Sys Command. |
| | Dir Cruise Missile Contracts Division. |
| | Director, Procurement Budget Division. |
| | Director Airborne Weapons Logistics Division. |
| | Deputy Counsel, Navair. |
| | Executive Dirctoe for Aviation Depots. |
| | Director, Corporate Management Directorate. |
| | Dir, Information Resources Mgmt Division. |
| | Dir, ASW/Support A/A Components Contracts Div. |
| | Exec Dir for Fleet Support/Product. |
| Naval Air Engineering Center | Executive Director. |
| | Chief Engineer. |
| Naval Air Test Center | Executive Director. |
| | Dir, Systems Engineering Test Directorate. |
| | Director, Range Directorate. |
| Naval Avionics Center | Executive Director. |
| | Director of Engineering. |
| | Director of Plans and Programs. |
| Pacific Missile Test Center | Assoc Dir and Assoc TD (Ranges and Tests). |
| | Dir, Weapons Evaluation Directorate. |
| | Executive Director. |
| | Dir Elec Warfare Dir/Assoc Tech Dir (Elec/WF). |
| Naval Training Systems Center | Technical Director. |
| | Director of Research & Technology. |
| | Director of Engineering. |
| | Dir of Research & Engineering. |
| | Dep Dir of Research & Engineering. |
| Space & Naval Warfare Systems Command | Exec Dir, Contracts. |
| | Techn Dir, Ship & Shore Communications. |
| | Tech Dir, Navy Space Project Ofc. |
| | Dep Program Mgr Directed Energy Laser Weapons. |
| | Deputy Comptroller. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Counsel. |
| | Deputy Commander. |
| | Technical Director. |
| | Deputy Project Mgr/Tech Dir Com Sys Proj Ofc |
| | Technical Director, Submarine Communications. |
| | Techn Dir, Surveillanc D/A Development Prog. |
| | Program Manager for Strategic Defense Systems. |
| | Dep & Techn Dir, NCCS Afloat Prog Office. |
| | Assoc Tech Dir for Research & Technology. |
| | Executive Director, Life Cycle Support Group. |
| | Dep Dir, Operations & Program Development. |
| | Asst Commander Acquisition & Logistic Plnng. |
| | Tech Dir Info Transfer Sys Program Directo. |
| | Techn Dir, Warfare Syst Architecture Group. |
| | Techn Dir, Undersea Warfare Program Directorate. |
| | Tech Dir, Warfare Systems Engineering. |
| | Dep Cmdr for Navy Lab/Director of Navy Lab. |
| | Techn Dir, Advanced Anti-Submarine WRFR Prog. |
| | Tech Dir, Warfare Sys Arch & Engr Direct. |
| | Techn Dir, Satellite Communications Prog Ofc. |
| | Tech Dir, Technol A & A Program Directorate. |
| Delete Org | Technical Director. |
| Naval Air Development Center | Dir Aircraft and Crew Systems Technology Dire. |
| | Technical Director/Consultant. |
| | Associate Technical Director. |
| | Department Head. |
| | Dept Head, Mission Avionics Technology Dept. |
| | Head Systems & Software Technology Department. |
| | Head, Tactical Air Systems Department. |
| | Head, Warfare Systems Analysis Department. |
| | Weapons Systems Technology Manager. |
| | Head, Air Vehicle Technology & Programs. |
| | Assoc Dep Head A/W D/Head, Asw A/D Division. |
| Naval Coastal Systems Center | Tech Dir/Consultant. |
| | Head, Research & Technology Department. |
| | Head, Coastal Warfare Systems Department. |
| | Head, Undersea Warfare Systems Department. |
| Naval Ocean Systems Center | Head, Surveillance Dept. |
| | Dir, Undersea Weapon Systems Department. |
| | Head, Engineering & Computer Sciences Dept. |
| | Chf Res Scientist (Arctic Submarine Tech. |
| | Technical Director/Consultant. |
| | Deputy Technical Director. |
| | Head, Marine Sciences & Technology Dept. |
| | Head, Command and Control Department. |
| | Head, Communication Department. |
| | Director, Systems Planning Group. |
| David Taylor Research Center | Associate Tech Dir for Sys Development. |
| | Assoc Tech Dir for Areodynamics. |
| | Tech Dir Consultant. |
| | Associate Technical Director for Structures. |
| | Assoc Tech Dir, Computation & Mathematics. |
| | Assoc Tech Dir for Ship Acoustics. |
| | A/T Dir for Propulsion & Auxiliary Systems. |
| | Assoc Tech Dir for Ship Performance. |
| | Assoc Techn Dir for Materials Sci & Technology. |
| | A/T Dir for Ship E/S & Head, Ship E/S Depart. |
| | Assoc Tech Dir for Tech & Dir of Tech & Plans. |
| Naval Surface Warfare Center | Tech Dir Consultant. |
| | Dept Hd/Dep Tech Dir/Assoc Tech Dir. |
| | Dept Hd/Dep Tech Dir/Assoc Tech Dir. |
| | Dept Hd/Dep Tech Dir/Assoc Tech Dir. |
| | Dept Hd/Dep Tech Dir/Assoc Tech Dir. |
| | Dept Hd/Dep Techn Dir/Assoc Techn Dir. |
| | Dept Hd/Dep Tech Dir/Assoc Tech Dir. |
| | Dept Hd/Dep Tech Dir/Assoc Tech Dir. |
| | Dept Hd/Dep Tech Dir/Associate Tech Dir. |
| | Dep H/D Tech Dir/Assoc Tech Director. |
| | Head, Protective Systems Department. |
| Naval Underwater Systems Center | Head, Submarine Sonar Department. |
| | Assoc Tech Dir for Technology. |
| | Tech Dir, Consultant. |
| | Head, Test & Evaluation Department. |
| | Assoc Tech Dir for Submar Combat Control Acou. |
| | Assoc Techn Dir for Submarine Warfare Systs. |
| | A/T Dir for Surface Anti-Submarine Warfare Asw. |
| | Hd, Submarine Electromagnetic Sys Dept. |
| | Head Combat Control Systems Department. |
| | HD/Environmental & Tactical Support Sys Dept. |
| | Head Combat Systems Analysis Staff. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Deputy Technical Director. |
| Naval Weapons Center | Laboratory Dir/Deputy Tech Dir. |
| | Asst Tech Dir for Dev (AW)/Head, Awd. |
| | Asst Tech Dir Deve (Ord Sys) & Dept Head. |
| | Tech Dir/Consultant. |
| | Asst Tech Dir for Res & Head Res Dept. |
| | Test & Eval Dir/Asst Tech Dir for Test & Eval. |
| | Asst Tech Dir for Dev (AWI) & Head, AWID. |
| | Asst Tech Dir for Engnr & Head Engnr Dept. |
| | Asst Tech Dir for Fuzes/HD Fuzed Dept. |
| | Asst Tech Dir for D/H, Intercept Weapons Dept. |
| | Asst Tech Dir and Head, Range Department. |
| | Asst Tech Dir for P/E/H, Plans & Eval Dep. |
| | Asst Tech Dir/Head, Aerosystems Department. |
| | Asst Techn Dir for Technol B/T Base Director. |
| Naval Facilities Engineering Command | Counsel. |
| | Dep Dir of Programs & Comptroller. |
| | Deputy Commander for Contracts. |
| | Chief Engineer. |
| | Techn Advisor-Real Property Management. |
| | Deputy Assistant Commander for Construction. |
| | Asst Commander for Engineering & Design. |
| | Spec Advisor for Res Dev, Test & Evaluation. |
| Naval Facilities Eng Command Western Div | Executive Director, Broadway Complex. |
| Naval Civil Enineering Lab | Technical Director. |
| Naval Sea Systems Command | Dir, Research Techn & Assessment Ofc. |
| | Executive Dir for Combat Sys Engineering. |
| | Executive Dir for Electronic Warfare. |
| | Counsel. |
| | Asst Dep Commander for Contracts. |
| | Dep Proj Mgr & Tech Dir. |
| | Executive Director/Deputy Comptroller. |
| | Dir Ship Survivability Subgroup. |
| | Dir Preliminary Design Div Ast Deputy Dir Sdg. |
| | Program Mgr, Mine C & C Minehunter Sap. |
| | Dir, Submarine Systems (S5W & S8G) Division. |
| | Director-Reactor Materials Division. |
| | Head, Improved Reactor Design Branch. |
| | Dir-Secondary Plant Components Division. |
| | Asst Dir React Engr Div, Hd Adv Reactor Br. |
| | Dir, Structural Integrity Subgroup. |
| | Director, Naval Architecture Subgroup. |
| | Deputy Director, Auxiliary Systems Subgroup. |
| | Deputy Director, Ship Design Group. |
| | Director, Hull Engineering Group. |
| | Director Cost Estimating & Analysis. |
| | Dir, Shipbuilding Contracts Division. |
| | Asst Dep Cmdr, Ind/Fac Mgmt Directorate. |
| | Executive Director, Surface Ship Directorate. |
| | Exec Dir Submarine Directorate. |
| | Dep Proj Mgr/Tech Dir Aux & Spec Mission Ship. |
| | Dir, Reactor Plant Valve Division. |
| | Asst Dept Com Asw & Undersea Warfare Sys. |
| | Dep Chief Engineer for Logistics. |
| | Deputy Director, Supship Management Division. |
| | D/C Engineer, Design & Manufacturing Quality. |
| | Tech Dir Theater Nuclear Warfare Prog Office. |
| | Dep Prog Manager Tech Dir Attack Subm Prog. |
| | D/P Mgr, Gas Turbine Combatant Ship Prog Ofc. |
| | Dir, Nuclear Propulsion Logistics Division. |
| | Dep Prog Manager, Aircraft Carrier Prog Ofc. |
| | Dir, Special Systems Contracts Division. |
| | Deputy Director for Submarines. |
| | Dir Surface Ship Systems Division. |
| | Deputy Director, Nuclear Components Div. |
| | Dir, Reactor Plant Safety & Analysis Division. |
| | Technical Assistant for Surface Ship Systems. |
| | Dir, Ship Silencing Officd. |
| | Dir. Propulsion Systems Subgroup. |
| | Dir. Hull Systems Subgroup. |
| | Exec Director, Combat Systems Directorate. |
| | Director, Field Operations Subgroup. |
| | Director, Machinery Group. |
| | Director, Materials Engineering Office. |
| | D/D D/T Dir, Amph & Combat S/S Logistic Div. |
| | Dep Dir, Electrical Systems Subgroup. |
| | Exec Dir, Anti-Air & Surface Warfare Systems. |
| | Exec Dir, Ship Design & Engrng Directorate. |
| | Prog Mgr, Amphibious W & S Sealift Program. |
| | Director Naval Shipyard Operations Group. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Dir, Surface Systems Contracts Division. |
| | Assoc Director for Regulatory Affairs. |
| | Dep Commander for Acquisition Plan Appraisal |
| | Exec Dir, Amph, Aux, Mine & Sealift Ships Dir |
| | Dir, Reactor Refueling Division. |
| | Deputy Counsel. |
| | Dir Environmental Protection Office. |
| | Project Manager, Deep Submergence Sys Project. |
| | Dir, Advanced Programs Office. |
| Consolidate Civilian Personnel Office/Crystal City | Dir/Consolidated Civ Pers Ofc/ Crystal City. |
| Naval Ship Systems Engineering Station | Technical Director. |
| Naval Weapons Support Center | Technical Director. |
| Naval Warfare Assessment Center, Corona | Technical Director. |
| Naval Undersea Warfare Engineering Station | Technical Director. |
| Naval Ship Weapons Systems Engineering Station | Technical Director. |
| Naval Ordnance Station | Technical Director. |
| Naval Supply Systems Command Hdqtrs | Counsel. |
| | Asst Dep Cmdr for Fin Mgmt/Comp. |
| | Asst Dep Commander, Contracting Management. |
| | Director of Acquisition for Special Programs. |
| | A/D Commander, Inventory & Info Syst Dev. |
| | Dir Advanced Logis Tech Div. |
| | Prog Mgt and Technology Program Mgt Office. |
| Navy Ships Parts Control Center | Executive Dir for Contracts & Business Mgmt. |
| | Exec Dir Acquisition & Logistics Plng & Suppt. |
| Navy Aviation Supply Office | Executive Dir Logistics Planning & Support. |
| | Exec Dir, Acquisition Mgmt & Planning. |
| Navy Fleet Material Support Office | Executive Director ADP Systems Plann & Devel. |
| | Exec Dir, ADP System Planning and Development. |
| Naval Supply Center, Norfolk | Executive Director, Planning and Resources. |
| U.S. Marine Corps Headquarters Office | Fiscal Dir of the Marine Corps. |
| | Dir Contracts Division. |
| | Counsel for the Commandant. |
| | Accounting & Fin Officer of the Marine Corps. |
| | Special Assistant to the Dir of Intelligence. |
| | Spec Asst to the Dep Chf Installations/Logist. |
| | Asst Dep Chief of Staff for Manpower. |
| | Asst Dep Chf of Staff for Requirements & Prog. |
| Marine Corps Res. Development, and Acquisition Command | Deputy Prog Director/Technical Director. |
| | Deputy for Support. |
| Marine Corps Combat Development Command | Executive Director Magtec. |
| Marine Corps Logistics Base Albany GA | Executive Dir for Logistics Operations. |
| Office of Naval Research | Director Contract Research Department. |
| | Dir, Fin Mgmt/Compt/Spec Asst(Fm)to Asn(R,E&S). |
| | Director, Ofc of Naval Research. |
| | Dir of Planning and Assessment. |
| | Dep Dir for Technology Programs. |
| | Director, Computer Science Division. |
| | Director, Mechanics Division. |
| | Dir, Ocean Biology/Optics/Chemistry Division. |
| | Director, Acquisition. |
| | Deputy Counsel (Patents). |
| | Director, Ocean Engineering Division. |
| | Counsel, Office of Naval Research. |
| | Director, Physics Division. |
| | Dir, Cognitive & Neutral Sciences Div. |
| | Director, Life Sciences Directorate. |
| | Director, Biological Sciences Division. |
| | Dir, Mathematical & Physical Sciences Dir. |
| | Dir, Mathematical Sciences Division. |
| | Dir, Engineering Sciences Directorate. |
| | Director, Electronics Division. |
| | Director, Geophysical Sciences Division. |
| | Director, Ocean Sciences Division. |
| | Dir, Environmental Sciences Directorate. |
| | Deputy Comptroller. |
| | Director, Materials Division. |
| | Dir, University Business Affairs. |
| | Dir Operations Resources & Management Directo. |
| | Assoc Dir, Contract Research Department. |
| Office of Advanced Technology | Dir, Office of Advanced Technology. |
| Office of Naval Technology | Dir Anti/Air Anti/Surf Warf & Aerospace Tec Dv. |
| | Dep Dir, Ont/Dir, Plng & Assess Directorate. |
| | Dir, Office of Naval Technology. |
| | Dir, Industry Independent Res & Devel Dir. |
| | Dir, Support Technology Directorate. |
| | Chief Scientist. |
| | Dir Anti Submarine Warfare & Undersea Tech. |
| Ofc of Naval Research Detachment Boston | Dir, Applied Physics Field Division. |
| Naval Res Liaison Ofc, Far East | Dir, Ofc of Naval Res Liaison Ofc, Far East. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Naval Oceanographic and Atmospheric Research Laboratory | Technical Director |
| | Assoc Tech Dir & Dir, Ops Res & Strat Planng. |
| | Assoc Tech D & D, Atmospheric Sci Directorate. |
| | Assoc Tech Dir&Dir, Ocean Science Directorate. |
| | Assoc Tech Dir&Dir Ocean Acoustics & Tech Dir. |
| NATO SACLANT ASW Research Center | Director NATO SACLANT ASW Research Centre. |
| Naval Research Laboratory | Superintendent, Chemistry Division. |
| | Superintendent, Optical Sciences Div. |
| | Supt Materials Sci and Tech Division. |
| | Superintendent, Plasma Physics Div. |
| | Supt Condensed Matter & Radiation Sci Div. |
| | Assoc Dir of Res for Matl Sci & Comp Technol. |
| | Superintendent, Info Technol Div. |
| | Head Combustion and Fuels Branch. |
| | Chf Sci, Lab for Structure of Matter. |
| | Dir of Research. |
| | Superintendent Space, Science Div. |
| | Supt. Radar Div. |
| | Assoc Dir of Res for Gen Sci & Technol. |
| | Supt. Acoustics Div. |
| | Superintendent Electronics Technology Div. |
| | Supt. Tactical Electronic Warfare Div. |
| | Supt Underwater Sound Reference Division |
| | Chief Sci Lab for Computational Physics. |
| | Dir. Nv Ctr for Applied Res in Artfl Intel. |
| | Chf Scientist & Head, Solar Physics Program. |
| | Chf Scie/Head, Radio/Infrared Astronomy Progr. |
| | Assoc Dir of Res for Business Operations. |
| | Chief Scientists & Beam Physics Program. |
| | Mgr, Joint Space Systems Technology Programs. |
| | Superintentdent, Space Syst. Technology Dep. |
| | Head Elect Warfare Strategic Planning Org. |
| | Assoc Dir of Rese for Technical Services. |
| | Assoc Dir of Research for Strategic Planning. |
| | Head Program Coordination Office. |
| | Assoc Dir of Res for Warfare Sys & Senors Res |
| | Superintendent, Space Syst Development Dep. |
| | Superintendent, Spacecraft Engineering Dep. |
| | Dir. Naval Center for Space Technology. |
| | Chief Scientist for Telecom & Director. |
| Defense Nuclear Facilities Safety Board | Site Review Officer. |
| | Site Review Officer. |
| | Site Review Officer. |
| | Site Review Officer. |
| | Site Review Officer. |
| | Site Review Officer. |
| | Site Review Officer. |
| Department of Education: | |
| Management | Deputy General Manager. |
| | Director Admin Resource Management Service |
| | Director Personnel Management Service |
| | Director Financial Management Service |
| | Director, Grants and Contracts Service |
| Inspector General | Assistant Inspector General for Audits. |
| | Asst Insp Gen for Policy Plng & Mgmt Serv. |
| | Asst Inspector General for Investigation. |
| | Dep Asst Insp Gen for Audit Operations. |
| | Dep Asst Inspector Gen for Techn Audit Svc. |
| General Counsel | Asst Gen Coun for Busin & Adm Law. |
| | Asst General Counsel for Educational Equity. |
| | Asst Gen Counsel for Regulations. |
| | Asst Gen Coun for Div of Legislative Counsel. |
| | Asst Gen Coun for Postsecondary Ed & Ed Res. |
| Educational Research and Improvement | Research Coordinator. |
| | Senior Advisor on Library Programs. |
| National Center for Education Statistics | Admr, Natl Center for Educational Statistics. |
| | Assoc Comr for Postsecondary Education Stat. |
| | Assoc Comr. Data Collection & Dissemination. |
| Department of Energy: | |
| Office of Hearings & Appeals | Dep Dir for Legal Analysis. |
| | Dep Dir for Financial Analysis. |
| | Dep Dir for Econ Analysis. |
| Albuquerque Operations Office | Dir, Quality Engr Div. |
| | Dir Transportation Safeguards Div. |
| | Dir Budget & Resources Mgnt Div. |
| | Dir. Production Assurance & Ops Division. |
| | Dir. Weapons Programs Div. |
| | WIPP Project Manager. |
| | Dir of Emergency Plans & Operations. |
| | Asst Manager. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Dir Ofc of Mgt Plan & Analysis. |
| | Depty Asst Manager. |
| Chicago Operations Office | Asst Manager for Administration. |
| | Area Manager Batavia Area Office. |
| | Asst MGR for Laboratory Management. |
| Idaho Operations Office | Assistant Manager for Administration. |
| Nevada Operations Office | Chief Counsel. |
| | Assistant Manager for Administration. |
| Oak Ridge Operations Office | Asst Manager for Administration. |
| | Asst Manager for Financial Affairs. |
| Richland Operations Office | Asst Mgr for Admin. |
| | Asst Mgr for Safety Security & Quality Assur. |
| San Francisco Operations Office | Asst Mgr for Admin. |
| | Dir Ofc of Special Programs. |
| Savannah River Operations Office | Asst Mgr for Admin. |
| Bonneville Power Administration | Senior Asst Admr for Power Management. |
| Western Area Power Administration | Asst Admr for Mgmt Svcs. |
| Ofc of the Inspector General | Spec Asst for Policy and Planning. |
| Ofc of Asst Insp Gen for Audits | Manager, Western Regional Audit Office. |
| | Director Program Development Division. |
| | Manager, Eastern Regional Audit Office. |
| | Director Audit Management Division. |
| | Dir Capitol Regional Audit Office. |
| Ofc of Asst Insp Gen for Inspections | Asst Inspector Gen for Inspections & Analysis. |
| Ofc of Asst Insp Gen for Investigations | Asst Inspector General for Investigations. |
| | Deputy Asst Inspector Gen for Investigations. |
| Energy Information Administration | Director, EIA-ADP Services Staff. |
| Office of Oil & Gas | Dir. Ofc of Oil and Gas. |
| | Director Petroleum Supply Division. |
| | Chief Data Analysis and Support Branch. |
| | Dir Reserves and Natural Gas Division. |
| | Director Petroleum Marketing Division. |
| Ofc. of Coal, Nuclear, Electric & Alternate Fuels | Dir Ofc of Coal Elec & Altern Fuels. |
| | Director Electric Power Division. |
| | Dir, Nuclear and Alternate Fuels Division. |
| | Dir Coal Division. |
| Office of Energy Markets & End Use | Director, Ofc of Energy Markets & End Use. |
| | Director Economics & Statistics Division. |
| | Dir Internl & Contingency Planning Division. |
| | Dir, Energy Analysis & Forecasting Division. |
| | Dir Energy End Use Div. |
| Office of Statistical Standards | Dir Ofc of Statistical Standards. |
| | Director Quality Assurance Division. |
| Asst. Sec. for Conservation & Renewable Energy | Dir Photovoltail Energy Technical Div. |
| | Director, Waste Material Management Division. |
| | Dir, Wind/Hydro/Ocean Technology Division. |
| | Dir Ofc Solar Energy Conversion. |
| Office or Renewable Technology | Dir, Geothermal Division. |
| | Dir, Biofuel & Municipal Waste Tech Div. |
| | Dir, Solar Thermal Technology Div. |
| Office of Nuclear Safety | Dir Nuclear Safety Enforcement Division. |
| | Dep Dir Invest Nuclear Safety Enforcement Div. |
| Asst Secretary for Environment, Safety & Health | Director, Office of Environmental Audit. |
| Dep Asst Sec for Military Application | Assoc Dep Asst Secy for Military Application. |
| Office of Military Application | Dir, Ofc of Weapons Res, Dev and Testing. |
| Office of Classification & Technology Policy | Dir Ofc of Classification & Technology. |
| Das for Planning & Resource Management | Director Ofc Mgmt Support. |
| | Dir Ofc of Program Analysis & Financial Mgmt. |
| Rocky Flats Office | Manager, Rocky Flats Office. |
| | Dep Mgr Rocky Flats Office. |
| | Assistant Manager for Compliance. |
| Dep Asst Sec for Energy Emergencies | Dir, Ofc of Energy Emergency Pol & Eval. |
| Office of Energy Research | Scientific Computing Staff. |
| Office of Management | Deputy Dir for Management |
| | Director for Management. |
| | Deputy Dir for Nuclear Safety Safeguard. |
| | Dir, Office of Assessment & Support. |
| Office of Health & Environmental Research | Director, Human Health & Assessment Div. |
| Office of Fusion Energy | Dir, International Programs Staff. |
| | Dir, Confinement Systems Div. |
| Office of Field Operations Management | Assoc Dir for University & Science ED Prog. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Office of Basic Energy Sciences | Dir Submarine Systems Div. |
| | Dir Instrumentation & Control Div. |
| | Director Office of Resources Management. |
| | Dep Dir Kesseling/Windsor/Site/CGN/S6G Rec SV. |
| | Asst Prfogram Manager for Surface Ships. |
| | Deputy Director for Naval Reactors. |
| | Prog Mgr for Prototypes & Sapso. |
| | Asst Chief Physcist. |
| | Director Nuclear Technology Div. |
| | Dir Reactor Engineering Division. |
| | Head, Core Manufacturing Branch. |
| | Dep Director Reactor Materials Division. |
| | Director, Fiscal Division. |
| | Program Manager for Shipyard Matters. |
| | Dir Nuclear Components Division. |
| | Senior Naval Reactors Representative. |
| | Manager, West Milton Field Ofc. |
| | Prog Manager for Advanced Submarines. |
| | Head Advanced Concepts Branch. |
| Schnectady Naval Reactors Office | Asst Manager for Operations. |
| Pittsburgh Naval Reactors Office | Senior Naval Reactors Rep (Pearl Harbor). |
| | Manager, Idaho Branch Office. |
| | Asst Manager for Operations. |
| Dep Asst Secretary for Civilian Reactor Development | Dir Isotope Production & Distribution Prog. |
| Associate Director for Admin, Info & Fac Mgt | Director of Administration. |
| | Dep Assoc Dir for Admin Info & Facilities Mgt. |
| Office of Administrative Services | Dir Ofc of Admin Svcs. |
| | Dep Dir Ofc of Admin Serv. |
| Ofc of Project & Facilities Management | Dep Dir Ofc of Project and Facilities Mgmt. |
| | Director, Policy Development Division. |
| Ofc of Irm Pol, Plans & Oversight | Dir Ofc of Adp Mgmt. |
| | Dep Dir Ofc of Adp Mgmt. |
| Ofc of Info Tech Services & Operations | Dir Ofc of Comp Serv and Tele Mgmt. |
| | Dep Dir Ofc of Comp Serv and Tele Mgmt. |
| | Dir Div of Telecommunications. |
| | Dir, Adp & Communications Services. |
| | Dir Information Systems Division. |
| | D/ADP Telecomm Ptning & Integrity Division. |
| Associate Director for Human Resources Mgmt | Dep Assoc Dir for Human Resource Management. |
| | Dir, Ofc of Irm Pol, Plans, & Oversight. |
| Ofc of Personnel & Career Development | Dir Office of Personnel & Career Development. |
| | Director, Personnel Policies and Programs. |
| | Dir Empl Dvlmt & Trng Div. |
| | Dir HQ Personnel Operations Div. |
| | Director Office of Personnel & Career Dev. |
| Ofc of Organization & Management System | Dir Ofc of Org and Mgmt Sys. |
| | Dir Management Sys Analysis Div. |
| | Dir Manpwr Res Mgmt Div. |
| | Dir, Org, Planning, Management & Ops Div. |
| Office of Storage & Transportation Systems | Assoc Dir Ofc of Syst Integration & Regul. |
| Office of Business Mgt | Dir Ofc of Business Management. |
| Office of Procurement, Assistance & Program Mgt | Director of Procurement & Assistance Mgmt. |
| Ofc of Assoc Dir for Procurement, Asstce & Property | Assoc Deputy Asst Secy for Prol & Asst Mgmt. |
| Office of Policy | Dir Ofc of Policy. |
| Office of Clearance and Support | Director, Office of Clearance and Support. |
| Office of Management Review & Assistance | Director, Procurement Management Rev Div. |
| Ofc of Contractor Human Resource Mgt | Dir Ofc of Industrial Relations. |
| Ofc of Procurement & Info Sys/Property | Director, Office of Review and Analysis. |
| Ofc of Pgm/Proj Mgt | Dir, Prog/Const MGM, Proce & Operations Div. |
| Associate Dir for Hq Procurement Opns | Dir Ofc of Procurement Operations. |
| | Dep Dir Ofc of Procur Op. |
| Office of Fin Management & Controller | Deputy Controller. |
| | Controller. |
| Office of Budget | Dir Ofc of Budget. |
| | Dep Dir Ofc of Budget. |
| | Director, Budget Analysis Division. |
| | Director, Budget Operations Division. |
| Office of Financial Policy | Dir Ofc of Financial Policy. |
| Office of Compliance and Audit Liaison | Dir Ofc Compliance and Audit Liaison. |
| Ofc of Dept Acct & Fin Systems Development | Dir Ofc of Dep Accounting & Fin Sys Dev. |
| Office of Headquarters Acct Operations | Dir Ofc of Headquarters Accounting Operations. |
| Ofc of Small & Disadvantaged Bus Utilization | Dir of Sm and Disadv Bus Utilz. |
| Environmental Protection Agency: | |
| Ofc of the Asst Admr for Admin & Resources Management | Dep Asst Admr for Admin & Resources Mgmt. |
| | Spec Asst to the Asst Admr for Adm & Res Mgmt. |
| Office of the Comptroller | Dir Ofc of the Comptroller. |
| | Dir, Financial Mgmt Div. |
| | Associate Comptroller. |
| | Director, Budget Division. |
| | Assoc Dir, Financial Management Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Special Asst to the Comptroller. |
| | Dir, Resource Management Division. |
| Office of Administration | Dir Ofc of Administration. |
| | Deputy Dir, Ofc of Administration. |
| | Dir, Grants Admin Div. |
| | Dir, Procurement & Contracts Mgmt Division. |
| | Dir, Facilities & Support Services Division. |
| | Spec Asst for Employee Wellness Program. |
| | Assoc Dir for Superfund/RCA Procurement Oper. |
| | Director, Management and Organization Division. |
| | Dir, New Headquarters Project Staff. |
| | Dir, Environmental Health & Safety Division. |
| Office of Information Resources Management | Dir Ofc of Information Resources Management. |
| | Assoc Dir for Mgmt Planning & Evaluation. |
| | Dep Dir Ofc of Information Resources Magnt. |
| | Dir, Administrative Systems Division. |
| | Dir, Information Management & Services Div. |
| | Director, Program Systems Division. |
| Ofc of Administration & Resources Mgmt —Cincinnati OH | Dir Ofc of Admin and Resources Management. |
| Office of Administration & Resources Mgmt—RTP, NC | Director Office of Administration & Res Mgmt. |
| | Director, Office of Data Processing. |
| | Assoc Dir, Ofc of Adm & Res Management. |
| Office of Human Resource Management | Director, Office of Human Resource Mgmt. |
| | Special Assistant to Director, OHM. |
| | Dep Dir for Operations Comm & Client Services. |
| Ofc Asst Admr for Enforcement & Compliance Monitoring | Dir Ofc Compliance Analysis Prog Operations. |
| National Enforcement Investigations CTR—Denver | Dir Nat'l Enforcement Investigations Center |
| | Special Asst to the Dir NEIC |
| Office of Policy Analysis | Dir Water & Agriculture Policy Div. |
| | Dir, Regulatory Integration Division. |
| | Dir Air & Energy Policy Division. |
| Office of Regulatory Management and Evaluation | Dir. Science, Econ & Statistics Div. |
| Organization Abolished | Dir Ofc of Management Systems & Evaluation. |
| | Dir, Management Systems Div. |
| Office of Pollution Prevention | Dir, Pollution Prevention Div. |
| Office of International Activities | Sr Advisor for Intern'tl Chemical Affairs. |
| Office of the Inspector General | Deputy Inspector General. |
| | Assist Inspector Gen for Investigations. |
| | Asst Inspector General for Audits. |
| | Dep Asst Inspector General for Audits. |
| | Dep Asst Inspector General for Investigations. |
| | Asst Inspector Gen for Mgmt & Tech Assessment. |
| | Deputy Inspector General. |
| Office of Water Enforcement and Permits | Director Enforcement Division. |
| | Director, Permits Division. |
| Office of Water Regulations and Standards | Director, Industrial Technology Division. |
| | Dir, Assessment & Watershed Protection Div. |
| | Dir, Analysis and Evaluation Division. |
| | Dir, Criteria and Standards Division. |
| Office of Water Program Operations | Director, Municipal Facilities Division. |
| | Director Municipal Construction Division. |
| Office of Drinking Water | Director, State Programs Division. |
| | Dir Ofcv of Program Development & Evaluation. |
| | Director, Criteria and Standards Division. |
| Office of Waste Programs Enforcement | Dep Dir, Office of Waste Programs Enforcement. |
| | Dir, Cercla Enforcement Division. |
| | Director, RCRA Enforcement Division. |
| Office of Solid Waste | Dir Waste Mgmt and Economics Division. |
| | Dir, Characterization & Assessment Division. |
| | Director, Permits & State Programs Division. |
| | Spec Asst to the Dir, Office of Solid Waste. |
| Office of Emergency and Remedial Response | Director, Hazardous Site Evaluation Division. |
| | Dir, Emergency Response Div. |
| | Director, Hazardous Site Control Division. |
| Ofc of the Asst Admr for Air and Radiation | Director, Ofc of Program Mgmt Operations. |
| Office of Air Quality Planning and Standards | Dir, Stationary Source Compliance Divisioin. |
| | Assoc Dir for Intermedia & Intgovt Prog. |
| | Director, Air Quality Management Division. |
| | Director, Technical Support Division. |
| Office of Mobile Sources | Director, Emission Control Technology Div. |
| | Director Certification Division. |
| | Dir Manufacturers Operations Division. |
| | Dir Field Operations & Support Division. |
| Office of Radiation Programs | Dir, Criteria & Standards Div. |
| | Director, Radon Division. |
| | Dir, Analysis and Support Division. |
| Ofc of Asst Admr for Pesticides & Toxic Substances | Dir Ofc of Program Management Operations. |
| Office of Pesticides Programs | Dir, Ofc of Pesticides Programs. |
| | Dir-Registration Division. |
| | Director-Program Support Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Dir, Biological & Economic Analysis Division. |
| | SR Science Advisor/Nat'l Laboratory Aud Prog. |
| | Senior Advisor. |
| | Dir, Spec Review & Reregistration Division. |
| | Dir Envir Fate and Effects Division. |
| | Dir, Health Effects Division. |
| Office of Toxic Substances | Director Exposure Evaluation Division. |
| | Dir, Existing Chemicals Assessment Division. |
| | Dir, Health & Environmental Rev Div. |
| | Director, Environmental Assistance Division. |
| | Director Economics & Technology Division. |
| | Director, Chemical Control Division. |
| | Director, Information Management Division. |
| Ofc of the Asst Admr for Research and Development | Senior Official for Research & Development. |
| Office of Health and Environmental Assessment | Director exposure Assessment Group. |
| | Director, Human Health Assessment Group. |
| Environmental Criteria & Assessment Ofc (RIP) | Dir, Environmental Criteria & Asses Ofc Rtp. |
| Ofc of Modeling, Monitoring Systems & Quality Assur | Spec A/D, Ofc of Mdlg, Monitoring S/Q Assur. |
| Atmospheric Rsch & Exposure Assessment Lab, Rtp | Dir, Atmospheric Res & Exp Assessment Lab. |
| Environmental Monitoring Systems Lab-Cincinnati | Dir, Environment Monitoring Syst Lab. |
| Environmental Monitoring Systems Lab-Las Vegas | Dir, Env Monitoring Sys Lab, Las Vegas. |
| Ofc of Environmental Engineering & Tech Demonstration | Spec Ass Dir, Ofc Environl E/T Demonstration. |
| Air & Energy Engineering Research Laboratory-Rtp | Dir, Air & Energy Eng Res Lab. |
| Risk Reduction Engineering Laboratory—Cincinnati | Dir, Hazardous Waste Engin Res Lab—Cincinnati. |
| | Dir, Risk Reduction Engineering Laboratory. |
| Environmental Research Laboratory—Corvallis | Dir, Env Research Laboratory Corvallis. |
| Environmental Research Laboratory—Athens | Dir, Environmental Research Lab Athens Ga. |
| Robert B. Kerr Environmental Res Laboratory—Ada | Dir, Robert S Kerr Environmental Res Lab. |
| Environmental Research Laboratory—Duluth | Dir, Environmental Research Lab—Duluth. |
| Environmental Research Laboratory—Narragansett | Dir, Environmental Res Lab, Narragansett. |
| Environmental Research Laboratory—Gulf Breeze | Dir, Env Res Lab Gulf Breeze. |
| Health Effects Research Laboratory—Rtp | Dir-Health Effects Research Lab-Rtp. |
| Ofc of Technology Transfer & Regulatory Support | Dir, Ofc of Technology Transfer & Reg Support. |
| Center for Environmental Research Information | Dir, Center for Environmental Research Info. |
| Office of Exploratory Research | Dir, Ofc of Exploratory Research. |
| Region I—Boston | Director, Water Management Division. |
| | Dir, Waste Management Division. |
| | Regional Counsel. |
| | Asst Regl Admr for Planning & Management. |
| Region II—New York | Director, Environmental Services Division. |
| | Director, Water Management Division. |
| | Asst Regl Admr for Policy and Management. |
| | Dir, Air & Waste Management Division. |
| | Regional Counsel, Region II, New York. |
| | Dir, Office of Emergency & Remedial Response. |
| Region III—Philadelphia | Director, Water Management Division Reg III. |
| | Regional Counsel. |
| | Asst Reg Admin for Policy & Management. |
| | Director, Hazardous Waste Mgmt Div. |
| | Director, Environmental Services Division. |
| | Dir, Air Management Division. |
| Region IV—Atlanta | Dir, Water Management Division Region IV. |
| | Dir, Environmental Services Division Region IV. |
| | Asst Regional Admin for Policy and Mgmt. |
| | Regional Counsel, Reg IV, Atlanta, Georgia. |
| | Director Waste Management Division. |
| Region V—Chicago | Dir, Air Management Div Region V. |
| | Dir, Envir Services Div Region V. |
| | Dir, Water Management Div Region V. |
| | Asst Regional Admr for Policy & Management. |
| | Regional Counsel. |
| | Director, Waste Mangaement Division. |
| | Associate Division Director for RCRA. |
| | Assoc Div Director for Superfund. |
| Region VI—Dallas | Dir Air & Waste Management Div. |
| | Dir Water Management Division |
| | Director, Environmental Services Division. |
| | Asst Regional Admr for Management. |
| | Regional Counsel. |
| | Dir, Air, Pesticides & Toxic Division. |
| Region VII—Kansas City | Dir Water Management Division. |
| | Regional Counsel. |
| | Director, Waste Mgmt Division. |
| | Asst Reg Admin For Policy & Mgnt-Reg VII. |
| | Director, Air and Toxics Division. |
| Region VIII—Denver | Dir Water Management Division. |
| | Regional Counsel. |
| | Dir Air Toxics Division. |
| | Asst Regional Admr For Policy & Management. |
| Region IX—San Francisco | Director, Water Management Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Director, Air Management Division. |
| | Regional Counsel, Reg IX, San Fran, Cal. |
| | Dir, Toxics & Waste Management Div. |
| | Asst Regional Admr For Policy & Management |
| Region X—Seattle | Dir-Water Div Reg X. |
| | Regional Counsel. |
| | Director Air and Toxics Division. |
| | Director, Hazardous Waste Division. |
| | Asst Regl. Admr For Policy & Management |
| Equal Employment Opportunity Commission: | |
| Office of the Chairman | Director, Office of Review and Appeals. |
| Field Management—East | Dist Dir—(Baltimore). |
| | Dist Dir—(New York). |
| | Dist Dir—(Atlanta). |
| | District Director—(Detroit). |
| | Dist Dir—(Miami). |
| | Dist Dir—(Memphis). |
| | Dist Dir—(Birmingham). |
| | Dist Dir—(New Orleans). |
| | Dist Dir—(Charlotte). |
| | Dist Dir—(Cleveland). |
| | Dist Dir—(Philadelphia). |
| Field Management—West | Dist Dir—(Houston) |
| | Dist Dir—(San Francisco). |
| | Dist Dir—(Dallas). |
| | Dist Dir—(Chicago). |
| | Dist Dir—(St Louis). |
| | Dist Dir—(Indianapolis). |
| | District Director—(Los Angeles). |
| | Dist Dir—(Denver). |
| | Dist Dir—(Phoenix). |
| | District Dir—(San Antonio). |
| Farm Credit Administration: | |
| Ofc of Gen Coun | General Counsel. |
| | Assoc Gen Counsel for Litigation & Enforce. |
| | Assoc Gen Coun for Corp & Administrative Law. |
| Office of Examination | Regional Director, Northeast Region. |
| | Regional Director, Central Region. |
| | Regional Director, Southeast Region. |
| | Division Director, Special Examination Div. |
| | Chief Examiner. |
| | Regional Director, Western Region. |
| | Dir. Policy & Risk Analysis Division. |
| | Assoc. Dir. Research & Special Studies. |
| | Regional Director, Western Region. |
| | Regional Director, Eastern Division. |
| Office of Resources Management | Chief, Information Resources Planning. |
| | Director, Office of Resources Management. |
| Ofc of Inspector General | Inspector General. |
| | Assistant Inspector General. |
| Office of Financial Analysis | Dir, Office of Financial Analysis. |
| | Dep Dir, Ofc of Financial Analysis. |
| | Deputy Director, Office of Financial Analysis. |
| Office of Regulatory Enforcement | Dir. Office of Regulatory Enforcement. |
| Federal Communications Commission: | |
| Office of the Managing Director | Assoc Managing Director/Human Resources Mgmt. |
| Mass Media Burau | Chief Audio Services Division. |
| | Chief Video Services Division. |
| | Chf, Enforcement Div. |
| Private Radio Bureau | Chief Land Mobile & Microwave Division. |
| Field Operations Bureau | Chief Enforcement Division. |
| | Assistant Bureau Chief for Technology. |
| Common Carrier Bureau | Chief, Tariff Division. |
| | Asst Bureau Chief (International). |
| | Chief Domestic Facilities Division. |
| | Chief Accounting & Audits Division. |
| Ofc of Engineering Technology | Chief, Spectrum Engineering Division. |
| | Chief, Authorization and Evaluation Division. |
| Federal Emergency Management Agency: | |
| Office of the Director | Comptroller. |
| | Deputy Inspector General. |
| Office of Chief of Staff | Director of Security. |
| National Preparedness Directorate | Deputy Associate Director. |
| | Senior Policy Advisor. |
| Office of Mobilization Preparedness | Asst Assoc Dir Ofc of Mobilization Preparedne. |
| Office of Analysis & Support | Asst Assoc Dir Ofc of Analysis & Support. |
| Office of Facilities Management | Assistant Assoc Director. |
| Office of Systems Engineering | Special Asst for Architecture & Technology. |
| | Asst Assoc Dir Ofc of Systems Engineering. |
| Office of Operations | Asst Associate Director Ofc of Operations. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Federal Insurance Administration | Deputy Administrator. |
| Federal Energy Regulatory Commission (DOE): | |
| Ofc of Chief Accountant | Deputy Chief Accountant. |
| | Dir Division of Audits. |
| | Director, Division of Accounting Systems. |
| Ofc of Hydropower Licensing | Dir, Div of Inspection |
| Federal Labor Relations Authority: | |
| Office of the Chairman | Chief Counsel. |
| | Executive Assistant to the Chairman. |
| Office of Member | Chief Counsel. |
| Office of Member | Chief Counsel. |
| Federal Service Impasses Panel | Exec Director FSIP. |
| Ofc of the Executive Director | Executive Director. |
| | Solicitor. |
| | Dir, Information Resources & Research Serv |
| Ofc of the General Counsel | Deputy General Counsel. |
| | Asst General Counsel (Field Management). |
| | Asst General Counsel (Appeals). |
| | Asst Gen Counsel, Legal Policy & Advice. |
| Regional Offices | Regional Director—Washington, D.C. |
| | Regional Director—Boston. |
| | Regional Director—New York. |
| | Regional Director—Atlanta. |
| | Regional Director—Dallas. |
| | Regional Director—Chicago Illinois. |
| | Regional Director—Los Angeles. |
| | Regional Director—San Francisco. |
| | Regional Director—Denver. |
| Federal Maritime Commission: | |
| Office of the Members | Secretary. |
| Office of the General Counsel | Dep Gen Cnsl for Reports Opinions & Decisions. |
| Office of the Managing Director | Dep Managing Dir. |
| | Dir, Bureau of Administration. |
| | Director, Bureau of Trade Monitoring. |
| | Director, Bureau of Domestic Regulation. |
| | Dir, Bureau of Investigations. |
| | Dir, Bureau of Hearing Counsel. |
| Federal Retirement Thrift Investment Board: | |
| | Assistant General Counsel (Admin). |
| | Assistant General Counsel (Programs). |
| | Director of Investments. |
| | Director of Contracts & Administration. |
| | Director of Automated Systems. |
| | Director of Benefits and Program Analysis. |
| | Director of Accounting. |
| | Director of Communications. |
| Federal Trade Commission: | |
| Office of the Inspector General | Inspector General. |
| Ofc of Executive Director | Deputy Exec Dir for Management. |
| | Dep Exec Dir for Planning & Information. |
| General Services Administration: | |
| Office of the Administrator | Dir, Ofc of Small & Disadvantaged Bus Utiliz. |
| | Dep AA for Operations & Industry Relations. |
| Office of Associate Administrator for Administration | Director, Office of Administrative Services. |
| | Director of Management Services. |
| | Assoc Dir for Operations (CASU) |
| | Director of Personnel. |
| | Deputy Director of Personnel. |
| | Dir of Administrative Programs & Support. |
| | Dir Total Quality Management & Training. |
| Office of the Inspector General | Deputy Inspector General. |
| | Asst Inspector Gen for Auditing. |
| | Deputy Asst Inspector General for Auditing. |
| | Asst I/G for Investigations. |
| | Counsel to the Inspector General. |
| | Asst Inspector Gen for Administration. |
| | Asst Inspector Gen for Investigations. |
| Office of Acquisition Policy | Assoc Administrator for Acquisition Policy. |
| | Dir of Acquis Mgmt and Contract Clearance. |
| Office of the Comptroller | Deputy Comptroller for Finance. |
| | Deputy Comptroller for Budget. |
| | Dep to the Deputy Comptroller for Finance. |
| Federal Property Resources Service | Asst Comm for Real Estate Policy/Sales (FPRS). |
| Public Buildings Service | Asst Comm for Real Prop Mgmt & Safety. |
| | Asst Comr for Physical Security & Law Enf. |
| | Asst Comr for Procurement. |
| | Asst Comr for Real Property Development. |
| | Dep Asst Comr for Real Property Development. |
| | Dep Asst Comm for Real Prop Mgmt & Safety. |
| | Asst Commissioner for Facility Planning. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Asst Comm for Govt Wide Real Prop Relations |
| | Spec Asst/Asst Comr for Real Property Dev. |
| Office of Information Resources Management | Asst Comm for Info Resources Procurement. |
| | Dep Asst Commissioner for Network Services. |
| | Dep Asst Comr for Info Res Mgmt Policy. |
| | Asst Comr for GSA Info Resources Management. |
| | Asst Commissioner for Technical Assistance. |
| | Dep Asst Comr for Regl Telecomm Services. |
| | Director Ofc of Innovative Office Systems. |
| Office of Federal Supply and Services | Asst Commissioner for Customer Svc & Marketing. |
| | Asst Commr for Quality and Contract Admn. |
| | Asst Commissioner for Commodity Management. |
| | Asst Comr for Transportation & Property Mgt. |
| | Director for Transportation Audits. |
| | Asst Commr for Strategic Business Planning. |
| Region 2—New York | Asst Reg Admr for Public Blds Service. |
| | Asst Reg Admr for Federal Supply Service. |
| Region 3—Philadelphia | Asst Reg Admr for Public Blds Service. |
| | Asst Reg Admr for Info Reso Mgmt Ser. NE Zone. |
| | Asst Regl Admr Federal Supply Service. |
| National Capital Region | Asst Regl Admr for Info Resources Mgmt. |
| | Asst Regl Admr for Real Property M & O. |
| | Asst Reg Admr for Real Estate & Devel, NCR. |
| | Dir of Fed Domes Asst Ctlg Staff (IRMS) NCR. |
| Region 4—Atlanta | Asst Reg Admr for Public Blds Service. |
| | Assistant Reg Admin for Inform Res Mgmt-R-4. |
| | Asst Reg Admr for Federal Supply & Services. |
| Region 5—Chicago | Asst Reg Admr for Public Blds Service. |
| Region 6—Kansas City | Asst Regional Admr for Administration, R6. |
| | Asst Reg Admr for Public Blds Service. |
| Region 7—Fort Worth | Asst Reg Admr for Public Blds Service. |
| | Asst Regl Admr for Info Resources Mgmt R-7. |
| | Asst Reg Admr for Federal Supply Service. |
| Region 9—San Francisco | Asst Commissioner for Public Buildings Svc. |
| | Asst Reg Admr for Federal Supply Service. |
| | Asst Reg Admr for Information Res Management. |
| Department of Health and Human Services: | |
| ODAS for Budget | Dir. Division of OS Budget Analysis. |
| ODAS for Finance | Dep Asst Sec. Finance. |
| | Dir. Ofc of Grant & Contract Fin Management. |
| | Dir. Office of Financial Policy. |
| ODAS for Management and Acquisition | Dir. Office of Acquisition & Grants Mgmt. |
| OAS for Personnel Administration | Asst Sec. for Personnel Administration. |
| Associate General Counsel Divisions | Assoc Gen Coun, Business & Adm Law Division. |
| Office of the Inspector General | Principal Dep Inspector General. |
| | Asst Inspector Gen for Mgmt & Policy. |
| ODIG for Investigations & Enforcement | Dep Insp Gen for Investigations. |
| | Asst Insp General for Criminal Investigations. |
| | Asst Insp Gen for Civil & Adm Remedies. |
| | Asst Insp Gen for Investigation P & O. |
| ODIG for Audit Services | Dep Inspector General for Audit Services. |
| | Asst Inspector Gen for Social Security Audits. |
| | Asst Insp Gen for Human, F & D Serv Audits. |
| | Asst Inspector Gen for Health Care Fin Audits. |
| | Asst Inspector Gen for Audit Pol & Oversight. |
| | Asst Insp Gen for Public Health Serv Audits. |
| ODIG for Analysis & Inspections | Dep Insp Gen for Evaluation & Inspections. |
| | Asst Insp Gen for Analysis & Inspections. |
| OAA for Management | Dir. Office of Financial Management. |
| | Chief Actuary. |
| | Dir. Bureau of Data Management and Strategy. |
| | Dep Dir. Bureau of Data Management & Strategy. |
| | Dir. Ofc of Medicare Cost Est. Ofc of Actuary. |
| | Dir. Office of Acquisitions and Grants. |
| OAA for Operations | Dir Ofc of Prog Adm, Bur of Prog Operations. |
| | Director, Office of Financial Operations. |
| OAA for Program Development | Dir Office of Demonstrations and Evaluations. |
| | Dir, Office of Research. |
| OAS for Health | Deputy Director, Office of Management. |
| | Director, Office of Resource Management. |
| | Dir, Div of Public Health Service Budget. |
| | Director, Office of Minority Health. |
| | Director, Ofc of Scientific Integrity Review. |
| Natl Cent for Hlth Svcs Rsch & Hlth Care Tech Assess | Dir, Div of Intramural Research. |
| | Dir, Div of Extramural Research. |
| Alcohol Drug Abuse & Mental Health Admin | Assoc Admin for Extramural Programs. |
| Natl Inst of Alcohol Abuse & Alcoholism | Chief Laboratory of Clinical Studies. |
| | Director, Division of Basic Research. |
| | Dir, Div of Intramural Clinical & Bio Res. |
| | Dir Div of Biometry & Epidemiology. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Director, Office of Scientific Affairs. |
| | Dir, Div of Clinical & Prevention Research. |
| National Institute on Drug Abuse | Director Addiction Research Center. |
| | Dir Div of Preclinical Research. |
| | Director Division of Clinical Research. |
| | Chief Neuroscience Research Branch. |
| | Dir, Office of Extramural Program Review. |
| | Dir, Medications Development Division. |
| | Assoc Dir for Planning & Resource Management. |
| | Assoc Director for Services Research. |
| National Institute of Mental Health | Executive Officer NIMH. |
| | Dir, Div of Basic Brain & Behavioral Sciences. |
| | Director, Division of Extramural Activities. |
| | Associate Dir for Special Program Operations. |
| Intramural Research | Dir, Intramural Research Programs. |
| | Dir Division of Special Mental Health Researc. |
| | Chf, Lab of Cerebral Metabolism. |
| | Chf, Lab of Neurochemistry. |
| | Chf Lab of Gen & Comparative Biochemistry. |
| | Chf Lab of Developmental Psychology. |
| | Chf-Clinical Neuropharmacology Branch. |
| | Chief Lab of Psychology and Psychopathology. |
| | Chief Laboratory of Neuropsychology Dcbr. |
| | Chief Section Histopharmacology. |
| | Chief, Biological Psychiatry Branch. |
| | Chief, Child Psychiatry Branch. |
| Center for Infectious Diseases | Asst Dir for Laboratory Science. |
| Natl Center for Occupational Safety & Health | Assistant Director for Science. |
| | Executive Officer, Niosh. |
| Center for Env Health & Injury Control | Dir Div of Environmental Health Lab Sciences. |
| Center for Prevention Services | Chief Epidemiology Research Branch. |
| National Center for Health Statistics | Assoc Dir for Analysis & Epidemiology. |
| | Associate Dir, Ofc of P & E Programs. |
| | Assoc Dir for Research & Methodology. |
| | Assoc Dir. Ofc of Vital & Health Stats Syst. |
| Food and Drug Administration | Director Parklawn Computer Center. |
| Office of Regulatory Affairs | Regl Food & Drug Dir, Reg III, Philadelphia. |
| | Regl Dir, Food & Drug Adm, Reg IV, Atlanta. |
| | Regl Food and Drug Director, Reg V, Chicago. |
| | Regional Food & Drug Dir, Reg VI, Dallas. |
| | Reg:L Dir, Food & Drug Adm, Reg IX (San Franc. |
| | Director Contaminants Policy Staff. |
| | Regl Food & Drug Dir, (Northeast Region). |
| National Center for Toxicological Research | Director, Division of Biometry. |
| | Director, Office of Research. |
| Center for Food Safety & Applied Nutrition | Assoc Dir for Laboratory Investigations. |
| | Dir, Div of Nutrition. |
| | Dir Ofc of Compliance. |
| | Dir Div of Chemical Technology. |
| | Director Ofc of Toxicological Sciences. |
| | Director, Product Policy Staff. |
| Center for Drug Evaluation and Research | Dir, Div of Anti-infective Drug Products |
| | Dir Div Oncology & Radiopharmaceutical Drug P. |
| | Dir Div of Scientific Investigations. |
| | Dir Div of Cardio-renal Drug Products. |
| | Dir Ofc of Compliance. |
| | Dep Dir Ofc of Epidemiology & Biostatistics. |
| | Dir Div of Biometrics. |
| | Dir, Div of Neuropharmacological Drug Prod. |
| | Dir Div of Surgical Dental Drug Products. |
| | Dir, Div of Metabolism & Endocrine Drug Prod. |
| | Dep Dir for Prog Management. |
| | Director, Division of OTC Drug Evaluation. |
| | Dir, Office of Drug Evaluation I. |
| | Director, Office of Drug Standards. |
| | Deputy Dir, Ofc of Drug Standards. |
| | Director, Division of Generic Drugs. |
| | Dir, Div of G & C Drug Products. |
| | Dir, Ofc of Drug Eval II CTR for Drug E & R . |
| | Director, Office of Research Resources. |
| | Dep Dir, Office of Research Resources. |
| | Dep Dir, Office of Drug Evaluation II. |
| | Dir, Div of Anit-vir Drug Products. |
| | Director, Pilot Drug Evaluation Staff. |
| | Director, Office of Management. |
| | Dir, Div of Oncology-pulmonary Drug Products. |
| | Dir, Div of Med Imaging, S & D Drug Products. |
| Center for Biologics Evaluation and Research | Director, Division of Biochem & Biophysics. |
| | Director, Division of Bacterial Products. |
| | Dir, Division of Cytokine Biology. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Center for Veterinary Medicine | Director, Office of Biologics Research. |
| | Dir Ofc of Biological Product Review . |
| | Dir, Div of Biol Investigational New Drugs. |
| | Dir-Div of Thera Drugs for Non Food Animals. |
| | Dir Ofc of Surveillance & Compliance. |
| | Director, Ofc of New Animal Drug Evaluation. |
| | Director, Office of Science. |
| | Dir, Div of Drugs Manufacturing & Controls. |
| | Dir Div of Biometrics & Production Drugs. |
| | Dir Div of Therapeutic Drugs for Food Animals. |
| | Dir Div of Veterinary Medical Research. |
| | Assoc Dir Scientific Infor & Education |
| | Director, Division of Animal Feeds. |
| | Dep Dir for Human Food S&C Services. |
| | Dep Dir for Therapeutic & Production Drug Rev. |
| | Dep Dir, Ofc of Surveillance & Compliance. |
| Center for Devices & Radiological Health | Dir Ofc of Device Evaluation. |
| | Dir, Ofc of Standards & Regulations. |
| | Dir, Office of Science & Technology. |
| | Dep Dir, Office of Science and Technology. |
| | Deputy Director, Office of Compliance. |
| | Dep Dir, Office of Device Evaluation. |
| Office of Science Policy & Legislation | Director, Div of Financial Management. |
| | Director, Division of Contracts & Grants. |
| | Dir Ofc of Protection from Research Risk. |
| | Associate Director for Extramural Affairs. |
| | Director, Division of Program Analysis. |
| | Dir, Ofc of Medical Applications of Research. |
| | Dir, Office of Scientific Integrity. |
| Natl Heart, Lung & Blood Institute | Assoc Director for Review. |
| | Assoc Dir Epidemiology & Biometry Program. |
| | Chief, Sickle Cell Disease Br. |
| | Dir, Div of Lung Diseases. |
| | Dir, Div of Blood Diseases & Resources. |
| | Dir, A/Sclerosis, Hypertension & Lip Met Prog. |
| | Dep Director Div of Extramural Affairs. |
| | Director, Division of Extramural Affairs. |
| | Dir, Div of Epidemiology/Clinical Applications. |
| | Assoc Dir for International Programs. |
| | Chief, Biostatistics Research Branch. |
| Intramural Research | Dir. Division of Intramural Research. |
| | Chf Lab of Biochemical Genetics. |
| | Chf Lab or Biochemistry. |
| | Chief Lab of Molecular Hematology. |
| | Chief Lab of Biophysical Chemistry. |
| | Chief, Laboratory of Chemical Pharmacology. |
| | Sr Res Chemist Laboratory of Cell Biology. |
| | Chief Macromolecules Section. |
| | Chf, Intermediary M & B Section. |
| | Chief, Laboratory of Cellular Metabolism. |
| | Chf. Lab of Kidney & Electrolyte Metabolism. |
| Division of Cancer Biology & Diagnosis | Dir, Div of Cancer Biology Diagnosis & Ctrs. |
| | Dep Dir, Div of Cancer Biology Diag & Centers. |
| | Chief, Lab of Cell Biol, Immun Prog, IRP. |
| | Chief, Dev Biochem & Genetics Sec Lab of Birp. |
| | Chief, Lab of Biochem Intramural Res Prog. |
| | Assoc Dir, Extramural Research Program. |
| | Chief Dermatology Br, Intramural Res Prog. |
| | Head Cellular Immun of Modified Antigens Group. |
| | Chief Laboratory of Immunobiology. |
| | Chief, Lab of Tumor & Biol Immunology, IRP. |
| | Assoc Dir, Ctrs Training & Resources Prog. |
| | Chief, Laboratory of Molecular Biology |
| Division of Cancer Etiology | Dir, Div of Cancer Etiology. |
| | Chief Lab of Biology. |
| | Chief Clinical Epidemiology Branch. |
| | Chief Laboratory of Molecular Carcinogenesis. |
| | CHF Lab of Experimental Pathology. |
| | Head, Math Statistics & Applied Mathematics s. |
| | Head In Vitro Carcinogenesis Section. |
| Division of Cancer Prevention & Control | Dep Dir, Div of Cancer Prevention & Control. |
| | Assoc Dir Cancer Prevention Research Prog. |
| | Associate Dir, Surveillance Program, DCPC. |
| Division of Extramural Activities | Dir, Div of Extramural Activities. |
| | Deputy Dir, Div of Extramural Activities. |
| Division of Cancer Treatment | CHF—Radiation Oncology Br. |
| | CHF—Lab of Medicinal Chemistry & Biology. |
| | Assoc Dir Radiation Research Program. |
| Natl Institute of Diabetes & Digestive & Kidney Dis | Dir Div Kidney, Urologic&Hematologic Diseases. |
| | Dir Division of Extramural Activities. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Assoc Dir for Diabetes, Endocrin & Metab Dis. |
| | Assoc Director for Research & Assessment. |
| | Assoc Dir Disease Prevention Technol Transfer. |
| Intramural Research | Chief Section on Biochemical Mechanisms. |
| | CHF—Sect on Biochemistry. |
| | CHF, Section on Spectroscopy & Structure. |
| | CHF Sect on Metabolic Enzymes. |
| | CHF Sect on Physical Chemistry. |
| | Chief, Section on Molecular Structure. |
| | SR RES Physicist, Mathematical Research Br. |
| | SR Chemist, Clinical Endocrionology Br. |
| | Senior Research Chemist. |
| | Chief Lab of Chemistry. |
| | Chief Theoretical Biophysics Section. |
| | Chief, Laboratory of Bio-Organic Chemistry. |
| | Chief Oxidation Mechanisms Section L B C. |
| | Chief Laboratory of Biochemistry & Metabolism. |
| | CHF, Sec on Nuclear Mag Res, Lab/Chem Physics. |
| | Clinical Dir & Chief, Kidney Disease Section. |
| | Chief, Section on Molecular Biophysics. |
| | CHF, Sec Carbohydrates Lab of Chemistry/NIDDK. |
| | Chief, Metabolic Diseases Branch. |
| | CHF, Drug D & S Sec Lab of Neurosci, NIDDK. |
| | Chief, Laboratory of Neuroscience, NIDDK. |
| | Chief Epidemiology & Clinical Research Branch. |
| Natl Inst of Arthr & Musculoskeletal & Skin Diseases | CHF, Lab of Physical Biology. |
| | Director, Extramural Program. |
| | Deputy Dir. |
| National Library of Medicine | Dep Dir, Natl Lib of Medicine. |
| | Dep Dir for Res and Education. |
| | Associate Director for Library Operations. |
| | Assoc Dir, Specialized Info Services. |
| | Dep Dir Lister Hill Natl Ctr for Biomed Comms. |
| | Director, Information Systems. |
| Natl Inst of Allergy & Infectious Diseases | Dir, Div of Allergy/Immunology/Transplantatn. |
| | CHF, Lab of Parasitic Diseases. |
| | CHF, Lab of Biology of Viruses. |
| | Spec Asst for Biometry, Off Sci Dir. |
| | Dir, Div of Microbiology/Infectious Diseases. |
| | Chief, Lab or Immunogenetics. |
| | Dir. Div of Extramural Activities. |
| | CH, Lab of Microbial Structrure and Function. |
| | Chief Lab of Molecular Microbiology. |
| | Head Malaria Section. |
| | Dir, Div Acquired Immunodeficiency Syndrome. |
| | Assoc Dir for Administration & Operations. |
| | Deputy Dir, Division of Extramural Activities. |
| | Chief, Biological Resources Branch. |
| | Head, Lymphocyte Biology Section. |
| | Chief, Laboratory of Infectious Diseases. |
| | Head Experimental Pathology Section. |
| | Dep Dir Div of Acquired immunodeficiency. |
| | Head Epidemiology Section. |
| Natl Inst on Aging | Scientific Director Gerontology Rsch Cntr. |
| | Clin Director and Chief Clin Physiology Br. |
| | Chief Lab or Cellular & Molecular Biology. |
| | Associate Dir For Behavioral Sciences Res. |
| | Assoc Dir, Biomed Res & Clinical Medicine Prog. |
| | Assoc Dir, Office of Extramural Affairs. |
| | Assoc Dir, Epidemi, Demo, & Biometry Program. |
| | Assoc Dir for Plng, Analysis & Communications. |
| | Assoc Dir Neurosci & Neuropsych of Aging Prog. |
| Natl Inst of Child Health & Human Development | Chief, Laboratory of Molecular Genetics. |
| | Dep Dir Center for Population Res. |
| | CHF, Endocrinology & Reproduction Research Br. |
| | Director Ctr Forres for Mothers & Children. |
| | Director Cntr for Population Research. |
| | Chief, Section on Growth Factors. |
| | Assoc Dir for Prevention Research. |
| | CHF, Section on Mammalian Gene Regulation. |
| | Chief, Section on Molecular Endocrinology. |
| | Chief, Section on Neuroendocrinology. |
| | Chief Section on Microbial Genetics. |
| | Chief, Laboratory of Comparative Ethology. |
| | CHF, Cell Biology & Metabolism Branch. |
| [illegible]nst of Dental Research | Chief Lab of Microbiology & Immunology. |
| | CHF, Laboratory of Dev Biology & Anomalies. |
| | CHF, Enzyme Chemistry Section. |
| | Dir, Extramural Program. |
| | Chief, Bone Research Branch. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Chief, Epidemiology Branch. |
| Natl Inst of Environmental Health Services | CHF Lab of Pulmonary Pathobiology. |
| | Chief, Lab of Genetics. |
| | Head Mutagenesis Section. |
| | Head Mammalian Mutagenesis Section. |
| | Dir, Div of Biometry and Risk Assessment. |
| | Senior Scientific Advisor. |
| | Dir. Div of Toxicology Research & Testing. |
| | Associate Director for Management. |
| | Chief, Signal Transduction Section. |
| Natl Inst of General Medical Sciences | Dir, Cell & Molec Basis of Disease Prog. |
| | Dir Genetics Program. |
| | Assoc Dir for Program Activities. |
| | Dir, Pharmacological Sciences Program Branch. |
| | Dir Bio Phys Sciences Program Branch. |
| | Dep Dir Natl Institute of General Med Sci. |
| Natl Inst of Neurological Disorders and Stroke | Dir Fundamental Neurosciences Program. |
| | Director, Stroke and Trauma Program. |
| Intramural Research | Chief Lab of Central Nervous System Studies. |
| | Chf, Devel & METAB Neurology Branch. |
| | Chf Lab of Molecular Biology. |
| | Deputy Chief, Lab of Central Nervous Sys Stud. |
| | HD Cellular Neuropathology Section. |
| | Chief, Section on Neuroradiology. |
| | Chief, Lab of Biophysics. |
| | Chf, Lab of Neuropathology & Neuroanatomical S. |
| | Chf Lab of Neurochemistry. |
| | Chf, Surgical Neurology Branch. |
| | Chief Biometry & Field Studies Branch. |
| | Chief, Labortory of Nuerobiology. |
| | Chief, Laboratory of Neura Control. |
| | Chief Brain Structural Platicity Section. |
| | Chf, Lab of Viral & Molecular Pathogenesis. |
| Natl Eye Institute | Chief Laboratory of Retinal Cell & Mol Biolog. |
| | Dir, Intramural Research Program, NEI. |
| | Chief, Lab of Molecular & Dev. Biology. |
| | Chief, Laboratory of Sensorimotor Research. |
| | Chief, Lab of Ophthalmic Pathology. |
| | Assoc Dir. Biometry & Epidemiology Prog. |
| Natl Inst on Deafness & Other Communications Disorders | Chf, Lab of Neuro-Otolaryngology. |
| | Director, Communicative Disorders Program. |
| NIH Clinical Center | Assoc Dir for Cinical Care/Dir, Clinical Ctr. |
| | Health Systems Administrator. |
| | Associate Director for Planning. |
| Division of Computer Research & Tech | Chief, Computer Center Branch. |
| | Chief, Physical Sciences Lab. |
| | Chief, Data Management Branch. |
| Division of Research Resources | Dir, Div of Research Resources. |
| | Dep Dir, Div of Res Resources. |
| | Dir, Gen Clinical Res Center Program Branch. |
| Division of Research Grants | Associate Director for Referral and Review. |
| | Assoc Dir for Statistics & Analysis. |
| Division of Research Services | Chf Biomedical Engineering & Instrumentation. |
| National Center for Nursing Research | Director National Cntr for Nursing Research. |
| National Center for Human Genome Research | Deputy Director. |
| Agency for Health Care Policy & Research | Dir, Ctr for Gen Health Serv Intramural Res. |
| | Dir, Ctr Gen Health Svce Extramural Research. |
| OFC of Actuary | Chf Actuary. |
| | Dep Chief Actuary (Long-range). |
| | Dep Chief Actuary Short Range SSA. |
| Office of Systems Operations | Dir, OFC of Computer Processing Operations. |
| Office of Systems Design & Development | Director, Office of Programmatic Systems. |
| OFC of Management | Director, Office of Acquisition and Grants. |
| Office of the Chief Financial Officer | Chief Financial Officer. |
| OFC of Financial Policy & Operations | Assoc Comr, Office of Fin Policy & Operations. |
| | Dep Assoc Comm Financial Policy & Opertions. |
| Family Support Administration | Assoc Admin OFC of Financial Management. |
| | Assoc Admr, OFC of Mgmt and Info Systems. |
| Department of Housing and Urban Development: | |
| Office of the Secretary | Dep Chief Financial Officer for Operations. |
| Office of the General Counsel | Assoc Gen Coun for Program Enforcement. |
| Office of the Inspector General | Deputy Inspector General. |
| | Asst Inspector General for Investigations. |
| | Assistant Inspector General for Audit. |
| | Asst Inspector General for Management & Pol. |
| | Deupty Asst Inspector Gen for Audit Operation. |
| | Dep Asst IG for Audit Plng & Qlty Assurance. |
| | Dep Asst Inspector General for Investigation. |
| Office of the Chief Financial Officer | Chief Financial Officer. |
| Assistant Secretary for Administration | Deputy Director, Ofc. of Personnel & Training. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Dir, Ofc of Budget. |
| | Director, Office of Finance & Accounting. |
| | Dep Dir, Ofc of Budget. |
| | Director Ofc of Procurements & Contracts. |
| | Dir, General & Program Accounting Group. |
| | Deputy Director Office of Finance & Accountg. |
| | Dep Dir for Accounting Policy & Planning. |
| | Special Projects Officer. |
| | Adm Comptroller-Dir, Ofc of Fin & Accounting. |
| Assistant Secretary for Housing | Dir, Office of Insured Single Family Housing. |
| | Dir, Moderate Rehabilitation Division. |
| | Dir, Mortgage Insurance Acctng Serv Group. |
| | Dir, Ofc of Multifamily Housing Management. |
| | Dir, Office of Elderly & Assisted Housing. |
| | Housing/Fed Housing Adm Comptroller. |
| | Deputy Comptroller for Policy & Planning. |
| | Dep Comptroller for Fin Systems Enhancements. |
| Asst Secy for Fair Housing and Equal Opportunity | Dir Ofc of HUD Program Compliance. |
| | Dir Ofc of Fair Housing Enforce and Sec 3. |
| Asst Secy for Community Planning and Development | Dir Office of Environment and Energy. |
| | Dir Ofc of Block Grant Asst. |
| Government National Mortgage Association | Vice President for Asset Management. |
| | Vice President for Mortgage Backed Securities. |
| | Vice President for Finance. |
| Asst Secy for Public and Indian Housing | Gen Dep Asst Secy for Public & Indian Housing. |
| | Dir. Office of Public Housing. |
| | Public & Indian Housing—Comptroller. |
| | Dir, Ofc of Management & Operations. |
| Region II New York | Manager. |
| | Manager Buffalo. |
| Region III Philadelphia | Manager. |
| Region IV Atlanta | Manager. |
| Region V Chicago | Manager. |
| | Manager. |
| | Manager. |
| | Manager. |
| Region VI Dallas | Manager. |
| | Manager. |
| Region IX San Francisco | Manager. |
| Department of Interior: | |
| Ofc of the Inspector General | Assistant Inspector General for Auditing. |
| | Asst Inspector General for Investigations. |
| | Deputy Asst Inspector General for Audits. |
| Ofc of the Solicitor | Deputy Assoc Solicitor, General Law. |
| | Asst Solicitor Bureau of Parks and Recreation. |
| | Special Asst to the Assoc Solicitor—Gen Law. |
| | Dep Associate Solicitor—Energy & Resources. |
| | Dep Associate Solicitor—Indian Affairs. |
| Asst Secy for Policy, Budget & Administration | Asst Dir for Economics. |
| | Chief, Div of Budget Operations (A). |
| | Asst Dir for Special Analysis. |
| | Dep Agcy Ethics & Audit Coordination Officer. |
| | Chief Division of Budget Operations (B). |
| | Chief Div of Budget Admin. |
| Nat'l Park Service | Senior Scientist. |
| | Science & Technology Advisor. |
| | Asst Dir Minority Business Enterprise. |
| US Fish & Wildlife Service | Deputy Associate Director-Research. |
| | (Special Assistant to the Director). |
| | Dep Asst Dir—Pol, Budget, & Administration. |
| | Exec Dir—North American Waterfowl Plan. |
| | Research Director Patuxent Research Center. |
| | Director, National Ecology Center. |
| | Asst Regl Dir—Techn & Adm Services. |
| | Deputy Regl Dir-Region 8-Res & Dev. |
| | Spec Asst to the Reg Dir Research & Develop. |
| | Special Assistant to the Director. |
| Bureau of Mines | Resch Dir, Pittsburgh Research Center. |
| | Research Dir, Twin Cities Research Ctr. |
| | Research Director, Albany Research Ctr. |
| | Staff Asst to Deputy Assoc Dir Research. |
| | Chf, Ofc of Regulations Projects Coordination. |
| | Chief Division of Environmental Technology. |
| | Chief Div of Environmental Technology. |
| | Chief Division of Mineral Commodities. |
| | Deputy Assoc Dir Info & Analysis. |
| | Chief Division of Health Safety & Min Tech. |
| | Stf Asst to the Dep Assoc Dir-Info Analysis. |
| | Spec Asst to the Dir, Bureau of Mines. |
| | Chief, Division of Resource Evaluation. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Bureau of Reclamation | Chief, Division of Policy Analysis. |
| | Chief Mineral Economist. |
| | Chief Div of Research & Lab Services. |
| | Director, Program Services Office. |
| | Deputy Asst Commissioner Eng & Research. |
| | Senior Scientist. |
| | Deputy Assistant Commissioner Administration. |
| | Deputy Ass Commissioner-Resources Management. |
| | Project Manager/Arizona Projects Office. |
| | Dir Colorado River Storage Project Initiative. |
| | Chief Div Prog Coordination & Finance. |
| US Geological Survey | Staff Geologist for NPRA/Alaska Activities. |
| National Mapping Div | Chief, National Mapping Division. |
| | Associate Chief, National Mapping Division. |
| | Chief, EROS Data Center. |
| | Chief Western Mapping Center. |
| | Chief Mid-Continent Mapping Center. |
| | Chief Rocky Mountain Mapping Center. |
| | Asst Div Chief for Information & Data Svc. |
| | Chief Eastern Mapping Center. |
| | Asst Div Chf for Program, Budget & Adm. |
| | Asst Div Chf for Research. |
| | Asst Div Chf for Coordination & Requirements. |
| Water Resources Div | Chief Hydrologist. |
| | Assoc Chief Hydrologist. |
| | Regl Hydrologist Central Reg Lakewood. |
| | Chief, Branch of Ground Water. |
| | Regl Hydrologist Southeastern Region. |
| | Regional Hydrologist, Western Region. |
| | Regional Hydrologist, Northeastern Region. |
| | Asst Chf Hydrologist for Operations. |
| | Asst Chief Hydrologist for Scien Info Mgmt. |
| | Asst Chf Hydrologist for Water A & D Coord. |
| | Asst Chf Hydro for Res & Extrnl Coordination. |
| | Asst Chf Hydrologist/Prog Coord & Tech Supp. |
| | Chf, OFC of Atmospheric Deposition Analysis. |
| | Chf, OFC of Hydrologic Research. |
| | Chief, WRSIC Program. |
| | Chief, Office of Water Quality. |
| | Chf, Br of Water Information Transfer. |
| | Chief, Office of Surface Water. |
| | Chief, Office of External Research. |
| | Chief, National Water Data Exchange Program. |
| Geologic Div | Chief Geologist. |
| | Chief, OFC of Earthquakes, Volcanoes & Engr. |
| | Chief, OFC of Scientific Publications. |
| | Assoc CHF Geologist. |
| | Chf, OFC of Mineral Resources. |
| | Chief, Office of Energy & Marine Geology. |
| | Chief, Office of International Geology. |
| | Asst Chief, OFC of Energy and Marine Geology. |
| | Assistant Chief Geologist for Programs. |
| Bureau of Land Management | Deputy Asst Dir Management Services. |
| | Director, Boise Interagency Fire Center. |
| | Dep Asst Dir, Land & Renewable Resources. |
| | Dep Asst Dir, Energy & Minerals Resources. |
| Ofc of Surface Mining Reclam & Enforcement | Administrator-Technical Center—West |
| | Dep Asst Dir Eastern FLD OPS (Programs OPS). |
| | Asst Dir for Eastern Field Operator. |
| | Assistant Director, Western Field Operations. |
| Minerals Management Service | Regional Director, Gulf of Mexico OCS Region. |
| | Dep Associate Director for Offshore Leasing. |
| | Chief, Leasing Management Division. |
| | Regional Manager, Atlantic OCS Region. |
| | Regional Manger, Alaska OCS Region. |
| | Assistant Assoc Dir for Offshore Minerals Mgt. |
| | Regional Manager, Pacific OCS Region. |
| | Dep Associate Dir for Offshore Operations. |
| | Dep Assoc Dir for Collection & Disbursement. |
| | Prog Dir, OFC of Strategic & Internal MINLS. |
| | Dep Assoc Dir for Valuation & Audit. |
| | Dep Assoc Dir for Administration. |
| | Deputy Assoc Dir for Budget & Appeals. |
| Asst Secy-Indian Affs | Spec Asst to the Asst Secy—Indian Affairs. |
| Bureau of Indian Affairs | Asst Dir of Administration (Financial Mgmt). |
| | Dep to the Dir Indian Education Programs. |
| International Development Cooperation Agency: | |
| Ofc of the Administrator | Asst to the Admr for Personnel & Fin Mgmt. |
| Ofc of the General Counsel | Deputy General Counsel. |
| Office of the Inspector General | Asst Inspector General for Security. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Asst Inspector General for Investigations. |
| | Counsel to the Inspector General. |
| | Deputy Inspector General. |
| Office of Equal Opportunity Programs | Dir Ofc of Equal Opportunity Programs. |
| Office of Financial Management | Controller and Senior Financial Officer. |
| | Financial Manager for Policy and Systems. |
| Office of Personnel Management | Dep, Dir, Office of Personnel Management. |
| Bureau for Management | Assistant to the Administrator for Management. |
| Directorate for Program and Management Services | Associate Director for Management. |
| | Dir Office of Information Resource Management. |
| | Deputy Dir for Program Operations. |
| | Director Office of Procurement. |
| | Deputy Director Office of Infor Res Manag. |
| | Dir. Ofc of Management Operations. |
| Interstate Commerce Commission: | |
| Ofc of the Chairman | Legislative Counsel. |
| Office of the General Counsel | Trial Atty (Trans) Assoc Gen Coun Lit 76-069. |
| | Assoc Gen Counsel—Litigation. |
| | Assoc Gen Coun Research & Legislation. |
| Ofc of the Managing Director | Dir of Personnel. |
| Bureau of Accounts | Deputy Director. |
| | Director Bureau of Accounts. |
| | Deputy Director—Accounts. |
| Bureau of Traffic | Dir, Bureau of Traffic. |
| Office of Transportation Analysis | Deputy Director—Analysis. |
| Office of Compliance & Consumer Assistance | Deputy Director for Enforcement. |
| | Assoc Dir, Ofc of Compliance & Consumer Asst. |
| | Director. |
| | Associate Director—Policy & Review. |
| Regional Offices | Regional Director (Philadelphia). |
| | Regional Director (Chicago). |
| | Regional Director (San Francisco). |
| Office of Proceedings | Deputy Director. |
| | Deputy Director. |
| | Assistant Deputy Director. |
| Department of Justice: | |
| Office of the Attorney General | Counsel on Professional Responsibility. |
| | Dep Counsel on Professional Responsibility. |
| Office of the Inspector General | Deputy Inspector General. |
| | Asst Inspector General for Inspections. |
| | Assistant Inspector General for Audit. |
| | Assistant Inspector General for Investigation. |
| | Asst Inspector Gen for Management & Planning. |
| Justice Management Division | Dep Asst Attorney Gen; Personnel Adm. |
| | Asst Attorney General for Administration. |
| | Prin Dep Asst Atty General for Administration. |
| | Dir, Security & Emergency Planning Staff. |
| | Dir, Facilities and Administrative SVC Staff. |
| | Assoc Asst Attorney General, Legal Counsel. |
| | A/A Atty Gen. Ofc of the Asst Atty Gen Adm. |
| | Associate Assistant Attorney General. |
| | Director Management and Planning Staff. |
| | Director, Budget Staff. |
| | Senior Management Counsel. |
| | Procurement Executive. |
| | Senior Policy Advisor. |
| Office of the Controller | Dep Asst Attorney General: Controller. |
| | Deputy Comptroller |
| | Dir Finance Staff. |
| | Special Projects Officer. |
| | Dep Asst Atty Gen for Debt Collection. |
| | Asst Dir. Management & Planning Staff. |
| Office of Personnel and Administration | Director Personnel Staff. |
| | Director General Services Staff. |
| Office of Info & Admin Services | Deputy Assistant Attorney General |
| | Director, Computer Services Staff. |
| | Director, Systems Policy Staff. |
| | Dir. Legal and Informations Systems Staff. |
| Executive Office for Immigration Review | Chief Immigration Judge. |
| | Assistant to the Director. |
| | Chief Admin Hearing Officer. |
| Antitrust Division | Chief Economic Litigation Section. |
| Immigration and Naturalization Service | Comptroller. |
| | Asst Commissioner for Detention & Deportation. |
| | Assistant Commissioner for Border Patrol. |
| | Asst Comm for Employer & Labor Relations. |
| Associate Commissioner for Information Systems | Assistant Commissioner for Records Systems. |
| Associate Commissioner for Examinations | Asst Commissioner for Adjudication & Natural. |
| | Asst Comm for Inspections. |
| Associate Commissioner for Enforcement | Assistant Commissioner for Investigations. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Associate Commissioner for Management | Asst Commissioner for Administration. |
| Community Relations Service | Regl Director, Region IX, San Francisco. |
| Ofc of the Associate Attorney General | Exec Asst to the Assoc Atty Gen for Mgt Issue. |
| Executive Ofc for U.S. Attorneys | Dire Ofc of Mgnt Information Systems Support. |
| | Dir. Office of Administration & Review. |
| Ofc of Deputy Asst Attorney General I | Counsel to the Office Fraud Section. |
| Federal Prison System | Deputy Director. |
| | Asst Dir for Planning and Development. |
| | General Counsel. |
| | Assoc Commr. Fed Prisons Industries, Unicor. |
| | Dep Assoc Comm for Fed Prison Industries. |
| | Deputy Associate Commissioner. |
| | Cortl Prog Admr Asst Dir for Human Res Mgmt. |
| | Correctional Prog Admr Asst Dir for Prog Rev. |
| | Sen Dep Asst Dir Admin Div. |
| | Senior Deputy Asst Dir Health Services Div. |
| | Senior Deputy Assistant Director. |
| | Assistant Dir. Program Review Division. |
| | Sr Dep Asst Dir Federal Prison Industries. |
| | Regional Director Mid Atlantic Division. |
| | Chief of Staff to the Director. |
| Office of Correctional Programs | Asst Dir Correctional Programs Div. |
| Northeast Region | Regional Director. |
| | Warden, Lewisburg, PA. |
| | Warden Danbury Conn. |
| | Warden, McKean, PA. |
| Southeast Region | Regional Director. |
| | Warden Atlanta. |
| | Warden, Lexington Kentucky. |
| | Warden Butner North Carolina. |
| | Warden Marianna FL. |
| North Central Region | Regional Director. |
| | Warden Leavenworth Kansas. |
| | Warden Springfield MO. |
| | Warden Marion IL. |
| | Warden Terre Haute, IN. |
| | Correctional Institution ADMR. |
| | Warden, Fed Correctional Institution. |
| South Central Region | Regional Director. |
| | Warns El Reno Okla. |
| | Warden Ft Worth, Texas. |
| | Warden La Tuna, TX. |
| Western Region | Regional Director. |
| | Warden Terminal Island, CA. |
| | Warden, Lompoc, CA. |
| | Warden Los Angeles CA. |
| | Warden Phoenix AZ. |
| | Warden Federal Correctional Institution. |
| Ofc of Justice Programs | Comptroller, Ofc of the Comptroller |
| National Institute of Justice. | Asst Dir, Ofc of Dev Testing & Dissemination |
| Bureau of Justice Statistics | Deputy Dir, Bureau of Justice Statistics. |
| U.S. Marshall Service | Associate Director for Administration. |
| | Associate Director for Operations. |
| | Assistant Director for Inspections. |
| | Comptroller. |
| | Asst. Dir, Operations Support. |
| | Assoc Dir for Training Glynco, GA. |
| | Asst Dir, for Human Resource Management. |
| Department of Labor: | |
| Ofc of the Inspector General | Deputy Inspector General. |
| | Asst Inspector General for Investigations. |
| | Asst Inspector Gen for Audit. |
| | Deputy Assistant Inspector General for Audit. |
| | Dir, Ofc Resource Mgnt & Legislative Assmt. |
| | Asst Inspector Gen for Labor Racketeering. |
| | Dep Asst Insp Gen for Labor Racketeering. |
| Office of the Deputy Secretary | Director, DOL Academy. |
| Office of the Solicitor | Deputy Solicitor (Regional Operations). |
| | Associate Solicitor for Labor-Management Laws. |
| | Assoc Solicitor for Plan Benefits Security. |
| | Assoc Solicitor for Civil Rights. |
| | Assoc Solicitor for Occupational Safety & Hlt. |
| | Assoc Solicitor for Mine Safety & Health. |
| | Assoc Solicitor for Fair Labor Standards. |
| | Assoc Solicitor for Employee Benefits. |
| | Associate Solicitor for Spec Litigation. |
| | Assoc Sol for Spec Appel & Sup Court Lit. |
| | Dep Solicitor for Planning and Coordination. |
| | Dir, Office of Management. |
| | Associate Solicitor for Black Lung Benefits. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Regional Solicitors | Regional Solicitor. |
| | Regional Solicitor Region IV-Atlanta. |
| | Regl Solicitor Boston. |
| | Regl Solicitor New York. |
| | Regional Solicitor Philadelphia. |
| | Regl Solicitor Dallas. |
| | Regl Solicitor Kansas City. |
| | Regl Solicitor San Francisco. |
| OAS for Administration and Management | Asst Sec'y for Admin & Mgmt. |
| | Dep Asst Sec for Adm and Mgmt. |
| | Director, Office of Budget. |
| | Dir of Management Policy and Systems. |
| | Comptroller for the Department. |
| | Dir of Personnel Management. |
| | Dep Dir of Personnel Management. |
| | Deputy Comptroller. |
| | Deputy Director Office of Civil Rights. |
| | Director, Directorate of Civil Rights. |
| | Dir Natl Capital Service Center. |
| | Director of Information Resources Management. |
| | Dir, Administrative & Procurement Programs. |
| Office of Management, Administration and Planning | Dir Ofc of Mgmt, Administration and Planning. |
| Ofc of Federal Contract Compliance Programs | Director Division of Programs Operations. |
| Wage and Hour Division | Asst Admin for Program Operations. |
| | Asst Admin for Policy Planning & Review. |
| | Dep Wage & Hour Admin. |
| Ofc of Workers Compensation Programs | Dir Federal Employees Compensation. |
| | Dir Coal Mine Workers Compensation. |
| Pension & Welfare Benefits Administration | Director of Enforcement. |
| | Dir of Regulations & Interpretations. |
| | Director of Program Services. |
| | Deputy Director of Program Services. |
| | Senior Dir of Policy & Legislative Analysis. |
| | Dep Asst Secy for Program Operations. |
| | Director of Exemption Determinations. |
| Office of Labor Management Standards | Dir Ofc of Standards, Tech Asst & Disclosure. |
| | Dir Ofc of Elect Trustshp/Intern'l Union Audt. |
| | Director, Ofc of Policy & Program Support. |
| Bureau of Labor Statistics | Associate Commissioner for Field Operations. |
| | Dir, Quick Response Pol Surveys & Analysis. |
| Data Analysis | Assoc Commr, Economic Growth. |
| | Assoc Comr for Prices and Living Conditions. |
| | Assoc Commr Productivity & Technology. |
| | Assoc Comr for Research & Evaluation. |
| | Assoc Comm for Employment & Unempl Statistics. |
| | Asst Commr for Consumer Prices & Price Indexes. |
| | Asst Commr for Indust Prices & Price Indexes. |
| | Asst Commissioner for Mathematical Statistics. |
| | Assistant Commissioner for Economic Research. |
| | Asst Commissioner for Federal-State Programs. |
| | Asst Commissioner for Current Employ Analysis. |
| | Asst Comr for Compensation Levels & Trends. |
| | Asst Comr for Safety, H & W Conditions. |
| | Assoc Comr Compensation & Working Conditions. |
| | Asst Comm for Survey Methods Research. |
| | Asst Comm for International Prices. |
| Administrative and Internal Operations | Dep Comm for Adm and Internal Operations. |
| | Assistant Commissioner for Administration. |
| | Director of Survey Processing. |
| | Dir of Technology & Computing Svcs. |
| | Asst Comr for Technology & Survey Processing. |
| | Dir Quality & Info Management. |
| Office of Employment Security | Director, Ofc of Trade Adjustment Assistance |
| Office of the Comptroller | Comptroller. |
| | Admr, Ofc of Financial & Administrative Mgmt. |
| | Dep Admr, Ofc of Financial & Adm Management. |
| | Dep Admr for Information Resources Management. |
| Office of Info Resources Management | Dir, Ofc of Information Resources Management. |
| Administrative Programs | Dir, Adm Progs. |
| Health Standards Programs | Dir Health Standards Programs. |
| Safety Standards Programs | Director Safety Standards Programs. |
| Federal/State Operations | Director, Federal/State Operations. |
| Technical Support | Dir of Technical Support. |
| Mine Safety and Health Administration | Chf of Standards, Regulations & Variances. |
| | Director of Administration and Management. |
| | Director of Technical Support. |
| Merit Systems Protection Board: | |
| Ofc of the Executive Director | Director, Office of Policy & Evaluation. |
| | Executive Director. |
| | Director, Office of Administration. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Dir, Office of Management Analysis. |
| | Dep Exec Dir for Regional Operations. |
| | Dep Executive Dir for Management. |
| Ofc of General Counsel | Deputy General Counsel. |
| Office of Appeals Counsel | Deputy Director Office of Appeals Counsel. |
| Regional Offices | Regional Director, San Francisco. |
| | Regional Director, Chicago. |
| | Regional Director, Atlanta. |
| | Regional Director, Philadelphia. |
| | Regional Director, Dallas. |
| | Regional Director, Washington, DC. |
| National Aeronautics and Space Administration: | S/A to the Assoc Admr for Policy Integration. |
| Office of the Assoc Admr for Policy | Dir of Strategic Analysis. |
| Office of the Comptroller | Assistant Comptroller for Systems Analysis. |
| | Technical Assistant to the Comptroller. |
| | Asst Compt for Prog Status Rev & Cost Assess. |
| Financial Management Division | Dir Financial Mgmt Div. |
| | Dep Dir, Financial Management Div. |
| Resources Analysis Division | Director, Resources Analysis Division. |
| Ofc Safety Reliability Maintainability & Qual Assur | Director, Safety and Product Assurance Office. |
| | Dir, NASA Q & P Improvement Programs Division. |
| | Director, Safety Division. |
| | Dir, Reliability, M/Q Assurance Division. |
| | Dep Assoc A/S, Reliability, M/Q Assurance. |
| | Director, Programs Assurance Division. |
| | Dir Systems Assessment Division. |
| Ofc of the Assoc Admr, Space Science and Applications | Asst Assoc Administrator (Institutions). |
| | Assistant Assoc Administrator (Space Station). |
| Earth Science and Applications Division | Chief, Oceanic Processing Branch. |
| | Chief, Flight Programs Branch. |
| | CHF, Upper Atmospheric R/T Chemistry Branch. |
| | CHF, Atmospheric Dynamics and Radiation Br. |
| | Dep Dir, Earth Sci & Applications Division. |
| | Chief Land Processes Branch. |
| | CHF, Advanced M/I Science Research Branch. |
| | Spec Asst to the Dir, Earth Sci/Applications. |
| Communications Division | Dep Dir, Communications & Info Syst Div. |
| | CHF, Information Systems Branch. |
| Life Sciences Division | Chief, Space Medicine & Biology Branch. |
| | Chief, Flight Programs Branch. |
| | Dep Dir, Life Sciences Division. |
| Administration and Resources Management Division | Dep Dir, Administration & Resources Mgmt Div. |
| Solar Systems Exploration Division | Dep/Dir Solar System Exploration Division. |
| | Chief, Mission Operations Branch. |
| | Chief, Planetary Science Branch. |
| | Dep Dir for Adv Studies, Solar Sys Expltn Div. |
| | Manager, Craf-Cassini Program. |
| Flight Systems Division | CHF, Space Station Utilization Branch. |
| | Chief Microgravity Payloads Branch. |
| | Deputy Dir Flight Systems Division. |
| | CHF, Astrophysics & Earth Sci Payloads Branch. |
| Astrophysics Division | CHF, High Energy Astrophysics Br. |
| | Chief, Astronomy/Relativity Branch. |
| | Chief, Explorer Programs Branch. |
| | Deputy Dir Astrophysics Division. |
| | CHF, Observatories Dev & Operations Branch. |
| Microgravity Sciences and Applications Div | Dep Dir, Microgravity Science and Applications Div. |
| Space Physics Div | Chief, Solar Physics Branch. |
| | Dep Dir, Space Physics Division. |
| | Chief, Flight Programs Branch. |
| | Director, Space Physics Division. |
| Ofc of General Counsel, NASA | Deputy General Counsel (Policy Review). |
| Office of Procurement | Asst Admr for Procurement. |
| | Deputy Asst Admr for Procurement. |
| | Dir, Advanced Procurement Planning Division. |
| | Director, Program Operations Division. |
| | Director, Procurement Policy Division. |
| | Dir, Procurement Management Division. |
| | Dir, Contract Pricing & Finance Office. |
| Ofc of Asst Admr for Commercial Programs | Dir, Commercial Development Division. |
| | Deputy Assistant Administrator (Programs). |
| | Dir, Small Business Innovation Res Office. |
| | Spec Asst to the Asst. Admr. |
| Ofc of the Assoc Admr, External Relations | Mgr, Institutional Planning & Operations. |
| Industry Relations Division | Dep Dir, Industry Affairs Division. |
| Educational Affairs Division | Dep Director, Educational Affairs Division. |
| | Director, Educational Affairs Division. |
| Congressional Relations Office | Dep Asst Admin for Congrl Relations (Opers). |
| | Dir, Congressional Liaison Division. |
| International Relations Division | Dep Dir, International Relations Division. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Ofc of the Assoc Admr Space Flight | Deputy Director, Engineering Division. |
| | Deputy Director, Space Shuttle Operations. |
| Unmanned Lauch Vehicle and Upper Stages Div | Dir Unnmanned Launch Vehs & Upper Stgs Div. |
| | Chf, Orbital Maneuvering Vehicle Program. |
| Shuttle Carrier Systems Division | Director, Shuttle Carrier Division. |
| Advanced Program Development Division | Chief Advanced Transportation Branch. |
| | Dep Dir Advanced Program Development Division. |
| Transportation Services | Chief Flight Requirements & Analysis Branch. |
| | Dir, National Security & DOD Affairs Office. |
| | Chf, US Civil & Intl Payloads Branch. |
| National Space Transportation System | Natl Space Trans Syst Engineering Integration. |
| | Deputy Dir Transportation Services Office. |
| | Manager, Operations Integration Office. |
| | Mgr, Natl Space Trans Syst Integration & Ops. |
| | Director, Space Shuttle. |
| | Dep Mgr, Natl Space Transportation Sys Prog. |
| | Dep Dir, National Space Transportation Syst. |
| | Dep Mgr, Natl Space Trans Syst Operations. |
| | Manager, Shuttle Projects Office. |
| | Manager, NSTS Program Control. |
| System Engineering and Analysis | Director, Shuttle Systems Division. |
| | Dep Dir, Syst Eng & Analysis Division. |
| | Chief Solid Rocket Booster Program Branch. |
| | Dir Shuttle Orbiter Division. |
| | Chf, Solid Rocket Booster Program Branch. |
| Propulsion Division | Director, Shuttle Propulsion Division. |
| Operations Utilization | Dir, Kennedy Space Center Projects Division. |
| | Director, Operations Utilization Division. |
| | Dir, Operations Utilization Directorate. |
| Office of the Associate Administrator, Management | Dir Aircraft Management Ofc. |
| | Director, Management Operations. |
| Facilities Management | Dep Asst Assoc Admr for Facilities Management. |
| | Logistics and Security |
| | Dir, Logistics & Security Division. |
| Personnel and General Management | Dep Asst Assoc Admin for Personnel Management. |
| | Asst Assoc Admr for Personnel Management. |
| Information Systems Division | Chf Scientific and Tech Info Br. |
| | Asst Assoc Admr for Info Res Management. |
| | Dep A/A Admr for Info Res Mgmt Pol & Systems. |
| Ofc of Exploration | Dep Assistant Administrator for Exploration. |
| | Special Asst for Strategic Planning. |
| Headquarters Operations | Dep Asst Administrator for Headquarters Ops. |
| | Dir, Information Syst & Technology Division. |
| Ofc of the Assoc Admr, Aeronautics and Space Tech | S/A to the Adm Aeron/Space Tech (E/T). |
| | Manager, Heavy Lift Launch Vehicle. |
| Ofc of Director for Aeronautics | Asst Dir of Aeronautics (Gen A & T Aircraft). |
| | Deputy Director for Aeronautics. |
| | Dir for Aeronautics (High-Perf Aircraft). |
| | Asst Director for Aeronautics (Rotorcraft). |
| Office of Space Exploration | Asst Dir for Space Explorations (Intl). |
| | Asst Dir for Space Exploration (Comms). |
| Ofc of Dir for Space | Deputy Director for Space Technology. |
| | Manager, Civil Space Technology Initiative. |
| | Asst Dir for Space (Spacecraft Technology). |
| | Deputy Director for Space. |
| | Director for Space Technology. |
| Ofc of Dir for Institutions | Asst Director for Institutions (Facilities). |
| | Asst Dir for Institution (Information Syst). |
| | Dir, Resources & Management Systems Office. |
| | Director for Institutions. |
| Aerodynamics Division | Deputy Dir Aerodynamics Division. |
| Materials & Structures Division | Director, Materials and Structures. |
| Propulsion, Power, & Energy Division | Dir, Propulsion, Power and Energy Division. |
| National Aerospace Plans Office | NASA Dep Prog Mgr, Natl Aero-Space Plane Prog. |
| | Dep Dir, National Aero-Space Plane Office. |
| Ofc of Assoc Admr for Space Station | S/A to the Director. |
| Policy Division | Director, Policy Division. |
| Utilization Division | Deputy Director, Utilization Division. |
| | Chf, Integration & Marketing Branch. |
| Strategic Plans Programs Division | Dep Dir, Strategic Plans & Programs Division. |
| | Dir, Strategic Plans & Programs Division. |
| Resources & Administration Division | Dep Dir, Resources & Administration Division. |
| | Dir, Resources & Administration Division. |
| Space Station Program Office | Associate Program Director. |
| | Dir, Prog Syst Engineering/Integration Group. |
| | Tech Asst Dir, Space Station Freedom Program Ofc. |
| | Dep Dir, Space Station Program Office. |
| | Techn Asst to the Dep Dir Spc Stat Fred Prog. |
| | Director, Space Station Freedom. |
| | Manager, Element Integration. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Manager, Management Integration Office. |
| | Director, Program Support Office. |
| | Dir, User Integration Division. |
| Program Control Group | Director Program Control Group. |
| | Dir, Program Planning & Control Division. |
| Utilization & Operations Group | Dir, Program Utilization & Operating Group. |
| | Dir, Integrated Logistics Division. |
| | Dep Dir, Utilization & Operations Group. |
| | Dir, Planning & Analysis Division. |
| | Assoc Dir, Prog Utilization & Ops Group. |
| Programs System Engineering & Integration Group | Dep Mgr Mgt Integration Office. |
| | Dir, Information Syst Integration Division. |
| | Dep Dir, Prog Syst Eng & Integration Group. |
| | Dir, System Engineering Division. |
| | Assoc Manager, Program Engineering Office. |
| International Programs Group | Deputy Manager, International Programs. |
| | Dep Dir, Program Control Group. |
| | Asst Dir, International Programs Group. |
| | Dir, International Programs Group. |
| Ofc of the Assoc Admr Space Operations | Assistant Associate Administrators (Plans). |
| | Special Assistant (Operations). |
| | NASA Australian Representative. |
| Network System Division | Manager Space Network Operations. |
| | Dir, Ground Network Division. |
| Communications and Data Systems Division | Dir, Communications & Data Systems Div. |
| | Dep Dir, Communication & Data Systems Div. |
| | Dir, Communications Data Systems Division. |
| Tdrss Division | Manager, White Sands Space Network Complex. |
| | Manager, Tdrss Continuation Program. |
| Discrimination Complaints Division | Director, Discrimination Complaints Division. |
| Office of the Inspector General | Assist Inspector General for Investigation. |
| | Assistant Inspector General for Auditing. |
| Ames Research Center | Chief OFC of Safety Reliability & Qual Assura. |
| | Asst to Center Dir for Advanced Sys Design. |
| Administration Directorate | Comptroller. |
| | Chief, Acquisition Division. |
| Aerospace Systems Directorate | Chief, Aerodynamics Division. |
| | Chf Flight Systems & Simulation Rsch Div. |
| | Deputy Dir Aerospace Systems Directorate. |
| | Chief Aircraft Technology Division. |
| Space Research Directorate | Deputy Director of Space Research. |
| | Chief, Life Sciences Division. |
| | Chief, Earth Systems Science Division. |
| | Chf, Aerospace Human Factors Research Div. |
| Engineering and Technical Services Directorate | Dep Director Engineering & Tech Svcs. |
| Aerophysics Directorate | Chief, Space Science Division. |
| | Chief Computational Fluid Dynamics Branch. |
| | Chf, Systems Engineering Div. |
| | Chief, Full Scale Aerodynamics Research Center. |
| | Chief, Fluid Dynamics Division. |
| | Chief Computer Systems & Research Division. |
| | Chief Thermoscience Division. |
| | Chief, Information Sciences Division. |
| | Dir Numerical Aerodynamics Simu Sys Div. |
| | Deputy Director of Aerophysics. |
| Flight Operation and Research Directorate | Chief, Science & Applications Aircraft Div. |
| | Chf Engineer. |
| | Chf, Dryden Research Aircraft Operations Div. |
| | Chief, Research Engineering Division. |
| | Chf, Ames Research Aircraft Operations Div. |
| Goddard Space Flight Center | Comptroller. |
| | Director of Human Resources. |
| | Deputy Director for Earth Sciences. |
| | Dir of University Programs. |
| Management Opers Directorate | Dep Dir of Management Operations. |
| | Associate Director for Acquisition. |
| Flight Assurance Directorate | Director of Flight Assurance. |
| | Dep Dir Office of Flight Assurance. |
| Flight Projects Directorate | Deputy Director of Flight Projects. |
| | Assoc Dir of Flt Proj Space Stat Frdm-Goddard. |
| | Dep Dir Flight Project for Plng Business Mgmt. |
| | Dep Dir of Flight Proj for Space Stat-Goddard. |
| | Chief Engineer. |
| | Mgr Hubble Space Telescope Oper & Ground Syst. |
| | Project Manager, Gamma Ray Observatory. |
| | Proj Mgr, Hubble Space Telescope Prog-Goddard. |
| | Project Manager, Satellite Servicing Project. |
| | Assoc Dir of Flt Proj Hubble Space Telescope. |
| | Proj Mgr, Intl Solar Terr Physics Proj (Istp). |
| | Proj Mgr Hubble Spc Telescope Syst & Serv. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Project Manager Meteorlogical (Metsat) Projec. |
| Mission Operations & Data Systems Directorate | Asst Director for Systems Engineering. |
| | Assoc Dir of Mission Operations & Data Syst. |
| | Dep Dir of Mission Operations & Data Systems. |
| | Chief, Networks Division. |
| | Chief, Flight Dynamics Division. |
| Space & Earth Sciences Directorate | Chief, Lab for Astronomy and Solar Physics. |
| | Chief, Lab for Extraterrestrial Physics. |
| | Assoc Dir for Projects Engineering. |
| | Chf, Laboratory for Hydrospheric Processes. |
| | Chief, Space Data and Computing Division. |
| | Deputy Dir for Space Sciences. |
| | Chf, Laboratory for Atmospheres. |
| | Director of Space Sciences. |
| | Chief, Laboratory for Oceans. |
| | Associate Director for Program Planning. |
| | Associate Director for Space Station. |
| | Chief, Goddard Institute for Space Studies. |
| | Deputy Director for Earth Sciences. |
| | Associate Director for Science. |
| | Assoc Dir of the Earth Sciences Directorate. |
| | Chief, Laboratory for High Energy Astrophysics. |
| | Director for Earth Sciences. |
| | Chief, Laboratory for Terrestrial Physics. |
| Engineering Directorate | Dep Dir of Engineering. |
| | Chief, Instrument Division. |
| | Chf, Applied Engineering Div. |
| | Chief, Engineering. |
| | Chief, Special Payloads Division. |
| | Asst Dir of Engineering for Development Proj. |
| | Assistant Director for Technical Resources. |
| | Chief, Space Technology Division. |
| Suborbital Projects and Operations Directorate | Chf, Operations Division. |
| Johnson Space Center | Comptroller. |
| | Assistant Director (Plans). |
| | Dir of Public Affairs. |
| | Spec Asst for Engineering Operations & Safety. |
| | Assistant Director. |
| | Director of Procurement. |
| | Director of Human Resources. |
| | Special Assistant for Programs. |
| New Initiatives Office | Manager, New Initiatives Office. |
| | Mgr, Crew Emergency Return Vehicle Office. |
| | Deputy Manager, New Initiatives Office. |
| Center Support | Deputy Dir, Center Operations. |
| | Dir, Admin. |
| | Deputy Director, Administration. |
| | Dir, Center Operations. |
| Space Operations | Chief, Aircraft Operations Division. |
| | Chief, Training Division. |
| | Chief, Mission Planning and Analysis Division. |
| | Assistant Director, Mission Operations. |
| | Director, Mission Operations. |
| | Deputy Asst Dir for Program Support. |
| | Deputy Director, Mission Support. |
| | Director, Information Systems. |
| | Chief, Systems Development Division. |
| | Deputy Director, Mission Operations. |
| | Assistant Director for Program Support. |
| | Chief, Space Station Ground Systems Division. |
| | Assistant Director for NSTS programs. |
| | Chf, Facility & Support Systems Division. |
| | Dep Dir, Flight Crew Operations. |
| | Asst Dir for Space Shuttle Program. |
| | Chief, Space Shuttle Ground Syst Division. |
| | Assoc Dir for Information Systems Planning. |
| | Deputy Director, Information Systems. |
| Research & Engineering | Deputy Director, Engineering. |
| | Chief, Propulsion & Power Division. |
| | Chief, Structures and Mechanics Division. |
| | Chief, Crew & Thermal Systems Division. |
| | Chief Solar System Exploration Division. |
| | Chief, Medical Sciences Division. |
| | Chief, Automation and Robotics Division. |
| | Chief, Systems Engineering Division. |
| | Manager for Program Science. |
| | Associate Director, Engineering. |
| | Director, Engineering. |
| | Chief Engineer, New Initiatives. |
| | Manager, Orbiter Engineering Office. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Deputy Director, Space and Life Sciences. |
| | Chf, Avionics Systems Division. |
| | Chief, Navigation, Control & Aeronautics Div. |
| Natl Space Transp Sys Prog Ofc | Dep Manager, Orbiter & GFE Projects Office. |
| | Chf, Man-Systems Division. |
| | Manager, Orbiter and GFE Projects Office. |
| Space Station Project Office | Manager for Development. |
| | Dep Mgr, Space Station Projects Office. |
| Safety, Reliability & Quality Assurance | Dir, Safety, Reliability, & Quality Assurance. |
| | Dep Dir, Safety, Reliability & Qual Assurance. |
| Sts Operations Program Office | Manager, Lunar & Mars Exploration Prog Office. |
| NASA White Sands Test Facility | Manager, NASA White Sands Test Facility. |
| Kennedy Space Center | Director, Procurement. |
| | Dir, Exec Management Ofc. |
| | Associate Deputy Director. |
| Biomedical Office | Chf., Biomedical Office. |
| Public Affairs | Dir, Public Affairs. |
| Safety, Reliability and Quality Assurance | Director, Safety and Reliability. |
| | Director, Protective Services. |
| | Director, Quality Assurance. |
| Shuttle Management Operations | Deputy Dir Vehicle Engineering. |
| | Manager Space Station Projects Office. |
| | Dir, Shuttle Logistics Project Management. |
| | Dir of Space Trans System Mgmt & Operations. |
| Center Support Operations | Director of Center Support Operations. |
| | Deputy Director of Center Support Operations. |
| Engineering Development | Deputy Director of Engineering Development. |
| Project Management | Director, Facilities Engineering. |
| Mechanical and Facilities Engineering | Dir, Mechanical Engineering. |
| Electronic Engineering | Director, Electronic Engineering. |
| Cargo Management and Operations | Dep Dir of Cargo Operations. |
| | Director, Expendable Vehicles. |
| Sts Cargo Operations | Director, Sts Payload Operations. |
| Shuttle Projects Office | Director, Shuttle Operations. |
| | Director, Ground Engineering. |
| Langley Research Center | Chief Engineer. |
| Electronics Directorate | Chf. Analysis & Computation Division |
| | Chief, Projects Division. |
| | Chief Flight Electronics Division. |
| | Chief Instrument Research Division. |
| Structures Director | Chf. Acoustics Division. |
| | Chief Structural Mechanics Division. |
| | Chief Materials Division. |
| | Chief, Structural Dynamics Division. |
| Aeronautics Directorate | Chief, Advanced Vehicles Division. |
| | Chief Applied Aerodynamics Division. |
| | Deputy Director for Aeronautics. |
| | Chief, Flight Applications Division. |
| | Deputy Director For Aeronautics. |
| | Chief, Flight Applications Division. |
| | Manager, Hypersonic Technology Office. |
| | Chief, Fluid Mechanics Division. |
| Space Directorate | Chief, Space Systems Division. |
| | Chief, Atmospheric Sciences Division. |
| | Manager, Space Station Freedom Office. |
| | Deputy Manager, Space Station Freedom Office. |
| | Manager, Human Exploration Initiative Office. |
| Systems Engineering and Operations Directorate | Dep Dir For Syst Engineering & Operations. |
| | Chief Facilities Engineering Division. |
| | Chief Systems Engineering Div. |
| | Chf, Syst Sfty, Quality, & Reliability Div. |
| Manager Operations | Deputy Director for Management Operations. |
| Flight Systems Directorate | Chief Information Systems Division. |
| | Chf, Guidance and Control Division. |
| | Chief Flight Management Division. |
| Lewis Research Center | Director, Ofc of Intergency & Industry Prog. |
| | Chf, Ofc of Sfty, Reliability & Quality Assur. |
| Administration & Computer Services | Chief, Computer Services Division. |
| | Dir, Adm & Computer Services Directorate. |
| Aeronautic Directorate | Chief Internal Fluid Mechanics Division. |
| | Chf, Propulsion Systems Div. |
| | Chief, Instrumentation & Control Technol Div. |
| | Chf, Internal Fluid Mechanics Division. |
| | Chief Technologist. |
| | Chf, Aeropropulsion Analysis Office. |
| | Chf, Aeropropulsion Facilities & Exper Div. |
| Space Station Systems Directorate | Dep Dir of Space Station Systems. |
| | Chief Electrical Systems Division. |
| | Chief, Photovoltaic Power Module Division. |
| | Chief Engineer. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Chief, Power Technology Division. |
| | Chf, Systems Engineering & Integration Div. |
| | Deputy For Integration. |
| Aero Space Technology Directorate | Chief, Space Propulsion Technology Division. |
| | Chief, Materials Division. |
| | Chief, Structures Division. |
| | Chief, Interdisciplinary Technology Office. |
| Space Flight Systems Directorate | Chf. Advanced Space Analysis Office. |
| | Manager Launch Vehicle Project Office. |
| | Manager, Acts Project Office. |
| | Chief, Space Experiments Division. |
| | Chief, Space Communications Division. |
| Engineering & Technical Services Directorate | Chief, Structural Systems Division |
| | Chf, Electronics & Control Systems Division. |
| | Director of Engineering |
| | Deputy Director of Engineering. |
| | Chief, Propulsion & Fluid Systems Division. |
| Marshall Space Flight Center | Executive Assistant to the Director. |
| | Comptroller. |
| | Assistant to the Director. |
| | Dir, Admin. Operations Office. |
| | Associate Director. |
| Office of Sfty, Rel & Quality Assurance | Director, Quality Assurance Office. |
| | Dir, Systems Safety & Reliability Office. |
| | Director, Safety & Mission Assurance Office. |
| Science and Engineering | Chief Engineer, Observatory Projects. |
| | Director, Space Sciences Lab |
| | Director, Propulsion Laboratory. |
| | Director, Syst Anal & Integration Laboratory. |
| | Dep Dir Sys Analysis and Integration Lab. |
| | Chf Mission Analysis Division. |
| | Chf, Aerophysics Div. |
| | Deputy Director, Space Science Laboratory. |
| | Dep Dir Structures & Dynamics Laboratory. |
| | Deputy Dir, Materials & Processes Laboratory. |
| | Dep Dir, Mission Operations Laboratory. |
| | Dep Dir, Syst Anal & Integration Laboratory. |
| | Chf Engineer, Space Shuttle Main Engine Proj. |
| | Director Information & Electronic Sys Lab. |
| | Deputy Director For Space Systems. |
| | Dir Structures Dynamics Laboratory. |
| | Chief Engineer, Space Station Projects. |
| | Dep Dir Propulsion Laboratory. |
| | Dir, Materials & Processes Laboratory. |
| | Dep Dir For Space Transportation Systems. |
| | Dep Dir, Info & Electronic Systems Laboratory. |
| | Dir, Research & Technology Office. |
| | Director, Mission Operations Laboratory. |
| Special Projects Office | Manager, Orbital Maneuvering Vehicle Project. |
| Spacelab Payload Projects | Mgr, Science & Applications Payload Projects. |
| | Dep Manager Payload Projects Office. |
| Space Station Projects Office | Manager, Space Station Projects Office. |
| | Deputy Manager For Advanced Launch System. |
| | Dep Mgr, Space Station Projects Office. |
| Program Development | Deputy Director, Program Development. |
| | Director, Preliminary Design Office. |
| | Assoc Dir For Advanced Planning. |
| Shuttle Projects Office | Manager, External Tank Project. |
| | Mgr Solid Rocket Booster Project. |
| | Mgr Redesign Solid Rocket Motor Project. |
| | Mgr Space Shuttle Maine Engine Project. |
| | Manager, Advanced Solid Rocket Motor Project. |
| Spacecraft Office | Manager, Observatory Projects Office. |
| | Dep Mgr, Observatory Projects Office. |
| | Manager, Spacecraft Office. |
| Administration and Program Support | Dir Info Systems Office. |
| | Dir, Institutional & Program Support. |
| | Director, Procurement Office. |
| | Assistant to the Director. |
| | Dep Dir, Institutional & Program Support. |
| Stennis Space Center | Dir Sci & Tech Lab. |
| | Director, Science and Technology Laboratory. |
| | Director, Center Operations. |
| | Deputy Director, NASA Stennis Space Center. |
| | Assoc Director for Institution. |
| | Dir. Propulsion Test Operations. |
| | Director, Center Operations. |
| National Archives & Records Administration: | |
| National Archives & Records Administration | Deputy Archivist of the United States. |
| | Asst Archivist for the National Archives. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Asst Archivist for Federal Records Centers. |
| | Asst Archivist for Records Administration. |
| | Director, Lyndon B. Johnson Library. |
| | Director, Harry S Truman Library. |
| | Director Dwight D. Eisenhower Library. |
| National Capital Planning Commission: | |
| National Capital Planning Commission Staff | Executive Director. |
| | Assoc Exec Dir D.C. Affairs. |
| | Assistant Executive Director for Operating. |
| | Dir of Intergovernmental & Public Affairs. |
| National Endowment for the Arts: | |
| National Endowment for the Arts | Director of Program Coordination. |
| | Deputy Chairman for Management. |
| National Endowment for the Humanities: | |
| National Endowment for the Humanities | Dir, Office of Planning & Budget. |
| | Asst Chairman for Operations. |
| National Labor Relations Board: | |
| Ofc of the Board Members | Executive Secy. |
| | Deputy Executive Secretary. |
| | Inspector General. |
| Div of Enforcement Litigation | Deputy Assoc. Gen. Counsel Appellate Court Br. |
| | Director, Office of Appeals. |
| Div of Advice | Associate Gen Counsel, Div of Advice. |
| | Deputy Assoc Gen Counsel. |
| Div of Administration | Director of Administration. |
| | Deputy Director of Administration. |
| Div of Operations Management | Assoc General Counsel, Div of Operation-Mgmt. |
| | Dep Assoc Gen Counsel, Div of Operations-Mgmt. |
| | Assistant General Counsel. |
| | Assistant General Counsel. |
| | Assistant General Counsel. |
| | Assistant General Counsel. |
| | Assistant General Counsel. |
| | Asst of the General Counsel. |
| Regional Offices | Regl Dir Reg 1 Boston. |
| | Regional Director, Reg. 2 New York. |
| | Regional Director, Reg. 3, Buffalo. |
| | Regl Dir Reg 4 Philadelphia. |
| | Regional Director, Reg. 5, Balitmore. |
| | Regional Director, Reg. 6, Pittsburgh. |
| | Regl Dir, Region 7, Detroit Mich. |
| | Regional Director, Reg. 8, Cleveland. |
| | Regional Director, Reg. 9, Cincinnati. |
| | Regl Dir Reg 10, Atlanta. |
| | Regl. Dir., Reg. 11, Winston Salem. |
| | Regional Director, Reg 12, Tampa. |
| | Regional Director, Reg 13, Chicago. |
| | Regl Dir Reg 14, St. Louis. |
| | Regl Dir Reg 15, New Orleans. |
| | Regl Dir Reg 16, Ft. Worth. |
| | Regl Dir Reg 17, Kansas City. |
| | Regl Dir Reg 18, Minneapolis. |
| | Regl Dir Reg 19, Seattle. |
| | Regional Dir, Reg 20, San Francisco. |
| | Regional Director, Reg. 21, Los Angeles. |
| | Regional Director Reg 22, Newark. |
| | Regional Director Reg 24, Hato Rey Puerto Rico. |
| | Regl Dir, Reg 25, Indianapolis. |
| | Regl Dir Reg 26, Memphis. |
| | Regl Dir Reg 27, Denver. |
| | Regl Dir Reg. 28, Phoenix. |
| | Regl Dir Reg 29, Brooklyn. |
| | Regl Dir Reg 30, Milwaukee. |
| | Regl. Dir., Reg 32, Oakland. |
| | Regional Director, Reg. 33, Peoria, Ill. |
| | Regl Dir Reg 31, Los Angeles. |
| | Regional Director 34, Hartford. |
| National Science Foundation: | |
| Office of the Inspector General | Inspector General. |
| Office of the Director | Senior Staff Associate. |
| | Executive Asst to the Director. |
| Office of Information Systems | Dir, Information Management Division. |
| | Dir, Technological Environment Division. |
| Research Facilities Office | Executive Officer. |
| Office of the General Counsel | Deputy General Counsel. |
| Division of Budget | Division Director. |
| Program Evaluation Staff | Director, Program Evaluation Staff. |
| Office of Legislative and Public Affairs | Sr Assoc Ofc of Legislative & Public Affairs. |
| Directorate for Geosciences | Executive officer. |
| Division of Atmospheric Sciences | Head Centers & Facilities Section. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Section Head, Upper Atmosphere Section. |
| | Head Lower Atmosphere Section. |
| Division of Earth Sciences | Section Head, Research Grants Section. |
| | Head Major Projects Section. |
| Division of Ocean Sciences | Section Head Ocean Sciences Research Section. |
| Division of Polar Programs | Manager Polar Ops Section. |
| | Head, Polar Coordination & Info Section. |
| | Dep Dir Division of Polar Programs. |
| Directorate for Engineering | Senior Engineering Advisor. |
| Div of Design and Manufacturing Systems | Deputy Division Director. |
| Division of Biological and Critical Systems | Head Hazard Mitigation Section. |
| Div of Electrical and Communications Systems | Deputy Division Director. |
| Div of Mechanical and Structural Systems | Deputy Division Director. |
| Division of Engineering Infrastructure Development | Senior Staff Associate. |
| | Dep Dir, Div of Eng Infrastructure Dev. |
| Directorate for Biological, Behavioral Social Sciences | Executive Officer. |
| Division of Biotic Systems and Resources | Deputy Division Director. |
| Division of Behavioral and Neural Sciences | Dep Div Dir, Div of Behavioral & Neural Sci. |
| Division of Social and Economic Sciences | Deputy Division Director. |
| | Senior Scientist. |
| Directorate for Mathematical and Physical Sciences | Executive Officer. |
| | Senior Staff Associate for Planning. |
| Division of Physics | Deputy Division Director. |
| Division of Astronomical Sciences | Dep Dir, Division of Astronomical Sciences. |
| Division of Mathematical Sciences | Deputy Division Director. |
| Division of Materials Research | Sect Head, Metallurgy, Polymers, & Ceramics. |
| | Head Condensed Matter Sciences Section. |
| | Deputy Director. |
| | Head, Special Programs in Materials Office. |
| Division of Chemistry | Head Special Projects Office. |
| | Dep Dir Division of Chemistry. |
| Directorate for Education & Human Resources | Executive Officer. |
| | Deputy Asst Director. |
| | Senior Education Policy Advisor. |
| Directorate for Education and Human Resources | Senior Science Associate. |
| Directorate for Scientific, Tech & Internat'l Affairs | SR S/A for Strategic Planning & Assessment. |
| | SR Staff Assoc for Human Resources S & A. |
| Division of Policy Research and Analysis | Section Head, Science & Innovation Pol. Sec. |
| Division of Science Resources Studies | Section Head Survey and Analysis Section. |
| | Section Head, Special Analytical Studies Sect. |
| Division of International Programs | Deputy Division Director. |
| | Head Special Projects Office. |
| | Senior Staff Associate. |
| | Head, Information and Analysis Section. |
| | Head, Cooperative Science Section. |
| Directorate for Administration | Executive Officer. |
| Division of Grants and Contracts | Director, Division of Grants and Contracts. |
| | Director, Operations and Analysis. |
| Division of Financial Management | Division Director. |
| Division of Administrative Services | Dir, Division of Administrative Services. |
| Division of Personnel and Management | Division Director. |
| Directorate for Computer & Info Science & Engineering | Executive Officer. |
| Div of Advanced Scientific Computing | Deputy Director. |
| Div of Computer and Computation Research | Deputy Division Director. |
| Div of Information, Robotics & Intelligent Systems | Deputy Division Director. |
| Division of Microelectronic Information Processing Sys | Deputy Division Director. |
| Div of Networking & Comm Res & Infrastructure | Deputy Division Director. |
| National Transportation Safety Board: | |
| Office of the Managing Director | Dep Managing Dir for Mgmt & Policy. |
| | Director. |
| | Deputy Director. |
| | Chief Technical Advisor. |
| Office of Administration | Dir Office of Administration. |
| Office of Aviation Safety | Director. |
| | Deputy Director. |
| Office of Research & Engineering | Dir Ofc of Research and Engineering. |
| | Deputy Dir Ofc of Research and Engineering. |
| Office of Safety Recommendations | Director. |
| Office of Surface Transportation Safety | Dir Ofc of Surface Transportation Safety. |
| Nuclear Regulatory Commission: | |
| Atomic Safety and Licensing Brd Panel | Chairman ASLBP. |
| | Deputy Chief Administrative Judge Executive. |
| Atomic Safety and Licensing Appeal Panel | Chairman Aslap. |
| Office of the Inspector General | Dep Dir Ofc of the Inspector General. |
| | Asst Inspector General for Investigations. |
| | Asst Inspector General for Audits. |
| Deputy GC for Licensing & Regulation | Deputy Assistant GC/Legislative Counsel. |
| Dep GC for Hearings, Enforcement & Administration | Deputy Assistant GC for Administration. |
| Assistant GC for Hearings and Enforcement | Deputy Assistant General Counsel. |
| | Deputy Assistant General Counsel. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Deputy Assistant General Counsel. |
| | Deputy Assistant General Counsel. |
| | Deputy Assistant General Counsel. |
| Division of Operational Assessment | Chief Incident Response Branch. |
| | Chf, Diagnostic Eval & Incident Invest Branch. |
| Division of Safety Programs | Chf, Reactor Operations Analysis Branch. |
| | Chf, Trends & Patterns Analysis Branch. |
| Office of Administration | Dir Div of Contracts & Property Management. |
| | Director, Div of Security. |
| Office of the Controller | Dir Division of Accounting and Finance. |
| | Special Assistant for Internal Controls. |
| Office of Investigations | Associate Director for Legal Affairs. |
| Ofc of Small and Disadv Bus Utilization/Civil Rights | Director. |
| Program Management, Policy Development & Analysis Staff | Chief, Plng, Programs & Mgmt Support Branch. |
| | Chf, Pol Dev & Tech Support Branch. |
| | Chf, Inspection & Licensing Progs Branch. |
| Assistant Director for Region I Reactors | Project Dir. Project Directorate I-1. |
| | Project Director, Project Directorate I-2. |
| | Project Director, Project Directorate I-3. |
| | Project Director, Project Directorate I-4. |
| Assistant Director for Region II Reactors | Proj Dir Project Directorate II-1. |
| | Proj Dir Project Directorate II-2. |
| | Proj Dir Project Directorate II-3. |
| | Proj Dir, IV-A Project Directorate |
| Assistant Director for Region III Reactors | Proj Dir Project Directorate III-1. |
| | Proj Dir Project Directorate III-2. |
| | Proj Director Project Directorate III-3. |
| Assistant Director for Region IV and V Reactors | Proj Dir Project Directorate V. |
| | Proj Dir. Project Directorate IV-1. |
| | Project Dir, Proj Directorate IV-2. |
| Asst Dir for Special Projects | Project Dir, Standardization Proj Directorate. |
| | Proj Dir. N-P Reactor, D&E Proj Directorate. |
| | Asst Dir for Special Projects. |
| | Proj Dir License Renewal Proj Dir. |
| Division of Engineering Technology | Chief, Materials & Chemicals Engineering Br. |
| | Chf. Mechanical Engineering Branch. |
| | Chf, Structural & Geosciences Branch. |
| Division of Systems Technology | Chf, Plant Systems Branch. |
| | Chf, Reactor Systems Branch. |
| | Chf, Instrumentation & Control Syst Branch. |
| | Chf, Electrical Systems Branch. |
| Division of Operational Events Assessment | Chief, Generic Communications Branch. |
| | Chf, Technical Specification Branch. |
| | Chief, Events Assessment Branch. |
| Division of Reactor Inspection & Safeguards | Chf, Vendor Inspection Branch. |
| | Chf, Safeguards Branch. |
| | Chf, Special Inspections Branch. |
| Div of Radiation Protection & Emergency Preparedness | Chief Emergency Preparedness Branch. |
| | Chf, Risk Application Branch. |
| | Chf, Radiation Protection Branch. |
| Division of Licensee Performance & Quality Evaluation | Chf, Human Factors Assessment Branch. |
| | Chf, Operator Licensing Branch. |
| | Chf, Performance & Quality Evaluation Branch. |
| Office of Nuclear Material Safety and Safeguards | Dir Special Issues Group. |
| | Asst Dir, Special Issues Group. |
| Division of Safeguards & Transportation | Chf, Domestic SG & Regl Oversight Branch. |
| | Chf, International Safeguards Branch. |
| | Chief, Transportation Branch. |
| Div of Industrial & Medical Nuclear Safety | Chief, Operations Branch. |
| | Chief, Fuel Cycle Safety Branch. |
| | Chief, Medical, Acad & Com Use Sfty Branch. |
| Division of High Level Waste Management | Chf, Engineering Branch. |
| | Proj Dir, Repository L&Q Assurance. |
| | Chf, Geosci & Systems Performance Branch. |
| Div of Low Level Waste Management & Decommissioning | Chief, Operations Branch. |
| | Chief, Technical Branch. |
| | Chief, Regulatory Branch. |
| Division of Engineering | Chief, Materials Engineering Branch. |
| | Chief Waste Management Branch. |
| | Chief, Electrical and Mechanical Engineer Brh. |
| | Chief, Structural and Seismic Engineering Brh. |
| Division of Safety Issue Resolution | Chief, Severe Accident Issues Branch. |
| | Chief, Engineering Issues Branch. |
| | Chief, Reactor and Plant Sfty Issues Branch. |
| Division of Regulatory Applications | Chief Regulation Development Branch. |
| | Chf, Radiation Protection & Health Effects Br. |
| | Chief Adv Reactors and Generic Issues Branch. |
| Division of Systems Research | Chief Accident Evaluation Branch. |
| | Chf, Probabilistic Risk Analysis Branch. |
| | Chief, Reactor and Plant Systems Branch. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Chief, Human Factors Branch. |
| Region I | Deputy Regional Administrator. |
| | Dir, Div of Radiation Safety & Safeguards. |
| | Dep Dir, Div of Radiation Safety & Safeguards. |
| | Director Division of Reactor Safety. |
| | Dep Dir, Div of Reactor Safety. |
| | Director, Division of Reactor Projects. |
| | Deputy Director, Division of Reactor Projects. |
| Region II | Deputy Regional Administrator Region II. |
| | Dir, Div of Radiation Safety & Safeguards. |
| | Dep Dir, Div of Radiation Safety & Safeguards. |
| | Director, Division of Reactor Projects. |
| | Deputy Director, Division of Reactor Projects. |
| | Director, Division of Reactor Safety. |
| | Dep Dir, Div of Reactor Safety. |
| Region III | Dep Regional Administrator Region III. |
| | Director, Division of Reactor Safety. |
| | Dep Dir, Div of Reactor Safety. |
| | Director, Division of Reactor Projects. |
| | Deputy Director Division of Reactor Projects. |
| | Dir, Div of Radiation Safety & Safeguards. |
| | Dep Dir, Div of Radiation Safety & Safeguards. |
| Region IV | Deputy Regional Administrator, Region IV. |
| | Director Uranium Recovery Field Office. |
| | Director Div of Reactor Projects. |
| | Deputy Director, Div of Reactor Projects. |
| | Dir, Div of Radiation Safety & Safeguards. |
| | Dir, Division of Reactor Safety. |
| Region V | Deputy Regional Administrator, Region V. |
| | Dir, Div of Reactor Safety and Projects. |
| | Dep Dir, Div of Reactor Safety and Projects. |
| | Dir, Div of Radiation Safety & Safeguards. |
| Office of Government Ethics: | |
| Office of Government Ethics | Deputy Director. |
| | Deputy General Counsel. |
| Office of Management and Budget: | |
| Office of the Director | Assistant Director for Administration. |
| | Deputy Associate Dir for Economic Policy. |
| | Assoc Dir for Leg Reference & Admin. |
| | Assoc Dir for Legislative Ref & Adm. |
| Office of General Counsel | Dep Gen Counsel. |
| | Associate General Counsel for Budget. |
| Legislative Reference Division | Asst Dir, Legislative Reference. |
| | Dep/Asst/Dir for Legislative Reference. |
| | Chief, Economics, Science & Govt. Branch. |
| | Chief, Resources-Defense-International Branch. |
| Office of Federal Procurement Policy | Assoc. Administrator for Management Control. |
| Office of Information and Regulatory Affairs | Chief Information Policy Branch. |
| | Chief, Human Resources and Housing Branch. |
| | Chief, Commerce and Lands Branch. |
| | Chief, Statistical Policy Branch. |
| | Chief, Natural Resources Branch. |
| | Chf, Info Technology Management Branch. |
| Associate Director for Management | Deputy Associate Director for Operations. |
| | Chief, Management Integrity Branch. |
| | Chief, Financial Systems and Policy Branch. |
| | Chief, Personnel & General Services Branch. |
| | Chief, Productivity Management Branch. |
| | Chief, Credit and Cash Management Branch. |
| | Assistant Director for General Management. |
| | Deputy Assistant for General Management. |
| | Branch Chief, Federal Personnel Policy Branch. |
| | Chief, Federal Services Branch. |
| Budget Review Division | Asst Dir for Budget Review. |
| | Dep Assistant Director for Budget Review. |
| | Chief, Fiscal Analysis Branch. |
| | Dep Chief, Fiscal Analysis Branch. |
| | Chf, Budget Preparation Branch. |
| | Chief, Resources Systems Branch. |
| | Chief, Central Budget Management Staff. |
| | Deputy Chief, Budget Preparation Branch. |
| | Budget Advisor to the Director, Brd. |
| Assoc Dir for National Security and International Affs | Deputy Associate Director for Special Studies. |
| International Affairs Division | Dep Assoc Dir for Internal Affairs. |
| | Chief, State-USIA Branch. |
| | Chief, Economic Affairs Branch. |
| | Chief International Security Affairs Branch. |
| National Security Division | Dep Assoc Dir for National Security. |
| | Dep Chief. |
| | Chief, Command, Ctrl, Comms, & Intellig Branch. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Chief, Navy Branch. |
| | Chief, Force Structure & Investment Branch. |
| | Chief, Oper & Support Branch. |
| Assoc Dir for Human Resources, Veterans and Labor | Dep Assoc Dir for Special Studies. |
| Health and Income Maintenance Division | Dep Assoc Dir for Health & Income Maintenance. |
| | Chief Health & Social Services Branch. |
| | Chief Health & Financing Branch. |
| Labor, Veterans, and Education Division | Deputy Associate Director for Labor, Vet & Ed. |
| | Dep Div Chf-Labor. |
| | Chief, Education Branch. |
| | Chf Veteran Affairs Branch. |
| Associate Director for Economics and Government | Dep Assoc Dir for Special Studies. |
| Transportation, Commerce, and Justice Division | Dep Assoc Dir for Transp Commerce & Justice. |
| | Chief Commerce & Justice Branch. |
| | Chief Transport General Services Branch. |
| Housing, Treasury and Finance Division | Deputy Assoc Dir for Housing Treasury Finance. |
| | Chief, Treasury/Post Branch. |
| | Chief, Financial Institutions Branch. |
| | Chief, Housing Branch. |
| Assoc Dir for Natural Resources, Energy, and Science | Dep Assoc Dir for Spec Studies. |
| Natural Resources Division | Dep Associate Dir. for Natural Resources. |
| | Chief, Water Resources Branch. |
| | Chief, Agricultural Branch. |
| | Chief, Environment Branch. |
| | Chief Interior Branch. |
| | Asst Division Chief NRD. |
| Energy and Science Division | Dep Assoc Dir for Energy & Science. |
| | Chief, Nuclear Energy Branch. |
| | Chief, Science and Space Programs Branch. |
| | Chief, Non-Nuclear Energy Branch. |
| Office of Personnel Management: | |
| Office of the Director | Dir, Ofc of Combined Fed Campaign Operations. |
| Office of the Inspector General | Inspector General. |
| Office of Finance and Administrative Services | Asst Dir for Finance & Administrative Serv. |
| Office of Information Management | Executive for ADP Operations. |
| Office of Actuaries | Director, Office of Actuaries. |
| Office of Insurance Programs | Asst Dir for Insurance Program. |
| Office of Retirement Programs | Asst Dir for Retirement Programs. |
| Office of Personnel Research and Dev | Asst Dir for Personnel Research & Development. |
| Office of Administrative Law Judges | Asst Dir for Administrative Law Judges. |
| Staffing Service Center | Director, Staffing Service Center. |
| Office of Agency Compliance & Evaluation | Asst Dir for Agency Compliance & Evaluation. |
| Office of Classification | Asst Dir for Classification. |
| Office of Federal Investigations | Asst Dir for Federal Investigations. |
| Office of Washington Examining Services | Asst Dir for Wash Examining Services. |
| Office of the Special Counsel: | |
| Headquarters, Office of Special Counsel | Assoc Spec Counsel (Investigation). |
| | Assoc Special Counsel (Prosecution). |
| | Deputy Associate Spec Counsel for Prosecution. |
| | Director for Management. |
| Railroad Retirement Board: | |
| Board Staff | Dir of Unemployment & Sickness Insurance. |
| | Director of Data Processing. |
| | Dir of Legal & Admin Services & General Coun. |
| | Director of Retirement Claims. |
| | Chief Actuary. |
| | Director of Field Service. |
| | Chief Executive Officer. |
| | Deputy General Counsel. |
| | Asst Inspector General for Investigations. |
| | Chief Financial Officer. |
| | Assistant Inspector General for Audit. |
| | Director of Systems Initiatives. |
| Securities and Exchange Commission: | |
| Office of the Chairman | Dep Chf Accountant. |
| Office of the Executive Director | Dep Exec Director. |
| Div of Corporation Finance | Associate Director (Disclosure Operations). |
| | Chf Coun-Assoc Dir (Legal). |
| Selective Service System: | |
| Selective Service System | Assoc Dir Information Management. |
| Small Business Administration: | |
| Small Business Administration | Asst Administrator for Hearings and Appeals. |
| Ofc of the Inspector General | Asst Inspector General for Auditing. |
| | Asst Inspector General for Investigations. |
| | Dep Inspector Gen & Coun to the Inspector Gen. |
| Office of the General Counsel | Associate General Counsel for General Law. |
| | Assoc Gen Counsel Litigation. |
| Office of Finance and Investment | Asst Administrator for Financial Assistance. |
| Financial Assistance Division | Director of Portfolio Management. |
| Office Procurement Assistance | Director of Prime Contracts. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Ofc of Minority Small Business & Capital Ownership Dev | Assoc Admr for MSB-COD. |
| | Dep Assoc Adm M/S B&C Ownership Development. |
| | Dep Assoc Admr for Pol Coor, Prog C&E. |
| | Dep Assoc Admr for Programs (MSB & COD). |
| Office of Information Resources Mgmt | Asst Admin for Information Resources. |
| Office of Personnel | Director of Personnel. |
| Office of the Comptroller | Comptroller. |
| Office of Program Analysis & Review | Director of Program Analysis and Review. |
| Office of EEO & Compliance | Dir Ofc of Equal Employment Opport & Complian. |
| District Directors | District Dir Phila. |
| | District Director, Region IX, San Francisco. |
| | District Dir, Reg IX, Los Angeles. |
| | District Director, Region V, Chicago. |
| | District Director, New York. |
| Department of State: | |
| Bureau of Administration | Supervisory Structural Engineer. |
| Bureau of Economic & Business Affairs | Dir, Office of East-West Trade. |
| Bureau of Intelligence and Research | Dir, Ofc of Resources Policy. |
| | Dir Ofc of Research & Analysis Soviet Affrs. |
| Office of the Inspector General | Assistant Inspector General for Audits. |
| | Asst. Inspector General for Investigations. |
| | Counsel to the Inspector General. |
| | Dep Asst Inspector General for Audits. |
| | Dep Asst Inspector Gen for Investigations. |
| | Asst Insp Gen for Policy, Plng and Management. |
| | Dep Asst Inspector Gen for Inspections. |
| | Dep Asst Insp Gen for Ofc of Secur Oversight. |
| Bureau of Personnel | Director, Ofc of Civil Service Personnel Mgmt. |
| International Boundary & Water Commission | Supervisory Civil Engineer, Operations. |
| Department of Transportation: | |
| Office of Inspector General | Asst Insp General for Auditing. |
| | Asst I/G for Policy, Planning and Resources. |
| | Asst Inspector General for Investigations. |
| | Dir Ofc of Surface Transportation Programs. |
| | Dir, Ofc of Aviation Marine & Research Progs. |
| | Dep Asst Inspector General for Auditing. |
| | Dir, Office of Adp Audits & Technical Support. |
| | Dep Asst Inspector General for Investigations. |
| Asst Sec for Public Affairs | Dir, Office of Public Information. |
| Asst Sec for Administration | Asst Secy for Administration. |
| | Senior Procurement Advisor. |
| Office of Acquisition & Grant Management | Director Ofc of Acquisition & Grant Mgnt. |
| | Dep Dir, Ofc of Acquisition & Grant Mgmt. |
| Assoc Adm'r for Safety | Assoc Admr for Safety. |
| | Dir, Office of Research and Development. |
| | Director, Office of Safety Enforcement. |
| Ofc of Pipeline Safety | Dir, Ofc of Pipeline Safety. |
| Ofc of Assoc Admr for Marketing | Associate Administrator for Marketing. |
| Office of Assoc Admr for Shipbuilding Operations | Dep Dir, Ofc of Ship Construction. |
| | Dir, Ofc of Ship Construction. |
| Office of Associate Administrator for Maritime Aids | Associate Administrator for Maritime Aids. |
| Associate Administrator for Aviation Safety | Asst Admin for Aviation safety. |
| | Dep Asst Admin for Aviation Safety. |
| Office of Accounting | Dir Office of Accounting. |
| Acquisition and Materiel Service | Mgr, Contracts Division. |
| Office of Acquisition Pol & Oversight | Dir, Ofc of Acquisition Pol & Oversight. |
| Logistics Service | Director, Logistics Service. |
| | Deputy Director, Logistics Service. |
| Associate Administrator for Aviation Stds | Assoc Administrator for Aviation Standards. |
| | Deputy Assoc Administrator Aviation Standards. |
| | Dir Ofc of Civil Aviation Security. |
| Office of Accident Investigation | Dir, Office of Accident Investigation. |
| Office of Aviation Medicine | Deputy Federal Air Surgeon. |
| | Mgr, Medical Specialties Division. |
| | Director Civil Aeromed Institute. |
| Office of Civil Aviation Security | Director, Office of Civil Aviation Security. |
| | Dep Asst Admr for Civil Aviation Security. |
| Aviation Standards Natl Field Office (Oklahoma) | Dir, Aviation Standards Natl Field Ofc. |
| | Deputy Director. |
| | Manager Intelligence Division. |
| Office of Air Traffic Rules & Procedures | Dir, Air Traffic Rules & Procedures Service. |
| Associate Administrator Regulation & Certification | Assoc Admr for Regulation & Certification. |
| | Dep Assoc Admr for Regulation & Certification. |
| Aircraft Certification Service | Director, Aircraft & Certification Service. |
| | Asst Dir, Aircraft Certification Service. |
| | Deputy Director Aircraft Certification Service. |
| | Manager, Aircraft Manufacturing Division. |
| Regional Aircraft Certification Divisions | Mgr Transport Airplane Directorate. |
| | Mgr Engine & Propeller Directorate. |
| | Mgr Small Airplane Directorate. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Manager Rotorcraft Directorate. |
| Flight Standards Service | Dir, Flight Standards Service. |
| | Dep Dir, Flight Standards Service. |
| | Mgr, General Aviation and Commercial Div. |
| | Manager, Air Transportation Division. |
| | Manager Aircraft Maintenance Division. |
| | Manager General Aviation Staff. |
| | Manager Field Program Division. |
| | Asst Director for Special Programs. |
| Regional Flight Standards Division | Mgr, Flight Standards Div. |
| | Mgr, Flight Standards Division. |
| | Mgr, Flight Standards Div. |
| | Manager, Flight Standards Division. |
| | Mgr, Flight Standards Div. |
| | Mgr, Flight Standards Div. |
| | Mgr, Flight Standards Division. |
| | Mgr, Flight Standards Div. |
| | Manager, Flight Standards Service. |
| Aircraft Engineering Division | Manager, Aircraft Engineering Division. |
| Office of Program and Resource Management | Dir, Office of Program & Resource Management. |
| Office of Airport Planning and Programming | Dir, Office of Airport Planning & Program. |
| | Mgr, Grants-In-Aid Division. |
| Assoc Administrator for NAS Development | Dir, Office of Advanced Sys Acquisition. |
| | Program Director for Surveillance. |
| Program Manager for Advanced Automation | Program Manager for Advanced Automation. |
| | Dep Program Mgr for Advanced Automation. |
| | Mgr Automation Engineering Division. |
| | Mgr Advanced Automation System Div. |
| Program Dir for Weather & Flight Service Systms | Prog Dir for Weather & Flight Services Syst. |
| Program Dir for Navigation & Landing Aids | Program Dir for Navigation & Landing Aids. |
| Program Director for Communications | Program Director for Communications. |
| Program Director for Automation | Program Director for Automation. |
| Executive Director for System Operations | Dep Dir, Advanced System Acquisition Service. |
| Assoc Admin for Air Traffic | Assoc. Administrator for Air Traffic. |
| | Dep Assoc Admin for Air Traffic. |
| | Director, Air Traffic System Management. |
| Air Traffic Operations Service | Manager, Procedures Division. |
| | Mgr. Airspace-Rules & Aeronautical Inf. Div. |
| | Manager, Operations Division. |
| | Dir Air Traffic Operations Service. |
| Air Traffic Plans and Requirements Service | Manager System Plans & Program Div. |
| | Dir, Air Traffic Plans & Requirements Serv. |
| | Manager Automation Software Division. |
| | Manager Advanced Sys & Facilities Division. |
| Office of Air Traffic Evaluations and Analysis | Dir, Ofc of Air Traffic Syst Effectiveness. |
| Regional Air Traffic Division Managers | Mgr, Air Traffic Division. |
| | Mgr, Air Traffic Division. |
| | Mgr, Air Traffic Div. |
| | Manager, Air Traffic Division. |
| | Mgr, Air Traffic Division. |
| | Mgr, Air Traffic Division. |
| | Manager, Air Traffic Division. |
| | Manager, Air Traffic Division. |
| Office of Air Traffic Program Management | Dir, Ofc of Air Traffic Program Management. |
| Federal Highway Administration | Executive Director. |
| Assoc Admr for Admin | Director Office of Fiscal Services. |
| | Director Office of Contracts and Procurement. |
| Associate Administrator for Safety & System App | Assoc Admr for Safety & System Applications. |
| Office of Highway Safety | Dir, Office of Highway Safety. |
| Assoc Admr for Right of Way and Environment | Assoc Admr for Right-of-Way & Environment. |
| Off of Environmental Policy | Dir, Ofc of Environmental Policy. |
| | Chief Environmental Operations Division. |
| Off of Right of Way | Dir, Ofc of Right of Way. |
| | Chief, Operations Divison. |
| Office of Motor Carrier Standards | Dir, Office of Motor Carrier Standards. |
| Office of Motor Carrier Safety Field Operations | Dir, Ofc of Motor Carrier S/F Operations. |
| Natl Center for Statistics and Analysis | Chf, Accident Investigation Div. |
| Assoc Admr for Enforcement | Assoc. Administrator for Enforcement. |
| Ofc of Defects Investigation | Dir-Ofc of Defects Intevestigation. |
| Ofc of Vehicle Safety Comp | Dir-Ofc of Vehicle Safety Compliance. |
| Ofc of Vehicle Safety Standards | Chf Crash Avoidance Division. |
| | Chf Crashworthiness Division. |
| US Coast Guard | Chief, Procurement Management Division. |
| Department of Treasury: | |
| Office of the Secretary | Senior National Intelligence Advisor. |
| Ofc of the Inspector General | Dep Asst Insp Gen for Audit (Audit Prog Serv). |
| | Dep Asst Inspector Gen for Audit (Audit Ops). |
| | Asst Inspector General (Fiscal Svc/Adp). |
| | Asst Insp Gen for Oversight & Quality Assur. |
| | Asst Inspector General for Audit (Dotocc). |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Asst Inspector General for Investigations. |
| Ofc of Tax Analysis | Senior Advisor (Economics). |
| | Dep Dir (Economics Mod & Computer Applicat). |
| Ofc of Asst Secy (Economic Policy) | Asst Dir for Economic Forecasting. |
| | Senior Adv for Bal of Payments Anal & Proj. |
| | Sr Economist. |
| Ofc of the Fiscal Asst Secy | Fiscal Assistant Secretary. |
| | Assistant Fiscal Assistant Secretary. |
| Financial Management Service | Commr of Financial Management Service. |
| | Dep Com Financial Management Service. |
| | Dir, Regional Financial Center (Chicago) |
| | Director, Regl Fin Ctr (Philadelphia). |
| | Director, Regl Fin Ctr (San Francisco). |
| | Director, Regl Fin Ctr (Austin). |
| | Deputy Director, Operations Group. |
| | Assistant Commissioner, Information Systems. |
| | Asst Commissioner Federal Finance. |
| | Assistant Commissioner, Comptroller. |
| | Asst Commissioner Headquarters Operations. |
| | Asst Commissioner Field Operations. |
| | Director Operations Group. |
| | Director, Accounting Group. |
| | Asst Commissioner Administration. |
| | Director, Systems Development Group. |
| | Dir, Technology & Information Group. |
| | Director, Working Capital Group. |
| Bureau of Public Debt | Commissioner. |
| | Dep Commr of the Public Debt. |
| | Asst Commissioner (Savings Bond Operations). |
| | Asst Commr (Financing). |
| | Asst Commr (Administration). |
| | Government Securities Act Program Director. |
| | Asst Commr/Securities & Accounting Services. |
| | Asst Commissioner (Automated Info Systems). |
| | Asst Commissioner (Public Debt Accounting). |
| Ofc of Foreign Exchange Operations | Dir Ofc of Foreign Exchange Operations. |
| Ofc of Asst Secy Management | Dir, Management Programs Directorate. |
| | Directorate, Office of Procurement. |
| Ofc of Assistant Secretary (Enforcement & Operations) | Dir Fin Crimes Enforcement Network. |
| | Dep Dir, Financial Crimes Enforcement Network. |
| Bur of Alcohol, Tobacco, Firearms | Assistant Director Internal Affairs. |
| | Midwest Regl Counsel. |
| | Asst Dir, Congressional and Media Affairs. |
| | North-Atlantic Regional Counsel. |
| | Staff Assistant to the Chief Counsel. |
| Deputy Director (Compliance Operations) | Deputy Director (Compliance Operations). |
| | Dep. Associate Dir, (Compliance Operations). |
| | Chief, Revenue Programs Division. |
| | Chief, Firearms & Explosives Division. |
| Deputy Director (Law Enforcement) | Deputy Director (Law Enforcement). |
| | Chief, Spec Operations Division. |
| | Special Agent in Charge (NY District Office). |
| | Special Agent in Charge (LA District Office). |
| | Special Agent in Charge (Miami District Ofc). |
| | Chief, Planning & Analysis Staff. |
| | Spec Agent in Charge (Washington Dist Office). |
| | Spec Agent in Charge (Detroit Dist Office). |
| | Chief, Explosives Division. |
| | Deputy Assoc Dir (Law Enforcement). |
| | Chief, Firearms Division. |
| Comptroller | Director, Laboratory Services. |
| US Customs Service | Spec Asst to the Commissioner. |
| | Asst Commissioner (Ofc of Info Mmgt). |
| | Director, Ofc of Automated Systems Operations. |
| | Exec Dir the Interdiction Committee. |
| | Spec Asst to the Asst Secy (Enforcement). |
| | Director, Ofc of Automated Commercial Systems. |
| Ofc of the Chief Counsel | Asst Chief Counsel (Customs Court Litigat). |
| | Miami Regl Counsel. |
| | Chicago Regl Counsel. |
| | New York Regl Counsel. |
| | Regional Counsel (Pacific Region). |
| Office of the Comptroller | Dir Ofc of Financial Mgmt & Prog Analysis. |
| | Director Office of Data Systems. |
| | Comptroller. |
| | Comptroller. |
| | Dir Ofc of Training. |
| | Dir Budget and Planning. |
| | Assistant Commissioner, Office of Management. |
| | Dir Ofc of Human Resources. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| Ofc of Asst Commr for Internal Affairs | Asst Commissioner for Internal Affairs. |
| Ofc of Asst Commr for Enforcement | Deputy Assistant Commissioner (Enforcement). |
| | Dir Smuggling Investigations Division. |
| | Dir, Office of Commercial Fraud Enforcement. |
| | Asst Comm Ofc of Aviation Operations. |
| Ofc of Asst Commr for Inspection & Control | Asst Commr (Inspection & Control). |
| | Deputy Asst Commr (Inspection & Control). |
| Ofc of Asst Commr for Commercial Operations | Deputy Asst Comm. Ofc of Regul & Rulings. |
| | Director, Entry Procedures & Penalties Div |
| | Dir Ofc of Regulatory Audit. |
| | Dir. Office of Technical Services. |
| | Dep Asst Comm (Ofc of Trade Operations). |
| | Dep Asst Commissioner Commercial Operations. |
| | Dir. Commercial Rulings Division. |
| | Dir. Ofc of Automated Commercial Syst Ops, |
| Ofc of Asst Commr for International Affairs | Deputy Asst Comr (International Affairs). |
| Regional Office | Regl Commr Reg 2 NY. |
| | Reg Commr. Reg 1, Boston. |
| | Asst Regn Commr Operations Reg II New York. |
| | Regl Commr, Reg. 4, Miami. |
| | Reg Commr. Reg. V, New Orleans. |
| | Regional Commissioner, Chicago. |
| | Asst Regional Commr (Operations). |
| | Asst Regl Commr (Operations). |
| | Asst Regl Commr (Operations). |
| | Asst Regl Commr (Operations). |
| | Asst Regional Commr (Operations). |
| | Special Agent in Charge, Miami. |
| | District Director, Miami. |
| | Asst Regional Commissioner (Enforcement). |
| | District Director, Laredo. |
| | District Director, Seattle. |
| | Area Dir, Newark. |
| | Asst Regional Commissioner Enforcement. |
| | Area Director, JFK Airport. |
| | Area Director, New York Seaport. |
| | Asst Regl Commr—Houston (Enforcement). |
| | Asst Regl Commr—Miami (Enforcement). |
| | Regional Commissioner. |
| | District Director, Los Angeles. |
| | Assistant Regl Commissioner (Enforcement). |
| | Asst Regl Commr (Enforcement). |
| | Asst Regional Commissioner (Enforcement). |
| | Regional Dir of Internal Affairs. |
| US Secret Service | Director of the Secret Service. |
| | Deputy Director U.S. Secret Service. |
| | Assistant Director—Training. |
| | Asst Director—Govt Liaison and Public Aff. |
| Ofc of Administration | Assistant Director, Administration. |
| Ofc of Inspection | Assistant Director Inspection. |
| Ofc of Protective Research | Asst Dir (Protective Research). |
| | Dep. Asst. Dir. (Protective Research). |
| | Spec Agent in Charge-Tech Sec Div. |
| | Spec Agent in charge-Intelligence Div. |
| | Chf, Info Resources Management Division. |
| Ofc of Protective Operations | Asst Dir (Protective Operations). |
| | Dep Asst Dir (Protective Operations). |
| | Spec Agent in charge-Presidential Protective. |
| | Dad protective Opers (Uniformed Div). |
| | Spec Agent in Charge-VP Protect Div. |
| | Deputy Asst Dir Protective Operations. |
| | Spec Agent in Charge Dignitary Protective Div. |
| | Deputy Special Agent in Charge Pres Prot Div. |
| | Deputy Special Agent in Charge. |
| Office of Investigations | Asst Director, Investigations. |
| | Dep Asst Dir Investigations. |
| | Special Agent in Charge, New York Office. |
| | Special Agent in Charge, Chicago. |
| | Special Agent in Charge, Los Angeles Office. |
| | Spec Agent In Charge—Washington Field Office. |
| | Spec Agent in Charge—Philadelphia Field Offic. |
| | Deputy Assistant Director Ses & Foreign Ops. |
| | Deputy Special Agent in Charge. |
| | Spc Agent in Charge San Francisco Office. |
| | Dep Asst Dir—Investigations (Hdqrtrs Ops). |
| | Spec Agent in Charge—Miami Field Office. |
| | Special Agent in Charge—Boston Field Office. |
| | Spec Agent in Charge—Atlanta Field Office. |
| Bureau of the Mint | Associate Director of Operations. |
| | Assoc Dir of Pol & Management. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Associate Director for Marketing. |
| Offc of the Commissioner | Director, Legislative Analysis Division. |
| | Asst to the Commissioner (Equal Opportunity). |
| | Senior Deputy Commissioner. |
| | Taxpayer Ombudsman. |
| | Asst to the Commissioner (Legis Affairs). |
| | Deputy Commissioner (Operations). |
| | Asst to the Commissioner (Quality). |
| | Chief Information Officer. |
| | Assistant to the Senior Deputy Commissioner. |
| Appeals Division | Regl Dir of Appeals—Central Region. |
| | Reg Dir of Appeals, Mid-Atlantic Region. |
| | Reg Dir of Appeals—Southwest Reg. |
| | Regional Dir of Appeals North Atlantic Region. |
| | Regional Director of Appeals—Western Region. |
| | Chief Appeals Office New York City. |
| | National Director of Appeals. |
| | Deputy National Dir of Appeals. |
| Chief Information Officer | Dir, Returns Processing and Accounting Div. |
| | Director, Systems Design Division. |
| | Director Systems Acquisition Division. |
| | Dep Asst Chf Info Officer Info Systems Mgmt. |
| | Dir Project Mgnt Division. |
| | Director, Statistics of Income Division. |
| | Asst Chf Info Officer Info Systems Dev. |
| | Dep Asst Commr (Returns & Info Processing). |
| | Director, Compliance Processing Systems Div. |
| | Director, Systems Integration Division. |
| | Assistant Dir, Taxpayer Service Division. |
| | Asst Commissioner (R & IP). |
| | Dir Taxpayer Service Division. |
| | Director, Quality Assurance Division. |
| | Director, Software Division. |
| | Asst Chf Info Officer Info Systems Mgmt. |
| Ofc of Asst Comm: R, Inspection | Chief Inspector. |
| | Dep Asst Commr (Inspection). |
| | Director, Internal Audit Div. |
| | Assistant Director Internal Audit Division. |
| | Director, Internal Security Division. |
| | Asst Dir, Internal Security Division |
| | Regional Inspector, Midwest Reg. |
| | Regional Inspector, North Atlantic. |
| | Regional Inspector Western Region. |
| | Regional Inspector, Southwest Reg. |
| | Regional Inspector, Mid-Atlantic Reg. |
| | Regional Inspector, Central. |
| | Regional Inspector Southeast. |
| Policy and Management | Dir, Tax Forms & Publications Div. |
| | Dir, Martinsburg Computing Center. |
| | Dir, Irs Data Center Detroit. |
| | Dir Finance Division. |
| | Dir, Natl Ofc Resources Management Division. |
| | Dir Financial Management Division. |
| | Assistant Commissioner (Procurement). |
| | Director, Budget Division. |
| | Dir Systems Management & Oper Services Div. |
| | Dir Natl Ofc Resources Mgnt Division. |
| | Dep Asst Commr (Planning, Finance, & Resch). |
| | Dir, Facilities & Info Mgmt Support Division. |
| | Asst Dir, Research. |
| | Spec Asst to Dep Comr (P & R)/Chf Fin Officer. |
| | A/C (Planning & Research). |
| | Dep Asst Commr (Human Resources). |
| | Director, Planning Division. |
| | Dir Telecommunications Division. |
| | Director, Human Resources Division. |
| | Dir, Contracts & Acquisitions Division. |
| | Asst Commissioner (Finance)/Controller. |
| | Dep Comr (Plnng & Res)/Chf Financial Officer. |
| | Dep Asst Commissioner (Human Res & Support). |
| | Assistant Commissioner (Human Resources). |
| | Dir Accounting Standards & Systems Division. |
| | Assistant Commissioner (Human Res & Support). |
| Central Region) | Regional Commr. |
| | Arc (Examination) Central Region. |
| | Asst Regl Comr (Criminal Investigation). |
| | Asst Reg Comm (Resource Management). |
| | Assistant Regional Commissioner (Collection). |
| | Asst Regl Commissioner (Data Processing). |
| | Dir Service Ctr Cincinnati. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | District Dir (Cleveland) |
| | District Director Detroit. |
| | District Director (Parkersburg). |
| | District Director, Indianapolis. |
| | District Director, Louisville. |
| | District Dir, Cincinnati. |
| | Assistant District Director Detroit. |
| | Asst Service Center Director. |
| Mid-Atlantic Region | Reg Commissioner. |
| | Arc (Examination) Mid-Atlantic. |
| | Arc (Criminal Investigation) Mid Atlantic Reg. |
| | Asst Reg Commr (Collection). |
| | Assistant Regional Commissioner (Data Proc). |
| | Service Center Dir. Philadelphia. |
| | District Dir. Newark. |
| | District Dir, Pittsburgh. |
| | District Director Richmond District. |
| | Asst District Dir. Philadelphia. |
| | Asst District Director (Newark). |
| | Assistant District Director—Baltimore, MD. |
| | District Director, Wilmington. |
| | District Dir. Baltimore. |
| | District Director. |
| | Assist Reg'l Commissioner (Resources Mgmt). |
| | Assistant Service Center Director. |
| Midwest Region | Regional Commr. Midwest Region. |
| | Asst Reg Commr (Resources Mgmt). |
| | ARC (Criminal Investigation) Midwest Region. |
| | Assistant Regional Commissioner (Data Proc). |
| | ARC (Examination). Midwest Region. |
| | ARC (Collection) Midwest Region. |
| | Srvc Ctr Dir. Kansas City. |
| | District Dir. Chicago. |
| | District Director St Louis. |
| | District Dir. St Paul. |
| | District Dir. Omaha. |
| | District Dir. Springfield. |
| | District Dir. Milwaukee. |
| | Asst District Dir. Chicago. |
| | District Director, Fargo. |
| | District Director. Aberdeen. |
| | District Director, Helena. |
| | District Director. |
| | Assistant Service Center Director. |
| North Atlantic Region | Reg Commr. |
| | Asst Reg Commr (Exam) North Atlantic Reg. |
| | ARC (Criminal Investigation). |
| | ARC (Resources Mgmt). |
| | ARC (Collection) North Atlantic Region. |
| | Assistant Regional Commissioner (Data Proc). |
| | Service Center Director. Andover, Mass. |
| | Srvc Ctr Dir. Brookhaven. |
| | District Dir. Manhattan. |
| | District Dir. Brooklyn. |
| | District Dir. Boston. |
| | District Dir. Albany. |
| | Dist Dir (Hartford). |
| | District Dir. Buffalo. |
| | Asst Dist Dir. Brooklyn. |
| | Assistant District Director Manhattan. |
| | Asst District Dir. Boston. |
| | District Director Providence. |
| | Dist Dir. Augusta. |
| | District Director, Portsmouth. |
| | District Director, Burlington. |
| | Asst Service Center Director, Brookhaven. |
| | Asst Service Center Director, Andover. |
| | Chief, Appeals Office, Long Island. |
| Southeast Region | Reg Commr. |
| | Arc (Examination) Southeast Region. |
| | Asst Reg Commissioner—Criminal Investigation. |
| | Asst Reg'l Commr (Resources Management). |
| | Asst Reg (Collection) SE Reg Atlanta. |
| | Asst Regional Commissioner (Data Proc). |
| | Service Center Director, Memphis. |
| | SRVC Ctr Dir, Atlanta. |
| | District Director, Jacksonville. |
| | District Director, Atlanta. |
| | District Director, Greensboro. |
| | District Director, Nashville. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | District Director, Birmingham. |
| | District Director, New Orleans. |
| | District Director, Columbia. |
| | District Director, Little Rock District. |
| | District Director, Jackson, Miss. |
| | Asst District Director, Jacksonville. |
| | Asst District Director, Atlanta. |
| | Asst Service Center Director, Memphis. |
| | Regional Director of Appeals. |
| | Assistant District Director. |
| | Assistant District Director. |
| Southwest Region | Assistant Service Center Director. |
| | Regional Comm: R. |
| | Asst Regl. Commr (Examination). |
| | ARC (Criminal Investigation) S W Region. |
| | ARC (Resources Mgmt). |
| | Assistant Regional Commissioner (Collection). |
| | Assistant Regional Commissioner (Data Proc). |
| | Service Center Director, Ogden. |
| | Service Center Director, Austin. |
| | District Director, Austin. |
| | District Director, Dallas. |
| | District Director, Wichita. |
| | District Director, Oklahoma City. |
| | District Director, Phoenix. |
| | District Director, Denver. |
| | Assistant District Director Dallas. |
| | District Director, Albuquerque. |
| | District Director, Cheyenne. |
| | District Director, Salt Lake City. |
| | Compliance Center Director. |
| | Asst Service Center Director, Ogden. |
| | Asst District Director. |
| | Assistant District Director, Houston. |
| | District Director, Houston. |
| Western Region | Reg. Commr. |
| | ARC (Criminal Investigation). |
| | Assistant Regional Commissioner (Data Proc). |
| | Assistant Regional Commissioner (Examination). |
| | Asst Regl Commr (collection). |
| | Asst Regl Commr (resources management). |
| | Service Center Director, Fresno. |
| | District Dir, Los Angeles. |
| | District Dir, San Francisco. |
| | District Director, Portland District. |
| | District Dir, Seattle. |
| | Asst District Dir, Los Angeles. |
| | Asst Dist Dir, San Francisco. |
| | District Director, Honolulu. |
| | District Director, Anchorage. |
| | District Director, Boise. |
| | District Director (Sacramento). |
| | District Director (Las Vegas). |
| | District Director, San Jose. |
| | Assistant District Director, Laguna Niguel. |
| | Asst Service Center Director. |
| | District Director, Laguna Niguel. |
| | Asst Commr (employee plans & Exemp & Organiza. |
| | Special Asst for Exempt Organization Matters. |
| | Assistant Commissioner (taxpayer services). |
| | Asst Dir, Returns Processing & Accounting Div. |
| | Assistant Commissioner (examination). |
| | Asst Commr (criminal investigation). |
| | Dir Exempt Organizations Technical Division. |
| | D/Employee Plans Tech & Actuarial Division. |
| | Deputy Assistant Commissioner (examination). |
| | Dep Asst Commr (criminal investigation). |
| | Director, Ofc of Field Operations. |
| | Asst/Dir, Employee Plans Techn & Actuarial Div. |
| | Director, Coordinated Examination Program. |
| | Dep Asst Chf Info Officer Info System Dev. |
| | D/A Comr (employee plans & exempt orgs). |
| | Dept Asst Commr (collection). |
| | Assistant Commissioner (collection). |
| | Assistant Commissioner (international). |
| | Dir Information Reporting Program. |
| | Deputy Asst Commissioner (international). |
| | Associate Chief Counsel (litigation). |
| | Deputy Associate Chief Counsel (technical). |
| | Asst Chief Counsel (general litigation). |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Asst Chief Counsel (tax litigation). |
| | Asst Chief Counsel (criminal tax). |
| | Asst Chief Counsel (general legal services). |
| | Asst Chief Counsel (disclosure litigation). |
| | Deputy Asst Chief Counsel (tax litigation). |
| | Assistant Chief Counsel (corporate). |
| | Dep Asst Chf Coun (income tax & accounting). |
| | Dep Asst Chf Coun (passthroughs/spec indust). |
| | Dep Asst Chf Coun (passthroughs/spec indust). |
| | Asst to the Assoc Chf Coun (fin & mgmt). |
| | Asst Chf Coun (passthroughs/spec industries). |
| | Deputy Asst Chief Counsel (corporate). |
| | Dep Assoc Chief Counsel (fin & management). |
| | Special Appellate Counsel. |
| | Asst Chf Coun (Empl Benefits/Exempt Orgs). |
| | Sen Tech Adv to the Assoc Chf Counsel (Tech). |
| | Dep Asst Chief Coun (Financial Inst & Prod). |
| | Dep Assoc Chief Counsel International. |
| | Asst Chf Coun (Fin Institutions & Products). |
| | Dep Asst Chief Coun (Income Tax & Accounting). |
| | Asst Chief Counsel (Income Tax & Accounting). |
| | Special Litigation Counsel. |
| | Deputy Associate Chief Counsel (Litigation). |
| | Deputy Chief Counsel. |
| | Associate Chief Counsel (International). |
| | Assoc Chf Counsel (Finance & Management). |
| | Associate Chief Counsel (Technical). |
| Regional Counsels | Regl Counsel, Central Reg. |
| | Regional Counsel, Mid-Atlantic Region. |
| | Dep Regl Counsel (Criminal Tax). |
| | Regl Counsel Midwest Region. |
| | Regl Counsel, North Atlantic Region. |
| | Dep Regl Coun (Tax Litigat) No-Atlantic Reg. |
| | Deputy Regional Counsel (General Litigation). |
| | Regional Counsel SE Region. |
| | Regl Counsel Southwest Region. |
| | Regional Counsel. |
| | District Counsel-Boston. |
| | District Counsel-Los Angeles. |
| | District Counsel-Cincinnati. |
| | District Counsel-Philadelphia. |
| | District Counsel-Newark. |
| | District Counsel, Chicago. |
| | District Counsel, Manhattan. |
| | District Counsel-Dallas. |
| | District Counsel-San Francisco. |
| | Dep Regional Counsel (Tax Litigation). |
| | Dep Regional Counsel (Tax Litigation). |
| | Regional Director of Appeals. |
| | District Counsel, Washington, DC. |
| | Deputy Regional Counsel (Tax Litigation). |
| | District Counsel, Brooklyn, New York. |
| | District Counsel, Houston, Texas. |
| | District Counsel, Denver. |
| US Arms Control and Disarmament Agency: | |
| Office of the Director | Executive Secretary. |
| Verification and Implementation Bureau | Chief, Verification Division Ver & Intell Bur. |
| | Chief, Operations Analysis Division. |
| Ofc of Administration | Administrative Director. |
| Strategic and Nuclear Affairs Bureau | Chief, Defense & Space Division. |
| Theatre Affairs Division | Chief, Theater Affairs Division-A966. |
| Strategic Affair Division | Chief, Strategic Affairs Division A-977. |
| Non-Proliferation Policy Bureau | Chief Scientist. |
| | Chief, Nuclear Safeguards & Technology Div. |
| | Chf, Nuclear Safeguards & Technology Div. |
| | Chf, International Nuclear Affairs Divisions. |
| Multilateral Affairs Bureau | Chief Sci & Technological Division. |
| United States Information Agency: | |
| Ofc of the Director | Assistant Inspector General for Audits. |
| | Assistant Inspector General for Inspections. |
| Bureau of Management | Director, Office of Personnel. |
| | Director, Office of the Comptroller. |
| | Dir Off Security. |
| | Dir Ofc of Contracts. |
| | Dep Director, Office of Administration. |
| | Director, Office of Technology. |
| Voice of America | Dir Engineering and Technical Operations. |
| | Deputy of Systems Engineering. |
| | Chief Broadcast Systems Engineering Division. |
| | Deputy for Projects Management. |

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1990—Continued

| Agency organization | Career reserved positions |
|---|---|
| | Deputy for Operations. |
| Ofc of the Gen Counsel & Cong Liaison | Deputy General Counsel. |
| US International Trade Commission: | |
| Office of Industries | Dir Ofc of Industries. |
| Office of Investigations | Dir, Ofc of Investigations. |
| Department of Veterans Affairs: | |
| Office of the Inspector General | Dep Inspector General. |
| | Assistant Inspector General for Auditing. |
| | Asst. Inspector General for Investigation. |
| | Asst Insp Gen for Policy, Plan & Resources. |
| | Dep Asst for Inspec General for Hdqtrs Audits. |
| | Dep Asst Inspec General for Regional Audits. |
| | Dep Asst I/G for Policy, Planning & Resources. |
| | Dep Asst Inspector General for Investigations. |
| Board of Veterans Appeals | Chairman. |
| | Vice Chairman. |
| | Deputy Vice Chairman. |
| | Deputy Vice Chairman. |
| Office of Financial Management | Assoc Dep Asst Secy for Financial Operations. |
| Ofc of Info Resources Plans & Policies | Das for Info Res Plans & Policies. |
| Office of Information Resources Operations | Director for Telecommunications. |
| | Director for Operations Management. |
| | Dir Ofc of Applications Design Development. |
| | Dir Ofc of Operations Support. |
| Data Processing Center (DPC) Directors | Director Dpc Austin. |
| Office of Personnel and Labor Relations | Assoc Dir for Personnel Policy. |
| | Assoc Dir for Personnel Operations. |
| | Assoc Deputy Asst Secretary. |
| | Associate Deputy Asst Secretary. |
| Office of Security & Law Enforcement | Dep Asst Secy for Security & Law Enforcement. |
| Ofc of the Asst Secretary for Acquisition and Facilities | Dir Canteen Service. |
| Office of Facilities | Northeastern Area Project Manager. |
| | Southern Area Project Manager. |
| | Central Area Project Manager. |
| | Western Area Project Manager. |
| | Dir, Office of Project Management. |
| | Director Ofc of Architecture & Engineering. |
| | Dep Dir, Ofc of Architecture & Engineering. |
| | Dir, Office of Real Property Management. |
| Office of Acquisition and Materiel Management | Dep Asst Sec for Acquisition & Materiel Mgmt. |
| | Assoc Dep Assistant Secy for Acquisitions. |
| | Associate Dep Asst Secy for Depots. |
| | Assoc Dep Asst Secy for Resources. |
| | Associate Deputy Asst Secretary for Materiel. |
| Veterans Benefits Administration | Director Budget Staff. |
| | Dep Dir Compensation & Pension Service. |
| | Dep Dir Loan Guaranty Svc. |
| | Dir Info Management & Tech Assessment Service. |
| Veterans Health Services and Research Administration | Dep Dir, Mental Health & Behavioral Sciences. |
| | Dir, Resources Management Ofc. |
| | Deputy Director, Resource Management Office. |
| | Dir, Security Service. |
| | Dir Office of Medical Sharing. |
| Executives Pending Placement Action | Dir, Office of Information Mgmt & Statistics. |

[FR Doc. 91-5705 Filed 3-8-91; 8:45 am]
BILLING CODE 6325-01-M

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### National Advisory Committee on Semiconductors; Meetings

The purpose of the National Advisory Committee on Semiconductors (NACS) is to devise and promulgate a national semiconductor strategy, including research and development. The implementation of this strategy will assure the continued leadership of the United States in semiconductor technology. The Committee will meet on Tuesday, March 26, 1991 at Science Applications International Corporation (SAIC), 1551 Wilson Boulevard, 7th Floor, Rosslyn, Virginia. The proposed agenda is:

1. Briefing of the Committee on its organization and administration.
2. Presentations to the Committee by OSTP personnel and personnel of other agencies on proposed and ongoing studies regarding semiconductors.
3. Discussion of Working Group actions.

A portion of the March 26th session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classifed in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b. (c)(1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b.(c)(6).

Because of advance security arrangements, persons wishing to attend the open portion of the meeting should contact Ms. Kathleen Elim, at (703) 528-6090 prior to March 25, 1991. Ms. Elim is also available to provide specific information regarding time, place and agenda for the open session.

Dated: March 8, 1991.

Damar W. Hawkins,

*Executive Assistant to D. Allan Bromley, Office of Science and Technology Policy.*

[FR Doc. 91-6044 Filed 3-11-91; 12:23 pm]

BILLING CODE 3170-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-18031; 812-7591]

### Prudential Securities Incorporated; Application and Temporary Order

March 6, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

**APPLICANT:** Prudential Securities Incorporated ("Prudential Securities" or "Applicant").

**RELEVANT 1940 ACT SECTIONS:** Permanent order requested, and temporary order granted, under section 9(c) of the Act granting exemption from section 9(a) of the Act.

**SUMMARY OF APPLICATION:** Prudential Securities has been granted a temporary order, and has requested a permanent order, exempting it from the provisions of section 9(a) to relieve Prudential Securities from any ineligibility resulting from the employment of five individuals who are subject to securities-related injunctions.

**FILING DATE:** The application was filed on September 11, 1990, and amended on November 5, 1990, January 24, 1991 and March 6, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 3, 1991, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Kevin J. McKay, Esq., Prudential Securities Incorporated, 127 John Street, New York, New York 10292.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Warren, Staff Attorney, at (202) 272-3026, Thomas G. Sheehan, Senior Staff Attorney at (202) 272-7324, or Stephanie M. Monaco, Branch Chief, at (202) 275-3030.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicant's Representations

1. Prudential Securities, a Delaware corporation,[1] is a registered broker-dealer and registered investment adviser with 346 domestic and international offices. Prudential Securities is a wholly owned subsidiary of Prudential Securities Group, Inc. ("PSG, Inc."). Prudential Insurance Company of America ("Prudential") is Applicant's ultimate parent corporation. Other direct and indirect subsidiaries of Prudential are also engaged in the broker-dealer and investment advisory businesses, including with respect to registered investment companies. In particular, Prudential Mutual Fund Management, Inc. ("PMFM"), an 85% owned subsidiary of PSG, Inc., acts as an investment adviser, administrator and distributor to a number of investment companies, including some of those listed below.

2. Prudential Securities serves as principal underwriter of the Class B shares, and under contract to PMFM, as sub-adviser, of the Prudential-Bache Research Fund, Inc. ("Research Fund") an open-end, diversified management investment company with approximately $283,000,000 of total assets on August 31, 1990.

3. Prudential Securities serves as the principal underwriter of the Class B shares for the following registered open-end management investment companies and portfolios (the portfolios are identified in parentheses):

Prudential-Bache California Municipal Fund—
(California Series)
Prudential-Bache Equity Fund, Inc.
Prudential-Bache Equity Income Funds, Inc.
Prudential-Bache FlexiFund—
(Aggressively Managed Portfolio)
(Conservatively Managed Portfolio)
Prudential-Bache Global Fund, Inc.
Prudential-Bache Global Genesis Fund, Inc.
Prudential-Bache Global Natural Resources Fund, Inc.
Prudential-Bache GNMA Fund, Inc.
Prudential-Bache Government Plus Fund, Inc.
Prudential-Bache Government Securities Trust—
(Intermediate Term Series (only one class of securities)
Prudential-Bache Growth Opportunity Fund, Inc.
Prudential-Bache High Yield Fund, Inc.
Prudential-Bache IncomeVertible Plus Fund, Inc.
Prudential-Bache Multi-Sector Fund, Inc.
Prudential-Bache Municipal Bond Fund—
(Insured Series)
(High Yield Series)
(Modified Term Series)
Prudential-Bache Municipal Series Fund—
(Arizona Series)
(Georgia Series)
(Maryland Series)
(Massachusetts Series)
(Michigan Series)
(Minnesota Series)
(New Jersey Series)
(New York Series)
(Ohio Series)
(North Carolina Series)
(Oregon Series)
(Pennsylvania Series)
Prudential-Bache National Municipal Fund, Inc.
Prudential-Bache Option Growth Fund, Inc.
Prudential-Bache Structured Maturity Fund, Inc.
Prudential-Bache U.S. Government Fund
Prudential-Bache Utility Fund, Inc.
Prudential-Bache ContraValue Fund, Inc.
Prudential-Bache Canadian/U.S. Government Securities Fund, Inc.
Prudential-Bache Strategic Income Fund, Inc.

4. Prudential Securities serves as a principal underwriter and depositor for the following registered unit investment trusts:

Prudential Unit Trusts—
(Insured Tax-Exempt Series 1-42)
(Insured Tax-Exempt Intermediate Series 1-2)
(Insured Tax-Exempt Selected Term Series 3-6)
(Insured Multistate Tax-Exempt Series 1-26)
(Tax-Exempt Series 1-21)
(Tax-Exempt Selected Term Series 1)
(Tax-Exempt Multistate Series 1)
(High Yield Tax-Exempt Series 1-8)
(Prudential Equity Trust Shares 4)

[1] Until February 25, 1991, Applicant was known as Prudential-Bache Securities, Inc. On that date, Prudential-Bache Securities, Inc. changed its name to Prudential Securities Incorporated. On March 1, 1991, the firm filed with the Commission an amendment to its Form BD reflecting the name change. All references to Prudential-Bache Securities, Inc. in the original application and the first and second amendments thereto were changed to Prudential Securities Incorporated by the third amendment to the application. As used in this notice and temporary order, "Prudential Securities" refers to Prudential Securities Incorporated and/or its predecessor, Prudential-Bache Securities, Inc., as appropriate. The names of the investment companies identified in the application (*see* ¶¶ 2-5, *infra*) have not been changed.

National Equity Trusts—
(Utility Series 1)
Prudential-Bache Unit Trusts—
(Corporate High Yield Series 1–5)
Government Securities Equity Trust Series 1–2
Corporate Investment Trust Fund 3
National Municipal Trust—
([National] Series 1–120; 121–127)
(Insured Series 1–44)
(Selected Credit Trust Series 1)
(Discounted Series 1–43)
(Put Series 1–2)
(Intermediate Series 2–4)
(Multistate Series 1–25)
(Multistate Series 26–30)

5. Prudential Securities also acts as a co-sponsor and codepositor with other broker-dealer firms of a number of unit investment trusts.[2]

6. Applicant currently employs five individuals subject to securities-related injunctions: Peter A. Engelbach, Eugene P. Ingaragiola, Kenneth J. Leach, Kim B. Stires, and Todd B. Marsh (collectively, the "Subject Employees").

7. Peter A. Engelbach joined Prudential Securities as an account executive and registered representative in Prudential Securities' Jenkintown, Pennsylvania, branch office in August, 1984, Prior to employment with Prudential Securities, on October 16, 1972, Engelbach consented to the entry of permanent injunction in a suit brought by the Commission alleging that in 1971, while employed as a registered representative by Advest, Inc., he participated in the sale to the public of unregistered shares of Galco Leasing Systems, Inc. ("Galco") and employed a device, scheme or artifice to defraud in connection with the sale of Glaco stock, in violation of sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("1933 Act") and section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b–5 thereunder.

8. The New York Stock Exchange ("NYSE"), Prudential Securities' principal self-regulatory organization, approved Engelbach's employment by Prudential Securities effective August 15, 1984. Later, the NYSE approved Engelbach as an assistant manager of the Breyer, Elkins Park, Pennsylvania, branch office effective February 4, 1987, and as an assistant manager of the Philadelphia, Pennsylvania, branch office effective February 8, 1990.

9. Eugene P. Ingaragiola joined Prudential Securities as an account executive and a registered representative in the Morristown, New Jersey branch office in June, 1984. Prior to his employment with Prudential Securities, in November 1977, Ingaragiola consented to the entry of the permanent injunction enjoining him from violating the antifraud provisions of section 17(a) of the 1933 Act and section 10(b) of the Exchange Act and Rule 10b–5 thereunder. At the time of the activities giving rise to the injunction, Ingaragiola was the Chairman of the Board and a shareholder of Scott Gorman Municipals, Inc. ("Scott Gorman"), a municipal bond dealer. The injunction arose from an SEC complaint alleging that, during 1974 and 1975, Ingaragiola and others engaged in fraudulent and deceptive acts and practices by failing to disclose the true financial condition of Scott Gorman; failing to disclose to customers that fully paid customer securities were being illegally pledged at lending institutions; failing to deliver fully paid securities to customers; and failing to disclose to customers that the books and records of the firm were not accurate or current. Ingaragiola was also ordered to pay $10,000 to the trustee in bankruptcy of Scott Gorman.

10. The NYSE approved his employment with Prudential Securities effective June 4, 1984. Later, the NYSE approved Ingaragiola as an Assistant Branch Office Manager of the Morristown, New Jersey, branch office effective February 19, 1987, and Branch Office Manager of the Red Bank, New Jersey, branch office effective February 23, 1990.

11. Kenneth J. Leach, Kim B. Stires and Todd B. Marsh have been account executives and registered representatives in Prudential Securities' Morristown, New Jersey, branch office since March 20, 1981. Prior to their employment with Prudential Securities, Leach, Stires, and Marsh were all employed by Smith Barney, Harris Upham & Co. ("Smith Barney") as registered representatives in Smith Barney's Morristown branch office. On April 28, 1983, Leach, Stires and Marsh consented to the entry of permanent injunctions enjoining them from violating the antifraud provisions of section 10(b) and section 14(e) of the Exchange Act, and Rule 10b–5 thereunder. The consent arose from SEC complaints against Leach, Stires, Marsh and others alleging that during January and February 1980, while employed at Smith Barney, Leach, Stires, and Marsh received non-public information concerning the acquisition of Clark Oil and Refining Corporation ("Clark Oil") by a private investment organization. In particular, the complaint alleged Leach, Stires, and Marsh profited from the misuse of the information by effecting transactions in the common stock of Clark Oil for their customers, their own accounts and the accounts of family members. Leach, Stires and Marsh were also ordered to pay disgorgements reflecting trading profits and commissions of $1,322.78, $5,765.53, and $16,611.02, respectively.

12. On April 2, 1984, the NYSE approved the continued association of Leach, Stires and Marsh as registered representatives with Prudential Securities.

13. The existence of the injunctions against the Subject Employees disqualifies Prudential Securities, under section 9(a)(3) of the Act, from acting as an investment adviser to a registered investment company, as a principal underwriter of a registered open-end company, or as a principal underwriter or depositor of a registered unit investment trust, unless an exemption is obtained pursuant to section 9(c).

14. Prudential Securities claims that it has had adequate procedures in place to screen for and detect the existence of injunctions of the type which are predicates of ineligibiltiy under section 9(a). However, Prudential Securities failed to appreciate that an application for exemptive relief under Section 9(a) remains necessary notwithstanding clearances that had been obtained through the provisions of Rule 19h–1 under the Exchange Act.

15. To the best of Applicant's knowledge, since the entry of their respective injunctions, none of the Subject Employees has been subject to any injunctive actions, nor have any complaints been filed against them with or by the Commission, with any self-regulatory organization, or with any state securities commission.

16. Senior members of Prudential Securities' Legal Department have reviewed each of the Subject Employees' record during the course of his employment with Prudential Securities with his branch manager. To the best of Applicant's knowledge, with three exceptions (*See* ¶¶17–20 below),

[2] These include: Municipal Investment Trust Fund—(Monthly Payment, State and Multistate Series), (Intermediate Term Series), (Insured Series); The Equity Income Fund—(Utility Common Stock Series), (S&P 500 Index Monthly Payment Series), (Blue Chip Stock Series), (Concept Series); Municipal Income Fund—(Insured Discount Series); The Corporate Income Fund—(Monthly Payment Series), (Intermediate Term Series), (Collateralized Bond Series), (Cash or Accretion Bond Series and SELECT Series), (Preferred Stock Series), (High Yield Series), (Insured Series); The International Bond Fund)—(Multicurrency Series), (Australian and New Zeland Dollar Bonds Series), (Australian Dollar Bonds Series), (Canadian Dollar Bonds Series); The Government Securities Income Fund—(GNMA Series (other than those listed below)), (GNMA Series E or other GNMA Series having units with an initial face value of $1.00), (U.S. Treasury Accumulation Serial Payout Series, Long-Term Trust), U.S. Treasury Accumulation Series), (Freddie Mac Series).

there have been no customer complaints against any of the Subject Employees during their employment with Prudential Securities, nor, to Prudential Securities' knowledge, is there any basis for such a complaint. Prudential Securities has also reviewed the employment background of the Subject Employees subsequent to entry of their respective injunctions, and, where applicable, prior to their employment by Prudential Securities, and has found no customer complaints or other disciplinary action.

17. One customer complaint involved a claim filed against Marsh in small claims court in California in April 1990. The complaint alleged that Marsh recommended unsuitable options trading for a customer. The customer worked on the floor of the Pacific Stock Exchange for two years. Marsh vigorously denies the allegations, particularly in view of the sophisticated investment background of the complaint. However, in the interest of customer relations and to avoid the cost of litigation, Prudential Securities settled the matter for a $750.00 in May, 1990.

18. A second customer complaint involves allegations against Engelbach made in a letter received by Prudential Securities' law department on December 10, 1990. The complaint alleges that Engelbach, acting as broker, recommended that the customer invest in a closed-end fund (the "Fund"). The complaint further alleges that Engelbach falsely represented to the customer that the Fund invested only in high quality corporate bonds, and that there was little down side risk because the Fund would be obligated to support the stock by buying in shares if the price fell below a certain prices (the "support price"). Based on Engelbach's recommendation, the customer purchased 20,000 shares of the Fund on margin. The customer also claims that when the share price fell below the alleged support price, Engelbach told the customer that he was surprised at the absence of market support and would look into the matter. In connection with the complaint, the customer claims damages in the amount of the difference between the alleged support price and the current market price for each of the 20,000 shares of the fund that he purchased.

19. Prudential Securities represents that it has completed its investigation of this complaint and believes that the claims against Engelbach are unfounded. The firm determined that the customer was a wealthy and sophisticated investor whose previous trading history reflected numerous speculative investments and investments on margin. Prudential Securities also determined that Engelbach fully informed the customer of the features of the bond fund as well as the risks involved with the investment. In connection with this complaint, Prudential Securities also has agreed to comply with condition number 5 below.

20. On December 28, 1990, Applicant's counsel informed Division of Investment Management staff of a third customer complaint, involving Kenneth Leach. Applicant represents that this complaint, dated August 31, 1990, was received by Prudential Securities on September 20, 1990, subsequent to the date that Prudential Securities filed its original application for section 9(c) relief (September 11, 1990), but before it filed its first amendment to the application (November 5, 1990).[3] The complaint, alleges in part that Leach misrepresented the nature of an investment. The complainants, a married couple, claim that Leach told them they were buying government bonds when in fact they were purchasing shares in the Prudential-Bache High Yield Fund, Inc., an open-end investment company managed and advised by affiliates of Prudential Securities. The customers also assert that Leach made misrepresentations to them concerning a loan made to them in connection with this investment, and claim that the investment was transferred to the Prudential-Bache Government Plus Fund without their knowledge or approval. Finally, the customers claim that an investment in a real-estate limited partnership purchased by Prudential Securities on their behalf was unsuitable for them.

21. Prudential Securities represents that it has investigated the complaint against Leach and has determined that the customers' claims are unfounded. In particular, the firm determined that the husband has been provided a prospectus on the Prudential-Bache High Yield Fund, that he had had several discussions with Leach regarding the investment, and that he had full knowledge of the nature and terms of the investment. With respect to the allegations concerning the loan, Applicant determined that there had been an operational error in connection with the customers' account which the firm had explained to the customers when it occurred and had agreed to correct. Applicant also determined that the husband had initiated and approved the transfer to the Prudential-Bache Government Plus Fund. Finally, with respect to the limited partnership investment, the firm determined that the customers had investments in real esatate programs prior to their involvement with Prudential Securities, that they were experienced and knowledgeable investors, and that they were fully capable of understanding the terms and conditions of the investment. In connection with this complaint, Prudential Securities also has agreed to comply with condition number 5 below.

22. None of the Subject Employees is employed by any Prudential affiliate other than Prudential Securities, serves in any capacity related to providing investment advice to or acting as depositor for any registered investment company, or acting as principal underwriter to any registered open-end company, registered unit investment trust, or registered face-amount certificate company. None of the Subject Employees is an executive officer of Prudential Securities or serves in a policy making role. None of the Subject Employees has any relation to Prudential Securities' management or administrative activities relating to registered investment companies.

23. The conduct that precipitated the injunctive actions against the Subject Employees was unrelated to providing investment advice or acting as depositor or underwriter for any registered investment company.

24. The Subject Employees disclosed the existence of the disqualifying injunctions to Prudential Securities in a timely manner. Engleback and Ingaragiola disclosed the injunctions to Prudential Securities prior to becoming employed by the firm. Leach, Stires and Marsh were employed by Prudential Securities at the time that the injunctions were entered and the firm was apprised of the ongoing proceedings and the injuntions against them. Prudential Securities and each of the Subject Employees took necessary steps to obtain the approval of their principal self-regulatory organization, the NYSE, for these employees to associate with the firm.

25. Pending dispositon of Prudential Securities' request for temporary relief,

[3] As an explanation of its failure to inform the Commission of the customer complaint against Leach, Applicant represents that although it completed a thorough review of the background of each of the Subject Employees before drafting the original application, it conducted no supplemental review before filing the first amendment to the application. In addition, the Prudential Securities attorneys who responded to the complaint against Leach failed to notify the attorneys responsible for preparing the section 9(c) application of the customer complaint. Applicant represents that it has implemented a procedure to ensure that appropriate personnel are alerted immediately concerning additional customer complaints or other relevant circumstances involving the Subject Employees.

Prudential Securities has placed each of the Subject Employees on a leave of absence with pay. If temporary relief is granted, Prudential Securities will permit each to return to work on a normal basis pending determination as to permanent relief.

26. Prudential Securities is enhancing its employment and hiring procedures so that they are reasonably designed to ensure that any prospective employee or current employee who is subject to or becomes subject to a statutory disqualification under section 9(a) is not employed by or continued in employment by Prudential Securities until all section 9(c) issues are resolved. These procedures include notification to the Legal Department whenever any prior disciplinary or regulatory matters are disclosed in an employment application for prospective employees, or in a background investigation which will be made for certain types of current and prospective employees.

27. After recognizing the significance of the injunctions under section 9(a), Prudential Securities instructed the Research Fund to accrue investment advisory fees, due to Prudential Securities for payment, into an escrow account which Prudential Securities has established. Prudential Securities began escrowing these fees on July 1, 1990, the beginning of the month during which Prudential Securities first focused on the issues addressed in the application. Amounts paid into such escrow account will be dibursed to Prudential Securities or to the Research Fund only after the Commission has acted on Prudential Securities' application for permanent relief and after discussions with the Research Fund's Board of Directors.

**Applicant's Legal Analysis**

1. Each of the Subject Employees is ineligible to serve or act as an investment adviser, principal underwriter or depositor for a registered investment company. Each of these individuals is an employee, and thus an "affiliated person" of Prudential Securities. Prudential Securities is a company any affiliated person of which is ineligible, by reason of Section 9(a)(3) of the Act, to serve or act in the capacities enumerated. Prudential Securities is therefore ineligible under section 9(a)(3) of the Act to serve or act in the capacities enumerated unless it obtains an exemption under section 9(c) of the Act.

2. Prudential Securities argues that the prohibitions of section 9(a) are unduly or disproportionately severe as applied to Prudential Securities, and the conduct of Prudential Securities does not make it against the public interest or the protection of investors to grant the application.

3. Prudential Securities also submits that the activities that give rise to the injunctions are not sufficiently related to Prudential Securities or to the investment companies for which Prudential Securities acts as investment adviser, principal underwriter, or depositor to justify denying the application. Furthermore, there is no basis to assert that employment of the Subject Employees may affect Prudential Securities' performance of its responsibilities to any registered investment company.

4. Prudential Securities states that because the activities that give rise to the injunction are remote in time, and because there has been no indication of subsequent wrongdoing, it would be unduly and disproportionately severe to permit the injunctions to interrupt the investment advisory, underwriting, and depositor services that have been made available to the shareholders of the investment companies which the Applicant serves.

5. Prudential Securities claims that a denial of the application would harm many of Prudential Securities' employees, and is not necessary for the protection of investors of the investment companies served by the Applicant.

6. Prudential Securities submits that the balance of fairness requires that the application be granted. In particular, Prudential Securities argues if the exemption is not granted, it would be required to terminate the employment of the Subject Employees in order to continue the affected business. Prudential Securities contends that such a result would be manifestly unfair since each of the Subject Employees has fulfilled the terms of his sanction.

**Conditions to the Requested Relief**

1. As a condition to the temporary relief, Applicant will continue to escrow all investment advisory fees until the Commission acts on Prudential Securities' request for a permanent exemption. Amounts paid into the escrow account will be disbursed to the Research Fund or to Prudential Securities after the Commission has acted on Prudential Securities' application for permanent relief.

2. As a condition to the permanent relief, Prudential Securities will not, without first making further application to the Commission, employ any of the Subject Employees in any capacity related directly to providing investment advice for, or acting as depositor of, any registered investment company, or to acting as a principal underwriter for a registered open-end company, a registered unit investment trust, or registered face-amount certificate company.

3. Prudential Securities will take appropriate steps to confirm that there are no other employees subject to a Statutory Disqualification. These steps may include reviewing the personnel files of other employees, requesting employees to confirm that they are not subject to a Statutory Disqualification, or utilizing some other combination of procedures that may vary depending on the level and type of employee. A permanent order will not be granted until Prudential Securities has notified the Commission in writing that these steps have been completed.

4. As a condition to the permanent relief, Prudential Securities has filed as an exhibit to this application a representation, attested to by its General Counsel, stating that he has reviewed the compliance procedures described in the application, that after due inquiry he believes those procedures have been duly implemented, and that those procedures are reasonable and appropriate to prevent persons subject to a Statutory Disqualification from becoming or remaining affiliated with Prudenital Securities in the future without proper resolution of the section 9(a) disqualification issues.

5. As a condition to the temporary and permanent relief, Prudential Securities has filed as an exhibit to the application a representation, attested to by its General Counsel, stating that after due inquiry based on the firm's investigation he believes that: (a) The customer complaints against Engelbach and Leach have been investigated; (b) there is no substantial basis for concluding that Engelbach or Leach engaged in any wrongdoing with respect to the allegations in those complaints; and (c) Prudential Securities will support Engelbach and Leach should these matters go to arbitration or litigation, subject to Prudential Securities' right to determine whether or not to settle the complaint. The General Counsel will promptly notify the Commission if any subsequent information comes to the firm's attention which changes such beliefs and/or conclusions.

**Temporary Order**

The Commission has considered the matter and finds, under the standards of section 9(c), that Applicant has made the necessary showing to justify granting a temporary exemption.

Our decision to grant the requested relief is based primarily on two factors. First, the individuals creating the

statutory disqualification have not been, and (without further Commission action) will not be, engaged in investment adviser or investment company activities. Second, Prudential Securities has represented that it is correcting the deficiencies in the compliance procedures that allowed these violations of section 9(a) to occur. It is also relevant to our determination that each of these employees fully disclosed the existence of the injunctions to Prudential Securities on a timely basis, and was authorized by action of the New York Stock Exchange to associate or reassociate with Prudential Securities as a registered representative. The Commission's decision to allow Prudential Securities to continue to employ these individuals in non-investment adviser, non-investment company activities is thus consistent with the actions of the self-regulatory organizations.

We must nevertheless express our concern with the deficiencies in Prudential Securities' compliance system, which allowed multiple violations of section 9(a) to go undetected for an extended time period. In recent months, the Commission has become aware of a number of companies that have violated section 9(a)(3) of the Act under circumstances similar to this case. *See Smith Barney, Harris, Upham & Co., Inc.*, Investment Company Act Release Nos. 17404 and 17404A (April 2 and April 11, 1990) (notice and temporary order), 17501 (May 21, 1990) (permanent order); *PaineWebber Inc.*, Investment Company Act Release Nos. 17588 (July 16, 1990) (notice and temporary order), 17789 (October 10, 1990) (permanent order); *Dean Witter Reynolds Inc.*, Investment Company Act Release Nos. 17887 (November 29, 1990) (notice and temporary order); *Prescott, Ball & Turben, Inc.*, (File No. 812-7576). We view such violations with concern because they evidence deficiencies in a company's compliance system which have resulted in the employment of disqualified employees for extended periods without discovery. In granting Prudential Securities relief under section 9(c), we weighed heavily that it voluntarily undertook a review of its employees to determine the existence of such violations after publication of the notice and order in *Smith Barney*. Our decision to grant relief should not be read as an indication that the Commission views violations of section 9(a) as unimportant, or that we would regard any repeat of this problem by Prudential Securities with anything other than serious concern. Moreover, we may not be as sympathetic to future applicants that are less timely or forthcoming in examining their compliance with the Section.[4]

Accordingly, *it is ordered*, under section 9(c) of the Act, that, subject to the conditions set forth above, Applicant is hereby temporarily exempted from the provision of section 9(a) of the Act for the shorter of 90 days or until the Commission takes final action on the application for an order granting Applicant a permanent exemption from the provisions of section 9(a) of the Act.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 91-5855 Filed 3-12-91; 8:45 am]

BILLING CODE 8010-01-M

[4] As discussed above, Prudential Securities has accrued advisory fees from July 1, 1990. Taking into account the timing of the Commission's actions with respect to a similar application, *see Smith Barney, Harris Upham & Co., Inc.*, Investment Company Act Release Nos. 17404 and 17404A (April 2 and April 11, 1990) (notice and temporary order), 17501 (May 21, 1990) (permanent order), the Commission believes that firms exercising reasonable diligence should have discovered similiar section 9(a) disqualifications by July 1, 1990, and sought the appropriate relief from the Commission. Thus, the Commission has determined that future applicants for exemptive relief under section 9(c) for similar section 9(a) disqualifications will be required to use July 1, 1990 as the date to begin accruing fees in an escrow account.

## SMALL BUSINESS ADMINISTRATION

### Revision of Privacy Act System of Record; Correction

**AGENCY:** Small Business Administration.

**ACTION:** Notice of Revision of Agency's System of Record, Correction.

**SUMMARY:** In FR Doc. 91-4080, appearing at page 8007 in the **Federal Register** of Tuesday, February 26, 1991 in the system of record SBA 145, Temporary Disaster Employee on page 8037, the following routine uses were omitted:

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES**

* * * * *

To disclose them to the Department of Justice when:

(a) The agency, or any component thereof; or

(b) Any employee of the agency in his or her official capacity; or

(c) Any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where the agency determines that litigation is likely to affect the agency or any of its components.

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

To disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when:

(a) The agency, or any component thereof; or

(b) Any employee of the agency in his or her official capacity; or

(c) Any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or

(d) The United States, where the agency determines that litigation is likely to affect the agency or any of its components,

is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to a court or other adjudicative body is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

* * * * *

**SUPPLEMENTARY INFORMATION:** This publication is in accordance with the Privacy Act stipulation that Agencies publish their systems in the **Federal Register** when there is a revision, change or addition.

Dated: March 5, 1991.

**Susan Engeleiter,**

*Administrator.*

[FR Doc. 91-5813 Filed 3-12-91; 8:45 am]

BILLING CODE 8025-01

## DEPARTMENT OF STATE

**[Public Notice 1357]**

### United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group A Meeting

The Department of State announce that Study group A (Policy and Services) of the U.S. Organization for the International Telegraph and Telephone

Consultative Committee (CCITT) will meet on Friday, April 12, 1991, in Conference Room 1105 and on May 14, 1991, in Conference room 1207, both meetings to commence at 10 a.m. at the Department of State, 2201 C Street NW., Washington, DC 20520.

The Agenda for the meeting will include the following:

1. Debrief and review of the results of CCITT Study Group III Meeting of March 6 to 22, 1991, Geneva and London.
2. Debrief and review of the results of the CCITT Study Group II Meeting, Geneva, March 12–22, 1991.
3. Preparatory activities for the upcoming meetings of CCITT Study Group I, May 28–June 7, 1991.
4. Debrief of Canadian Resolution #18 Talks.
5. Future Schedule of Work Activities.
6. Other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated in arrangements are made five (5) days in advance of the meeting. Persons who plan to attend should so advise the Office of Earl S. Barbely, Department of State, (202) 647–2592, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Dated: March 4, 1991.

**Earl S. Barbely,**

*Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.*

[FR Doc. 91–5839 Filed 3–12–91; 8:45 am]

BILLING CODE 4710–07–M

---

**[Public Notice 1358]**

## Soviet and Eastern European Studies Advisory Committee

The Department of State announces that the Soviet and Eastern European Studies (title VIII) Advisory Committee will convene on April 8, 1991, beginning at 9 a.m. in room 1105, U.S. Department of State.

The Advisory Committee will recommend grant recipients for the supplemental FY 1991 competition of the Soviet and Eastern European Research and Training Act of 1983. The agenda will include: Opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public about the title VIII program in general; and within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organizations with an interest and expertise in conducting research and training concerning the USSR and Eastern Europe," based on the guidelines contained in the call for applications published in the **Federal Register** on December 20, 1990.

This meeting will be open to the general public; however, attendance will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. Those wishing to attend should notify Joanne Bramble, INR/RES, U.S. Department of State, (202) 632–2066, by March 29, providing their date of birth and Social Security number. All attendees must use the 21st Street entrance to the building. Visitors who arrive without prior notification and without a photo ID will not be admitted.

Dated: February 26, 1991.

**Kenneth E. Roberts,**

*Executive Director, Soviet and Eastern European Studies Advisory Committee.*

[FR Doc. 91–5840 Filed 3–12–91; 8:45 am]

BILLING CODE 4710–32–M

---

# DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## Environmental Impact Statement: Nassau County, NY

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Nassau County, New York.

**FOR FURTHER INFORMATION CONTACT:**

Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, telephone: (518) 472–3616.

or

J.R. Lambert, Director, Facilities Design Division, New York State Department of Transportation, State Campus, 1220 Washington Avenue, Albany, New York 12232, telephone: (518) 457–6452.

**SUPPLEMENTARY INFORMATION:** The Federal Highway Administration, in cooperation with the New York State Department of Transportation will be preparing an Environmental Impact Statement (EIS) on a project to complete the service road system on the Long Island Expressway (LIE) from South Oyster Bay Road to Sunnyside Boulevard (Exits 43 to 46) and for improvements to the Long Island Expressway Interchange with the Seaford Oyster Bay Expressway.

Two proposed alternatives will be studied for this project. Alternative 1, is a proposal to construct service road links adjacent to the Long Island Expressway that complete the existing Service Roads between South Oyster Bay Road and Sunnyside Boulevard. Like the existing 30 miles of the Service Road System, this last link will be two (2) lanes wide except where ramp connections require the addition of an acceleration-deceleration or weaving lane. In this alternative, we will consider the inclusion of a new semi-direct connection ramp from the new westbound Service Road link to the Southbound Seaford-Oyster Bay Expressway, and the elimination of the existing interchange loop in the northwest quadrant of the interchange. The new ramp would pass under the Seaford-Oyster Bay Expressway and either over or under the present Long Island Expressway. The existing frontage road segment south of the Expressway from Manetto-Hill Road to Woodbury Road, would be eliminated.

Alternative 2, is a variation of the basic concept of Alternative 1. This alternative shifts the alignment of the new Service Road links, as well as the Expressway to the south in the vicinity of Gateway Drive, and to the north in the vicinity of Sally Lane. In these two areas, the new Service Road links will not, for the most part, be any closer to the existing North Service Road and Sally Lane than the present Expressway. As part of this Alternative, the existing bridges at South Oyster Bay Road and Sunnyside Boulevard would be modified to allow for improved connections to the Expressway while reducing the amount of traffic currently using these intersections. These bridge modifications will also allow for the elimination of an acceleration lane over Gateway Drive that is necessary in Alternative 1. As in Alternative 1, we would also propose to eliminate the existing frontage road segment south of the Expressway from Manetto-Hill Road to Woodbury Road.

Detours, as well as possible temporary closures, may be necessary

during construction under either alternate.

In addition, a no-build or existing condition alternative will be studied.

This EIS is being advanced with the recognition that there is another project on the Long Island Expressway which is scheduled for construction. The Long Island Expressway Capacity Improvement Project is evaluating additional travel lanes in the median between Exit 30 and Exit 64. The objective of that project is to address the through capacity deficiencies of the entire Long Island Expressway corridor.

Announcements describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. After the Draft Environmental Impact Statement is prepared, it will be available for public and agency review and comment. This will be followed by a Public Hearing for which a public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: March 1, 1991.

**Harold J. Brown,**

*Division Administrator, Albany.*

[FR Doc. 91-5902 Filed 3-12-91; 8:45 am]

BILLING CODE 4910-22-M

## Research and Special Programs Administration, Office of Hazardous Materials Safety; Applications for Exemptions

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before April 11, 1991.

**ADDRESS COMMENTS TO:** Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

NEW EXEMPTIONS

| Application No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|
| 10546-N | GPS Industries, City of Industry, CA | 49 CFR 176.67(i) & (j) | To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without the phsyical presence of an unloader. (mode 2). |
| 10547-N | Tri-Wall, Louisville, KY | 49 CFR 173.154, 173.245(b), 173.365 | To authorize the manufacture, marking and sell of non-DOT specification non-reusable fiberboard bulk box of triple wall corrugated fiberboard construction and mounted to a wood pallet base for shipment of waste solids to hazardous waste landfill disposal sites. (mode 1). |
| 10549-N | Astrotech Space Operations, L.P., Sivler Spring, MD. | 49 CFR 173.145, 173.328, 173.336 | To authorize shipment of non-DOT specification propellant transfer tanks containing residual amounts of either monomethyl-hydrazine classed as a flammable liquid or nitrogen tetroxide, classed as a poison A. (modes 1, 3). |
| 10550-N | Chem Lab Products, Inc., Ontario, CA | 49 CFR 176.67(i) & (j) | To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without the physicial presence of an unloader. (mode 2). |
| 10551-N | Hassa, Inc., Saugus, CA | 49 CFR 176.67(i) & (j) | To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without the physical presence of an unloader. (mode 2). |
| 10552-N | Hasa of Arizona, Inc., Eloy, AZ | 49 CFR 176.67(i) & (j) | To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without the physical presence of an unloader. (mode 2). |
| 10553-N | All Pure Chemical Company, Tracy, CA. | 49 CFR 176.67(i) & (j) | To authorize chlorine filled tank cars to stand with unloading connections attached during unloading without the physcial presence of an unloader (mode 2). |
| 10554-N | Cryotech Systems, Inc., Breinigsville, PA. | 49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h). | To authorize the manufacture, marking and sell of non-DOT specification portable tanks designated and constructed iun accordance with the MC 338 specification for transportation of flammable and nonflammable gases. (mode 1, 2, 3). |
| 10555-N | HTL/Kin-Tech Division of Pacific Scientific, Durate, CA. | 49 CFR 178.50-9 | To authorize the use of a non-DOT approved mounting configuration in the construction of a cylinder patterned after a DOT 4B specification cylinder for shipment of compressed gas. (modes 1, 2, 4, 5). |
| 10556-N | Liquid Control Corporation, North Canton, OH. | 49 CFR 173.29 | To authorize the transportation of mix and dispensing equipment containing residual amounts of material classed as corrosive material and flammable liquid in the holding tanks. (mode 1). |

NEW EXEMPTIONS—Continued

| Application No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|
| 10559–N | Nalco Chemical Company, Naperville, IL | 49 CFR 173 Subpart D, E, and F | To authorize the manufacture, marking and sell of non-DOT specification polyethylene protable tanks enclosed in a steel frame in 200 gallon and 400 gallon sizes for shipment of hazardous materials classed as oxidizers, corrosives and flammable liquids. (Modes 1, 2, 3). |
| 10560–N | AirVantage, Inc., St. Paul, MN | 49 CFR 172.101, 172.204 (c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B. | To authorize the transportation of Class A, B, and C explosives which are forbidden for shipment by air or in quantities which exceed those prescribed for shipment by air, by cargo-only aircraft. (mode 4). |

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 7, 1991.

**J. Suzanne Hedgepeth,**

*Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.*

[FR Doc. 91–5914 Filed 3–12–91; 8:45 am]

BILLING CODE 4910–60–M

## Research and Special Programs Administration; Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications to Become a Party to an Exemption

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

**DATES:** Comments must be received on or before March 28, 1991.

**ADDRESS COMMENTS TO:** Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation fo receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in th Dockets Unit, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

| Application No. | Applicant | Renewal of exemption |
|---|---|---|
| 7023–X | PVS Chemicals, Inc. (NY), Buffalo, NY (See Footnote 1). | 7023 |
| 9519–X | Transchem I, Inc. Kearny, NJ (See Footnote 2). | 9519 |
| 9606–X | Ensign-Bickford Company, Simsbury, CT (See Footnote 3). | 9606 |
| 9637–X | Connelly Containers, Inc., Bala Cynwyd, PA (See Footnote 4). | 9637 |
| 9758–X | Camping Gaz International Paris, France (See Footnote 5). | 9758 |
| 10273–X | Georgia-Pacific Corporation, Schenectady, NY (See Footnote 6). | 10273 |

*(1)* To modify exemption to increase the internal inspection of teflon lined tote containers to every two years.

*(2)* To modify exemption to include poison as an additional class.

*(3)* To modify exemption to provide for modification of packaging method for shipment of detonators, Class A explosive.

*(4)* To modify exemption to auth. cargo vessel as an additional mode of transp. and additional commodities class as oxidizers, corr. mat., flammable solids and poison B for shpmt. in DOT spec. 21 fibre drum.

*(5)* To authorize an additioal designer cartridge (CV–360) for the shipment of Butane or Butane-Propane mixtures classed as flammable gas.

*(6)* To authorize rail and cargo vessel as addtional modes and to authorize flammable solids, organic peroxide solids, and oxiders, dry, as additional classes for shipment in bulk bags.

| Application | Applicant | Parties to exemption |
|---|---|---|
| 4932–P | Personal Security Systems, Throggs Neck, NY (See Footnote 1). | 4932 |
| 8009–P | CNG Technologies, Inc., Austin, TX. | 8009 |
| 8074–P | El Paso Natural Gas Company, Farmington, NM. | 8074 |
| 8214–P | Highland Industries, Inc., Greensboro, NC. | 8214 |
| 8273–P | Highland Industries, Inc., Greensboro, NC. | 8273 |
| 8451–P | Halliburton Logging Services, Inc., Houston, TX. | 8451 |
| 8451–P | Ireco Incorporated, Salt Lake City, UT. | 8451 |
| 8582–P | Metro-North Commuter Railroad Company, New York NY. | 8582 |
| 9066–P | Highland Industries, Inc., Greensboro, NC. | 9066 |
| 9275–P | Mane, U.S.A. Wayne, NJ. | 9275 |

| Application | Applicant | Parties to exemption |
|---|---|---|
| 9723-P | S&W Waste, Inc., South Kearny, NJ. | 9723 |
| 9723-P | Environmental Transportation Services, Inc., Oklahoma City, OK. | 9723 |
| 9769-P | S&W Waste, Inc., South Kearny, NJ. | 9769 |
| 9941-P | Orbital Sciences Corporation/ Space Data Division Chandler, AZ. | 9941 |
| 9953-P | Thiele-Engdahl, Winston-Salem, NC. | 9953 |
| 10001-P | Lake Welding Supply Company, Muskegon, MI. | 10001 |
| 10434-P | A.B.C. Compounding Company, Inc., Morrow, GA. | 10434 |
| 10442-P | United Technologies Corporation, San Jose, CA. | 10442 |

(*1*) To authorize party status and to modify exemption to add an additional device.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 8, 1991.

**J. Suzanne Hedgepeth,**

*Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.*

[FR Doc. 91-5915 Filed 3-12-91; 8:45 am]

BILLING CODE 4960-10-M

## DEPARTMENT OF THE TREASURY

### Fiscal Service

**[Dept. Circ. 570, 1990—Rev., Supp. No. 7]**

### Surety Companies Acceptable on Federal Bonds; Termination of Authority: Anvil Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Anvil Insurance Company, under the United States Code, title 31, sections 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 55 FR 27338, July 1, 1990.

With respect to any bonds currently in force with Anvil Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287-3921.

Dated: February 27, 1991.

**Charles F. Schwan, III,**

*Director, Funds Management Division.*

[FR Doc. 91-5879 Filed 3-12-91; 8:45 am]

BILLING CODE 4810-35-M

## Office of Thrift Supervision

### AmeriFederal Savings Bank, FSB; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for AmeriFederal Savings Bank, FSB, Lawrenceville, New Jersey, on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5868 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

### First Federal Savings Association of Toledo; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings Association of Toledo, Toledo, Ohio, on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5869 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

### First Federal Savings Bank of Zion: Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings Bank of Zion, Zion, Illinois, on February 28, 1991.

Dated: February 28, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5870 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

### Peoples Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Peoples Federal Savings Bank, New Kensington, Pennsylvania, on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5871 Filed 3-2-91; 8:45 am]

BILLING CODE 6720-01-M

### AmeriFederal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for AmeriFederal Savings Bank, Lawrenceville, New Jersey (OTS No. 8032), on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5872 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

### First Savings Bank of Zion; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has

duly appointed the Resolution Trust Corporation as sole Receiver for First Savings Bank of Zion, Zion, Illinois OTS Number 5230, on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5873 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

## Peoples Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Peoples Federal Savings and Loan Association, New Kensington, Pennsylvania, OTS No. 3806, on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5874 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

## Pioneer Federal Savings Bank; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Pioneer Federal Savings Bank, Clearwater, Florida ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5875 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

## Sandia Federal Savings Association et. al.; Replacement of Conservator with a Receiver

Notice is hereby given that, on February 28, 1991 pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator with the Resolution Trust Corporation as sole Receiver for each of the following savings associations:

| Name | Location | Docket No. |
|---|---|---|
| 1. Sandia Federal Savings Association. | Albuquerque, NM | 8646 |
| 2. ABQ Federal Savings Bank. | Albuquerque, NM | 8797 |

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5876 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

## Statesman Federal Savings Bank; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Statesman Federal Savings Bank, Des Moines, Iowa with the Resolution Trust Corporation as sole Receiver for the Association on February 28, 1991.

Dated: March 7, 1991.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 91-5877 Filed 3-12-91; 8:45 am]

BILLING CODE 6720-01-M

# UNITED STATES INFORMATION AGENCY

## Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Widsom & Compassion: The Sacred Art of Tibet" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Asian Art Museum, San Francisco, California, beginning on or about April 17, 1991, to on or about August 18, 1991, and at the IBM Gallery of Science and Art, New York, New York, beginning on or about October 15, 1991, to on or about December 28, 1991, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 11, 1991.

**Alberto J. Mora,**

*General Counsel.*

[FR Doc. 91-6109 Filed 3-12-91; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

## Book and Library Advisory Committee Meeting

**AGENCY:** United States Information Agency.

**ACTION:** Notice of meeting.

**SUMMARY:** The United States Information Agency announces an open meeting of the Book and Library Advisory Committee March 26, 1991, 1 p.m.-4:30 p.m. in room 800, USIA Headquarters, 301 Fourth Street, SW., Washington, DC.

The Agenda will include reports from Book and Library Subcommittee Chairmen; USIA's Director of Private Sector Committees, Louise Wheeler, and USIA's Assistant Director, Bureau of Educational and Cultural Affairs, William Glade.

**DATES:** March 26, 1991.

**ADDRESSES:** 301 4th St. SW., Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** For additional information call Louise G. Wheeler or Patricia Gribben at 619-6089.

**SUPPLEMENTARY INFORMATION:** Copies of minutes can be obtained by calling 619-6089.

Dated: March 5, 1991.

**Douglas Wertman,**

*Committee Management Officer.*

[FR Doc. 91-5841 Filed 3-12-91; 8:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Career Development Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in the Terrace Room of the Edgewater Hotel, Pier 67, 2411 Alaskan Way, Seattle, WA 98121, May 1 through 3, 1991, starting at 8 a.m., May 1. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Department of Veterans Affairs. The committee advises the Director, Medical Research Service, on selection and appointment of Associate Investigators, Research Associates, and Senior Medical Investigators.

The meeting will be open to the public up to the seating capacity of the room from 8 a.m. to 8:30 a.m. on May 1, 1991, to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. Robert E. Meci, Executive Secretary of the Career Development Committee (142A3), Department of Veterans Affairs Washington, DC 20420 (202) 233-2317 prior to April 23, 1991. The meeting will be closed from 8:30 a.m. to 5:30 p.m. on May 1, 8 a.m. to 5:30 p.m. on May 2, and 8 a.m. to 5:30 p.m. on May 3, for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the candidates, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, closure of this portion of the meeting is permitted by section 10(d) of Public Law 92-463 as amended, in accordance with subsection (c)(6), 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from Robert E. Meci, Acting Chief, Career Development Program, Medical Research Service (142A3), Department of Veterans Affairs, Washington, DC 20420 (phone 202-233-2317).

Dated: March 5, 1991.

By direction of the Secretary:

**Sylvia Chavez Long,**

*Committee Management Officer.*

[FR Doc. 91-5887 Filed 3-12-91; 8:45 am]

BILLING CODE 8320-01-M

### Advisory Committee on Former Prisoners of War; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Former Prisoners of War will be held in room 119, at VA Central Office, 810 Vermont Avenue NW., Washington, DC 20420, from April 24, 1991, through April 26, 1991. The meeting will convene at 9 a.m. each day and will be open to the public. Seating is limited and will be available on a first-come, first-served basis.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the need of such veterans for compensation, health care and rehabilitation.

The Committee will receive briefings and hold discussions on various issues affecting health care and benefits delivery, including, but not limited to, the following: education and training of VA personnel involved with former POWs; the status of privately and publicly funded research affecting former prisoners of war; past and current legislative issues affecting former prisoners of war; the various disabilities and sequelae of long-term captivity; and the procedures involved in processing claims for service-connected disabilities submitted by former prisoners of war.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. J. Gary Hickman, Director, Compensation and Pension Service (21), room 275, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Submitted material must be received at least five business days prior to the meeting. Members of the public may be asked to clarify submitted material prior to consideration by the Committee.

A report of the meeting and a roster of Committee members may be obtained from Mr. Hickman.

Dated: March 5, 1991.

By Direction of the Secretary:

**Sylvia Chavez Long,**

*Committee Management Officer.*

[FR Doc. 91-5888 Filed 3-12-91; 8:45 am]

BILLING CODE 8320-01-M

### Veterans' Advisory Committee on Rehabilitation; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C., 1521, will be held on April 9 and 10, 1991, from 9 a.m. to 4 p.m. and on April 11, 1991 from 9 a.m. to 12 noon in the Domiciliary Conference Room, room S-111, of the VA Medical Center, Hampton, VA 23667. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and to provide recommendations to the Secretary. The meeting will be open to the public up to the seating capacity of the conference room. Due to limited seating capacity, it will be necessary for those wishing to attend to contact Theresa Boyd, Executive Secretary, Veterans' Advisory Committee on Rehabilitation at (202) 233-6493 prior to March 29, 1991.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in writen form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 9 a.m. on April 11, 1991.

Dated: March 6, 1991.

By direction of the Secretary:

**Laurence M. Christman,**

*Executive Assistant.*

[FR Doc. 91-5889 Filed 3-12-91; 8:45 am]

BILLING CODE 8320-01-M

### Privacy Act of 1974; Report of Amended Matching Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

Notice is hereby given that the VA (Department of Veterans Affairs) intends to conduct a recurring computer matching program matching OPM (Office of Personnel Management) records of benefit recipients with VA pension and parents' dependency and indemnity compensation records.

The goal of this match is to identify VA benefit recipients who are also receiving civil service annuities and survivor benefits payments reportable to VA as countable income. For the information of all concerned, the text of the VA matching program report, describing the computer match follows. In accordance with 5 U.S.C. 552a(O)(2)(A), copies of this report are being sent to both Houses of Congress.

This notice is provided due to Public Law 100-503.

This match is estimated to start April 1, 1991 and end September 30, 1992. The

match may be extended for a 12-month period provided the agencies participating in the match certify to their Data Integrity Boards that the matching program will be conducted without change and, the matching program has been conducted in compliance with the original matching agreement.

**ADDRESSES:** Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

**FOR FURTHER INFORMATION CONTACT:** Robert Yurgal (213B), (202) 233-3504.

**SUPPLEMENTARY INFORMATION:** Further information regarding the matching program is provided below. This information is requried by 5 U.S.C. 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: March 5, 1991.

**Edward J. Derwinski,**

*Secretary of Veterans Affairs.*

**Report of Matching Program: Department of Veterans Affairs Pension and Dependency and Indemnity Compensation Records with Office of Personnel Management Civil Service Retirement and Insurance records**

a. *Authority.* Title 38 United States Code, section 3006.

b. *Program description.*

(1) *Purpose.* The VA (Department of Veterans Affairs) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive DIC (dependency and indemnity compensation) for VA with records of Civil Service Benefit payments maintained by OPM (Office of Personnel Management). The match with OPM will provide VA with data from the OPM Central-1 Civil Service Retirement and Insurance records. VA will use the data to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Currently, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching programs will enable VA to ensure accurate reporting of OPM benefits.

(2) *Procedures.* VA will prepare an extract file of beneficiaries receiving income dependent benefits whose VA records contain a valid Social Security number. The extract file will be processed against OPM's benefit files. If a VA record and an OPM benefit record match on social security number and name, VA will update its master record with the amount of the OPM benefit. No information from the VA extract file will be maintained by OPM as a result of this matching program.

In the event of a "hit", i.e., the identification of a person in receipt of VA income dependent benefits and in receipt of OPM benefits, the case will be referred for field station development to assure the validity of the "hit" and to make any required award adjustment. Where there are reasonable grounds to believe there has been a violation of criminal laws, the matter will be investigated and referred for prosecutive consideration in accordance with existing VA policies.

c. *Records to be matched.* OPM as "source agency" will provide civil service benefit payment information from the systems of records designated OPM Central-1 Civil Service Retirement and Insurance Records, 55 FR 3816, February 5, 1990 which will be matched against the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) contained in the Privacy Act Issuances, 1989 compilation, volume II, page 918 and as amended at **Federal Register** 52 FR 4078.

d. *Period of match.* The match is estimated to start April 1, 1991 and end September 30, 1992. The Data Integrity Boards of VA and OPM may, within 3 months prior to the expiration of this agreement, renew this agreement for a period not to exceed 12 months on the showing to such Boards by VA and OPM that the matching program will be conducted without change and, the matching program has been conducted in compliance with the original agreement.

[FR Doc. 91-5969 Filed 3-12-91; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 56, No. 49
Wednesday, March 13, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 11 a.m., Monday, March 18, 1991.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 425-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 8, 1991.

**Jennifer J. Johnson,**
*Associate Secretary of the Board.*

[FR Doc. 91-5997 Filed 3-8-91; 8:45 am]

BILLING CODE 6210-01-M

# Corrections

Federal Register
Vol. 56, No. 49
Wednesday, March 13, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 777

### Disaster Payment Program for 1990 Crops

*Correction*

In proposed rules document 91-4006 beginning on page 6994 in the issue of February 21, 1991, make the following correction:

**§ 777.1 [Corrected]**

On page 6995, in the first column, in § 777.1, in the third line from the bottom of the paragraph, remove "⅛".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 82

**[FRL-3909-6]**

### Protection of Stratospheric Ozone

*Correction*

In rule document 91-5152, beginning on page 9518, in the issue of Wednesday, March 6, 1991, make the following correction:

On page 9528, in the second column, in the amendatory language for § 82.3, in the fourth line"(f)" should read "(t)".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 91N-0027]**

### Drug Export; Floxin® (Ofloxacin) Tablets

*Correction*

In notice document 91-2260 beginning on page 3834 in the issue of Thursday, January 31, 1991, make the following correction:

On page 3834, in the third column, under the paragraph **SUPPLEMENTARY INFORMATION**, in the fourth line, "provides" should read "provide".

BILLING CODE 1505-01-D

## LIBRARY OF CONGRESS

### Copyright Office

### 37 CFR Part 201

**[Docket No. RM 91-2]**

### Computer Software Lending by Libraries; Copyright Warning

*Correction*

In rule document 91-4410 beginning on page 7811, in the issue of Tuesday, February 26, 1991, make the following correction:

On page 7811, in the third column, in footnote 1, in the third line, "not" should read "now".

BILLING CODE 1505-01-D

## LIBRARY OF CONGRESS

### 37 CFR Part 211

**[Docket No. RM 88-7B]**

### Registration of Claims of Protection in Mask Works; Gate Arrays

*Correction*

In rule document 91-4412 beginning on page 7816, in the issue of Tuesday, February 26, 1991, make the following corrections:

1. On page 7816, in the first column, under **SUPPLEMENTARY INFORMATION:**, in the ninth line, "regulation" should "registration".

2. On the same page, in the second column, in the next to last paragraph, in the third line, "other" should read "others".

3. In the third column, under **2. Summary of Public Comments**, in the ninth line, "compaq" should read "Compaq", and in the second paragraph, in the sixth line, "Compaq" was misspelled.

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Airspace Docket No. 90-AGL-14]**

### Alteration of Transition Area; Morris, MN

*Correction*

In rule document 91-1034 beginning on page 1570, in the issue of Wednesday, January 16, 1991, make the following correction:

On page 1570, in the third column, under **History**, in the fourth line, "Administration" should read "Regulations".

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Airspace Docket No. 91-ASO-5]**

### Proposed Revision of Control Zone, Brunswick Malcolm-McKinnon Airport, GA

*Correction*

In proposed rule document 91-4351 beginning on page 7626, in the issue of Monday, February 25, 1991, make the following corrections:

1. On page 7626, in the second column, in the second line, the docket number should read as set forth above.

2. On the same page, in the same column, under **SUMMARY:** in the fourth and eighth lines, "Burnswick" should read "Brunswick", each time it appears

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 575**

**[Docket No. 25; Notice 63]**

**RIN 2127-AD68**

## Consumer Information Regulations; Uniform Tire Quality Grading Standards: Vehicles in Treadwear Convoys

*Correction*

In proposed rule document 91-4317 beginning on page 7643, in the issue of Monday, February 25, 1991, make the following correction:

On page 7643, in the second column, the last two lines should read "would become effective 30 days after publication of the final rule."

BILLING CODE 1505-01-D

federal register

Wednesday
March 13, 1991

## Part II

# Environmental Protection Agency

**40 CFR Part 435**

**Oil and Gas Extraction Point Source Category, Offshore Subcategory; Effluent Limitations Guidelines and New Source Performance Standards; Proposed Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 435**

**[FRL-3898-4]**

**RIN 2040-AA12**

## Oil and Gas Extraction Point Source Category, Offshore Subcategory; Effluent Limitations Guidelines and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing regulations under the Clean Water Act to limit effluent discharges to waters of the United States from offshore oil and gas extraction facilities. The purpose of this proposal is to establish new source performance standards (NSPS), best available technology economically achievable (BAT), and best conventional pollutant control technology (BCT) effluent limitations guidelines for the offshore subcategory of the oil and gas extraction point source category.

On November 26, 1990, EPA published an initial proposal and reproposal that presented the major regulatory options that the Agency is considering for control of drilling fluids, drill cuttings, produced water, deck drainage, produced sand, well treatment/workover fluids, and domestic and sanitary wastes. Today's notice describes the proposal in greater detail and sets forth additional technical, economic, environmental, and other information relating to the establishment of effluent guidelines and standards for the offshore subcategory. After considering comments received in response to today's proposal and the November 26 proposal, EPA will promulgate a final rule.

The Agency will schedule two public workshops to explain the proposed regulation. The Agency is inviting state and EPA permit writers, industry representatives and members of the general public to attend and participate in these workshops. For information on the dates and locations of the workshops see the **ADDRESSES** section of today's notice.

**DATES:** Comments must be received on or before April 12, 1991.

**ADDRESSES:** Comments should be sent to Mr. Marvin B. Rubin, Office of Water, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7124.

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, room M2904 (Rear of EPA Headquarters Library), 401 M Street SW., Washington, DC, 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying. Technical information on workshops and copies of technical documents may be obtained from Mr. Marvin B. Rubin at the above address. The economic analysis report may be obtained from Ms. Ann Watkins, Economic Analysis Staff (WH-586), at the above address, or call (202) 382-5387. The Regulatory Impact Analysis (RIA) may be obtained from Ms. Alexandra Tarnay, Assessment and Watershed Protection Division (WH-553), at the above address, or call (202) 382-7046.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marvin B. Rubin at the above address, or call (202) 382-7124.

**SUPPLEMENTARY INFORMATION:**

**Organization of Today's Notice**

I. Introduction.
II. Summary of Legal Background.
A. Best Practicable Control Technology Currently Available (BPT).
B. Best Available Technology Economically Achievable (BAT).
C. Best Conventional Pollutant Control Technology (BCT).
D. New Source Performance Standards (NSPS).
III. Overview of the Industry.
A. Exploration, Development, and Production.
B. New and Existing Sources.
C. Waste Streams.
IV. Prior EPA Regulations, Proposals and Other Notices, and General Permits.
A. EPA Rulemakings and General Permits.
B. Relationship of Today's Proposal to the 1985 Proposal.
1. Parts Changed from the 1985 Proposal.
a. Section II of the 1985 Proposal: Scope of Today's Rulemaking.
b. Section V of the 1985 Proposal: Overview of the Industry.
c. Section XIII of the 1985 Proposal: Non-Water Quality Environmental Impacts.
d. Appendix 4 of the 1985 Proposal: Regulatory Boundaries.
e. Appendix 2 of the 1985 Proposal: Analysis of Diesel Oil in Drilling Fluids and Drill Cuttings Analytical Method.
2. Parts Not Changed from the 1985 Proposal.
V. Industrial Sectors.
A. Shallow/Deep Waters.
B. Distance from Shore.
VI. Regulatory Definitions.
A. Domestic Waste.
B. Well Treatment, Completion, and Workover Fluids.
C. Produced Sand.
D. Development Facility and Production Facility.
VII. Data Gathering Efforts.
A. Existing Information.
B. New Studies.
1. EPA Variability Study for Drilling Fluids Toxicity Test.
2. Performance of Granular Media and Membrane Filtration Technologies on Produced Water.
C. Analytical Methods.
1. Static Sheen Test.
2. Diesel Oil Detection and Total Oil Content—Proposed Method 1651.
D. Radioactivity of Produced Water.
E. Other Studies.
VIII. Waste Characterization.
A. Produced Water and Drilling Wastes.
B. Deck Drainage.
C. Produced Sand.
D. Well Treatment, Completion, and Workover Fluids.
E. Sanitary and Domestic Wastes.
F. Other Minor Wastes.
IX. Parameters Selected for Regulation.
A. Free Oil.
B. Diesel Oil.
C. Toxicity.
D. Cadmium and Mercury.
E. Oil Content.
1. Drilling Fluids.
2. Drill Cuttings.
F. Oil and Grease.
G. Residual Chlorine and Floating Solids.
H. Foam.
X. Control and Treatment Technologies.
A. Current Practice.
1. Drilling Fluids.
2. Drill Cuttings.
3. Produced Water.
4. Deck Drainage.
5. Produced Sand.
6. Well Treatment Fluids.
7. Completion and Workover Fluids.
8. Sanitary Wastes.
9. Domestic Wastes.
B. Additional Technologies Considered.
1. Drilling Fluids.
a. Product Substitution.
b. Zero Discharge.
c. Clearinghouse Approach.
d. Other Technologies.
2. Drill Cuttings.
3. Produced Water.
a. Improved Performance of BPT Technology.
b. Filtration.
c. Reinjection.
d. Other Technologies.
4. Deck Drainage, Domestic and Sanitary Wastes.
5. Produced Sand.
6. Well Treatment, Completion and Workover Fluids.
XI. Best Practicable Technology.
XII. Selection of Control and Treatment Options for BCT.
A. Methodology.
B. Drilling Fluids and Cuttings.
1. Options Considered.
2. Alaskan Waters.
3. Options Selection.
C. Produced Water.
1. Options Considered.
2. Options Selection.

D. Deck Drainage.
E. Produced Sand.
F. Well Treatment, Completion and Workover Fluids.
G. Sanitary and Domestic Wastes.
XIII. Selection of Options for BAT.
A. Drilling Fluids and Drill Cuttings.
1. Options Considered.
2. Options Selection.
B. Produced Water.
1. Options Considered.
2. Options Selection.
C. Deck Drainage.
D. Produced Sand.
E. Well Treatment, Completion and Workover Fluids.
F. Domestic and Sanitary Wastes.
XIV. Selection of Control and Treatment Options for NSPS.
XV. Revised Technology Costs and Assumptions.
A. Drilling Fluids and Cuttings.
B. Produced Water.
XVI. Economic Analysis.
A. Introduction.
B. Costs and Economic Impacts.
1. Basis of Analysis.
2. Total Costs and Impacts of Proposed Regulations.
3. Economic Methodology.
4. Costs and Impacts of Best Conventional Pollutant Control Technology.
5. Costs and Impacts of Best Available Technology.
a. Drilling Fluids and Drill Cuttings.
b. Produced Waters.
6. Costs and Impacts of New Source Performance Standards.
a. Drilling Fluids and Drill Cuttings.
b. Produced Water.
C. Cost-Effectiveness Analysis.
D. Regulatory Flexibility Analysis.
E. Paperwork Reduction Act.
XVII. Executive Order 12291.
A. Produced Water.
B. Drilling Fluids and Drill Cuttings.
XVIII. Non-Water Quality Environmental Impacts and Other Factors.
A. Non-Water Quality Environmental Impacts.
1. Energy Requirements and Air Emissions.
2. Solid Waste Generation.
3. Underground Injection of Produced Water.
B. Other Factors.
XIX. Solicitation of Comments.
A. Industry Profile.
B. Produced Water Treatment Costs.
C. Drilling Fluids and Drill Cuttings Treatment Costs.
1. Discharge Volumes.
2. Well Depths and Formation Characteristics.
3. Calculation of Discharge Volume Ratios.
4. Valuation of Receiving Waters.
D. Miscellaneous Discharges.
E. Industry Profile Within Three Miles.
F. Membrane Filtration Treatment Technology for Produced Waters.
G. Static Sheen Analytical Method.
H. Radioactivity of Produced Water.
I. Alaskan Waters.
J. Treatment/Control Options for Drilling Wastes.
K. Cadmium Formation Contribution to Drilling Wastes.
L. Treatment/Control Options for Produced Water.
M. Environmental Impact Analysis.
XX. Variances and Modifications.
A. Stormwater Variance.
XXI. OMB Review.
Appendices
A. Abbreviations, Acronyms and Other Terms Used in Today's Notice.
B. Major Documents Supporting the Proposed Rule.
C. Regulatory Boundaries.

## I. Introduction

The purpose of this rulemaking is to propose standards of performance for new sources and effluent limitations guidelines for existing sources under sections 301, 304, 306, 307, and 501 of the Clean Water Act for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These regulations are also proposed in response to a Settlement Agreement approved on April 5, 1990 in *NRDC* v. *Reilly*, D.D.C. No. 79-3442 (JHP) and in accordance with EPA's Effluent Guidelines Plan under section 304(m) of the Clean Water Act (55 FR 80) (January 2, 1990).

The proposed regulations would apply to discharges from offshore oil and gas extraction facilities, including exploration, development and production operations that are seaward of the inner boundary of the territorial seas. The inner boundary of the territorial seas is defined in section 502(8) of the Clean Water Act as: "The line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters." The processes and operations which comprise the offshore oil and gas extraction subcategory (Standard Industrial Classification (SIC) Major Group 13) are currently regulated under 40 CFR part 435, subpart A. The existing effluent limitations guidelines, which were issued on April 13, 1979 (44 FR 22069), are based on the achievement of best practicable control technology currently available (BPT).

In general, BPT represents the average of the best existing performances of well-known technologies and techniques for control of pollutants. BPT for the offshore subcategory limits the discharge of oil and grease in produced water to a daily maximum of 72 mg/l and a thirty-day average of 48 mg/l; prohibits the discharge of free oil in deck drainage, drilling fluids, drill cuttings, and well treatment fluids; requires a minimum residual chlorine content of 1 mg/l in sanitary discharges; and prohibits the discharge of floating solids in sanitary and domestic wastes. BPT limitations are not being changed by this proposal.

This rulemaking will establish regulations based on best available technology economically achievable (BAT) that will result in reasonable progress toward the goal of the CWA to eliminate the discharge of all pollutants. At a minimum, BAT represents the best economically achievable performance in the industrial category or subcategory. This rulemaking also proposes requirements based on best conventional pollutant control technology (BCT). In addition, this rulemaking proposes new source performance standards (NSPS) based on the best demonstrated control technology.

On August 26, 1985, EPA proposed BAT, BCT, and NSPS for the offshore oil and gas industry (50 FR 34592). This proposal being issued today does not supersede the 1985 proposal entirely but, rather, changes the proposal in certain areas. Some items proposed in 1985 remain unchanged. In today's notice, EPA highlights the differences and similarities between today's proposal and the 1985 proposal.

Much data and information have been acquired by EPA since the 1985 proposal regarding waste characterization, treatment technologies, industrial practices, industry profiles, analytical methods, environmental effects, costs, and economic impacts. Some of this new information regarding drilling wastes was published in a Notice of Data Availability (53 FR 41356) (October 21, 1988). This new information has led EPA to develop additional regulatory options different from those proposed in 1985.

On November 26, 1990 the Agency published an initial proposal and reproposal (55 FR 49094) that presented the major BCT, BAT, and NSPS regulatory options under consideration for control of drilling fluids, drill cuttings, produced water, deck drainage, produced sand, domestic and sanitary wastes, and well treatment, completion, and workover fluids. The options presented in that proposal are identical to those presented today, with the exception that the November 26 proposal stated that NSPS for sanitary wastes includes a prohibition on the discharge of visible foam.

For this rulemaking, EPA is proposing BAT and NSPS effluent limitations for produced waters equal to BPT for structures located more than 4 miles from the inner boundary of the territorial seas (shore). For structures located 4 miles or less from shore, EPA is proposing produced water effluent limitations for oil and grease based on

membrane filtration as an add-on technology to BPT. The limitations are 7 mg/l monthly average and 13 mg/l daily maximum not to be exceeded. For drilling fluids and drill cuttings, wells located more than 4 miles from shore are subject to effluent limitations for toxicity of 30,000 ppm (SPP basis), cadmium and mercury of 1 mg/kg each in drilling fluids and drill cuttings discharges, as well as a requirement for no discharge of diesel oil and free oil. For wells located 4 miles or less from shore, zero discharge of drilling fluids and drill cuttings is being proposed. An exception to the limitations on drilling fluids and cuttings is being proposed for Alaska and is discussed later in section XII.

BAT and NSPS are also being proposed for deck drainage; produced sand; treatment, completion, and workover fluids; and domestic and sanitary wastes. These are collectively referred to as the miscellaneous waste streams. Zero discharge is being proposed for the produced sand (solids) waste stream. Zero discharge of treatment, completion, and workover fluids is being proposed when they resurface as a discrete slug. Otherwise, if these fluids do not surface as a discrete unit, then they would be commingled with and treated along with produced waters. The Agency is proposing that deck drainage be subject to the same limitations as produced water during the production phase of the oil and gas extraction operation. During the exploration and development phases, deck drainage will be subject to the BPT limits prohibiting discharge of free oil. The Agency is not proposing BAT for domestic and sanitary wastes because there have been no toxic or nonconventional pollutants of concern identified in these wastes. NSPS for sanitary wastes is being proposed as equal to BPT. NSPS for domestic wastes is proposed as equal to current permit requirements prohibiting discharge of floating solids, plus the additional requirement for no visible discharge of foam.

BCT for produced waters is being proposed equal to BPT. BCT for drilling fluids and drill cuttings is being proposed equal to the zero discharge for structures located 4 miles or less from shore and BPT for structures greater than 4 miles from shore. The proposed BCT requirement for well treatment, completion, and workover fluids; deck drainage and produced sand is no discharge of free oil; for sanitary wastes BCT limitations are proposed controlling residual chlorine at facilities with ten or more personnel and no discharge of floating solids for both sanitary wastes at facilities with less than nine personnel and for domestic wastes.

The Agency is collecting additional data concerning membranes which will be noticed for public comment between today's proposal and final rulemaking. In addition, the Agency solicits comment on this topic as part of this proposed rulemaking (see section XIX of today's notice). Should the membrane technology ultimately prove to be not demonstrated for the purposes of this regulation, EPA may promulgate BAT and NSPS requirements for produced water based on other technologies giving strong consideration to BPT as the basis for BAT and NSPS since the costs of alternative technologies are high. The level of pollutant removals will also be considered in evaluating these technologies.

## II. Summary of Legal Background

The regulations described in today's notice are being developed under the authority of sections 301, 304 (b), (c), and (e), 306, 307, and 501 of the Clean Water Act (The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987; 33 U.S.C. 1311, 1314 (b), (c), and (e), 1316, 1317, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217; 101 Stat. 7, Pub. L. 100–4) ("the Act").

The Clean Water Act establishes a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (sec. 101(a)). To implement the Act, EPA is to issue technology based effluent limitations guidelines, new source performance standards and pretreatment standards for industrial dischargers. The levels of control associated with these effluent limitations guidelines and the new source performance standards for direct dischargers are summarized briefly below. Since no offshore facilities currently discharge into municipal sewer systems, pretreatment standards are not included in this proposal and are reserved.

### *A. Best Practicable Control Technology Currently Available (BPT)*

BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies and non-water quality environmental impacts (including energy requirements). The total cost of applying the technology is considered in relation to the effluent reduction benefits.

### *B. Best Available Technology Economically Achievable (BAT)*

BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as a principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters. In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the costs and economic impact of achieving such effluent reduction, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator of EPA deems appropriate. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

### *C. Best Conventional Pollutant Control Technology (BCT)*

The 1977 Amendments added section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: Biochemical oxygen demanding pollutants (BOD), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be established in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). EPA first published its methodology for carrying out the BCT analysis on August 19, 1979 (44 FR 50372).

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176), and became effective on August 22, 1986 (51 FR 24974; July 9, 1986).

*D. New Source Performance Standards (NSPS)*

NSPS are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process control and treatment technologies that reduce pollution to the maximum extent feasible. In addition, in establishing NSPS, EPA is required to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impact and energy requirements.

**III. Overview of the Industry**

*A. Exploration, Development, and Production*

The offshore subcategory of the oil and gas extraction point source category covers those structures involved in exploration, development, and production operations seaward of the inner boundary of the territorial seas, as defined in Section 502 of the Clean Water Act.

Exploration and development activities for the extraction of oil and gas include work necessary to locate and drill wells. Exploration (only) activities are those operations involving the drilling of wells to determine the potential hydrocarbon reserves. These activities are usually of short duration at a given site, involve a small number of wells, and are generally conducted from mobile drilling units. (Only those exploratory activities with significant site preparation are covered by today's proposal. Significant site preparation, as defined in the 1985 proposal, "shall mean the process of surveying, clearing and preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.") The major waste streams from exploration activities are drilling fluids and drill cuttings.

Development activities involve the drilling of production wells once a hydrocarbon reserve has been identified. These operations, in contrast to exploration activities, usually involve a large number of wells and are typically conducted from a fixed platform. The waste streams of concern include drilling fluids, drill cuttings, deck drainage, and sanitary and domestic wastes.

Production operations include all work necessary to bring hydrocarbon reserves from the producing formation beginning with the completion of each well at the end of the development phase. The major waste stream from production activities is the produced water waste stream. Other waste streams of concern include produced sand; deck drainage; sanitary and domestic wastes; and well treatment, workover, and completion fluids. Produced water and sand originate with the gas and/or oil product stream and are separated from the oil product during the initial processing of the production stream. Well treatment, completion, and workover fluids are special fluids designed and used to prepare the well for production or enhance recovery of the oil product from, or prevent damage to, the formation.

*B. New and Existing Sources*

EPA's industry profile estimates are based upon information from the March 1988 "Minerals Management Service Platform Inspection System, Complex/Structure Data Base." According to the Minerals Management Service (MMS) data, 2,260 structures currently produce oil and/or gas in the offshore waters of the United States. This estimate includes all tracts leased offshore in the Gulf of Mexico, California and Alaska. The Agency's estimate of existing structures includes only those platforms that are currently producing known volumes of a specific product (i.e., oil, gas or both). There are no structures in the Atlantic, and the only platforms producing oil in Alaskan waters which are seaward of the inner boundary of the territorial seas are on gravel islands and reinject their produced water. Thus, the Agency's estimate of existing production structures for Alaska is zero.

Structures located in state waters in the Gulf of Mexico are not included in this summary. However, the total volume of produced water being discharged and used as the basis for costing the regulatory options is based on industry estimates which include the state water activities. The Agency has attempted also to profile the number of structures in state "offshore" waters in the Gulf of Mexico. Because of different definitions contained in the state permit records, precise numbers of offshore structures and wells have not been determined. The state offshore records have recorded permitted structures under three subcategories: Onshore (for those structures whose well-head is on land but the bottomhole is offshore), coastal, and offshore. In the charts and maps available from the National Oceanic and Atmospheric Administration (NOAA) and other sources, there is no indication of how many wells there are per structure, whether any of the wells are producing or what product may be produced.

In terms of new source development operations, offshore drilling varies from year to year depending on such factors as the price and supply of oil, the amount of state and federal leasing, and reservoir discoveries. In 1981, there were almost 1500 wells drilled offshore culminating the upward trend of the 1970s. The average number of wells drilled during the 1972–1982 time period was 1100 wells/year. Drilling activity has declined since 1982. Based on the Minerals Management Service's 30-year regionalized forecasts the Agency estimates that between 1986 and the year 2000, assuming no regional constraints on development of offshore oil and gas resources, there will be an average of 980 wells/year drilled offshore nationwide (based on an average barrel of oil equivalent (BOE) price for the years 1986–2000 of $21/barrel). Of these 980 wells/year, 590 wells/year will become producing wells and the remaining 390 wells/year will be dry holes.

EPA has also prepared an estimate of drilling activity which takes into account the recent moratorium and restricted leasing in the Pacific Ocean off of California. On June 26, 1990, the President announced his decision to implement a moratorium on oil and gas leasing and development in federal waters off of California until the year 2000. This "constrained" new well projection estimates that a total of 759 wells/year will be drilled (with 455 of these going into production) between 1986 and 2000 (also assuming $21/barrel (BOE)).

In addition to the offshore areas of the Gulf of Mexico and the California coast, exploration is also occurring in areas within the Chukchi and Beaufort Seas of Alaska, as well as in the Atlantic Ocean, that may lead to new source development and production activities.

Estimates for production are also based on the constrained and unconstrained (restricted and unrestricted) scenarios. The unconstrained profile estimates that 851 platforms will be producing between 1986 to 2000, while the constrained scenario estimates 766 platforms.

*C. Waste Streams*

The major wastewater sources from the exploration and development phase of the offshore oil and gas extraction industry include the following:

- Drilling fluids.
- Drill cuttings.
- Sanitary wastes.
- Deck drainage.

• Domestic wastes.

Drilling fluids (typically termed "muds") and drill cuttings are the most significant waste streams from exploratory operations in terms both of volume and in toxic pollutant control.

The major wastewater sources from the production phase of the industry include the following:

• Produced water.
• Produced sand.
• Sanitary wastes.
• Deck drainage.
• Domestic wastes.
• Well treatment fluids.
• Well completion and workover fluids.

Produced water is the most significant waste stream for production based on its volume of discharge and quantity of pollutants. For purposes of this proposal, deck drainage, sanitary wastes, domestic wastes, produced sand, and well treatment, completion, and workover fluids are all termed "miscellaneous wastes."

Produced water is brought up from the hydrocarbon-bearing strata along with produced oil and gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

Drilling fluids means any fluid sent down th Irillhole. This includes those materials used to maintain hydrostatic pressure control in the well, lubricate the drill bit, remove drill cuttings from the well, and stabilize the walls of the well during drilling or workover operations. A water-based drilling fluid is the conventional drilling system in which water is the continuous phase.

Drill cuttings are the solids generated by drilling into subsurface geologic formations, and are carried to the surface by the drilling fluid system.

Deck drainage includes all waste resulting from platform washings, deck washings, rainwater, and runoff from curbs, gutters, and drains including drip pans and work areas.

Well treatment wastes are spent fluids that result from acidizing and hydraulic fracturing operations to improve oil recovery. Workover fluids and completion fluids are low solids fluids used to prepare a well for production, provide hydrostatic control, and/or prevent formation damage.

Produced sand consists of the slurried particles used in hydraulic fracturing and the accumulated formation sands and other particles, and as scale, that can be generated during production.

Sanitary wastes originate from toilets. Domestic wastes originate from sinks, showers, laundries, and galleys.

Detailed discussions of the origins and characteristics of the wastewater effluents from exploration, development, and production are presented in section VIII. The focus of this regulatory effort is on drilling fluids, drill cuttings, and produced waters. Data gathering efforts and data analyses have been focused on these waste streams due to their volumes and potential toxicity. The information on the miscellaneous wastes is more limited. Their volumes are generally smaller, and in most cases either sporadic or are part of the major waste streams. However, due to the concern over the potential toxicity of these wastes, regulations for miscellaneous wastes are being proposed in this notice as well.

In addition, other minor wastes are generated during the offshore exploration development and production activities. These minor wastes are identified and discussed in section VIII.F of today's notice; however, no limits on these wastes are being proposed since these types of discharges are being sufficiently controlled by best professional judgment (BPJ) limits in current permits.

## IV. Prior EPA Regulations, Proposals and Other Notices, and General Permits

### *A. EPA Rulemakings and General Permits*

On September 15, 1975, EPA promulgated effluent limitations guidelines for interim final BPT (40 FR 42543) and proposed regulations for BAT and NSPS (40 FR 42572) for the offshore subcategory of the oil and gas extraction point source category. The Agency promulgated final BPT regulations on April 13, 1979 (44 FR 22069), but deferred action on the BAT and NSPS regulations. Table 1 presents the 1979 BPT limitations. These BPT limitations are not being changed by this proposal.

TABLE 1.—BPT EFFLUENT LIMITATIONS (PROMULGATED 1979)

| Waste stream | BPT effluent parameter | Limitation |
|---|---|---|
| Produced water | Oil and grease | 72 mg/l daily maximum 48 mg/l 30-day avg. |
| Drilling fluids | Free oil | No discharge. |
| Drill cuttings | Free oil | No discharge. |
| Well treatment fluids. | Free oil | No discharge. |
| Deck drainage | Free oil | No discharge. |
| Sanitary-M10 | Residual chlorine. | 1 mg/l (min.). |
| Sanitary-M91M | Floating solids | No discharge. |

NOTE: The free oil "no discharge" limitation is implemented by requiring no oil sheen to be present upon discharge.

The Natural Resources Defense Council (NRDC) filed suit on December 29, 1979 seeking an order to compel the Administrator to promulgate final NSPS for the offshore subcategory. In settlement of the suit (NRDC v. Costle, D.D.C. No. 79-3442 (JHP)), the Agency acknowledged the statutory requirement and agreed to take steps to issue such standards. However, because of the length of time that had passed since proposal, EPA believed that examination of additional data and re-proposal were necessary. Consequently, the Agency withdrew the proposed NSPS on August 22, 1980 (45 FR 56115). The proposed BAT regulations were withdrawn on March 19, 1981 (46 FR 17567).

The Settlement Agreement was revised in April 1990. Under the modified agreement, EPA was to propose or repropose BAT and BCT effluent limitations guidelines and new source performance standards for produced water, drilling fluids and drill cuttings, well treatment fluids, and produced sand, as described at 50 FR 34595 (August 26, 1985), by November 16, 1990. The November 26, 1990 proposal (which was signed on November 16) was an initial proposal that was issued in satisfaction of this provision of the Settlement Agreement. EPA is to promulgate final guidelines and standards covering these waste streams by June 19, 1992.

EPA also was to determine by November 16, 1990 whether to propose effluent limitations guidelines and new source performance standards covering deck drainage and domestic and sanitary wastes and, if it determined to do so, to promulgate final guidelines and standards covering those waste streams by June 30, 1993. EPA has determined that it is appropriate to propose effluent limitations guidelines and new source performance standards covering deck drainage and domestic and sanitary wastes. The Agency included such proposals in the November 26 proposal and they are included in today's notice.

The Agency is using its best efforts to comply with the promulgation dates established in the modified Settlement Agreement and currently expects to meet them.

Ocean discharge criteria applicable to this industry subcategory were promulgated on October 3, 1980 (45 FR 65942) under section 403(c) of the Act. These guidelines are to be used in making site-specific assessments of the impacts of discharges. Section 403 limitations are imposed through section 402 National Pollutant Discharge Elimination System (NPDES) permits. Section 403 is intended to prevent unreasonable degradation of the marine

environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal.

On August 26, 1985 the Agency proposed BAT, BCT, and NSPS regulations to control the discharge of pollutants from the offshore oil and gas extraction subcategory (50 FR 34592) ("1985 proposal"). The 1985 proposal also included an amendment to the BPT definition of "no discharge of free oil." The waste streams covered by the 1985 proposal were drilling fluids, drill cuttings, produced water, deck drainage, well treatment fluids, produced sand, and sanitary and domestic wastes. No BAT effluent limitations guidelines were proposed for the produced water waste stream; only NSPS and BCT requirements for produced water were proposed.

The key provisions of the 1985 proposal were as follows:

—Limit oil and grease to 59 mg/l daily maximum and 48 mg/l monthly average for produced water (NSPS only) for all oil facilities located in deep water (Note: The definitions of deep and shallow water are described in section V of today's notice), for all oil and gas facilities regardless of location or water depth, and for all exploratory facilities regardless of location or water depth. This limitation was based on the best operation of the BPT control technology (gas flotation). NSPS for oil facilities located in shallow water prohibited the discharge of produced water.

—Prohibit the discharge of free oil in drilling fluids, drill cuttings, deck drainage, produced sand, and well treatment fluids.

—Prohibit the discharge of diesel oil in detectable amounts in drill cuttings and drilling fluids.

—Limit the acute toxicity of drilling fluid discharges to a minimum 96-hour LC50 of 3 percent (30,000 ppm) as measured in the diluted suspended particulate phase (SPP).

—Limit the discharge of cadmium and mercury in drilling fluids to a maximum of 1 mg/kg each at the point of discharge.

The proposed BCT limitations guidelines for produced water covered the conventional pollutant oil and grease and were equal to the previously promulgated BPT effluent limitations guidelines. For deck drainage, drilling fluids, drill cuttings, produced sand, and well treatment fluids, proposed BCT limitations prohibited the discharge of free oil. BCT effluent limitations guidelines for additional conventional pollutant parameters in deck drainage, drilling fluids, drill cuttings, produced sand, and well treatment fluids were reserved for future rulemakings.

On October 21, 1988, the Agency published a Notice of Data Availability (53 FR 41356) concerning the development of NSPS, BAT, and BCT regulations for the drilling fluids and drill cuttings waste streams (the "1988 notice"). The 1988 notice presented substantial additional and revised technical, cost, economic, and environmental effects information which the Agency collected after publication of the 1985 proposal. New information was presented regarding the diesel oil prohibition and the toxicity limitation. New compliance costing and economic analysis results were presented based on new profile data and treatment and control option development. The new control technologies discussed were based on thermal distillation, thermal oxidation, and solvent extraction. Performance data for these technologies were also included. In addition, alternative requirements for limitations of 5 mg/kg cadmium and 3 mg/kg mercury in the stock barite based on the use of existing barite supplies, or at 2.5 mg/kg cadmium and 1.5 mg/kg mercury in the drilling fluids (whole fluid basis) were noticed for comment.

On January 9, 1989, the Agency published a Correction to Notice of Data Availability (54 FR 634) concerning the analytical method for the measurement of oil content and diesel oil. The 1988 notice had inadvertently published an incomplete version of that method.

As described in section I, on November 26, 1990 the Agency published a notice as an initial proposal and reproposal (55 FR 49094) that presented the major BCT, BAT, and NSPS regulatory options under consideration for control of drilling fluids, drill cuttings, produced water, deck drainage, produced sand, domestic and sanitary wastes, and well treatment, completion, and workover fluids.

In addition, EPA has issued a series of general permits that set BAT and BCT limitations applicable to sources in the offshore subcategory on a Best Professional Judgment (BPJ) basis under 402(a)(1) of the Clean Water Act. See e.g., 51 FR 24897 (July 9, 1988) (Gulf of Mexico General Permit); 49 FR 23734 (June 7, 1984), modified 52 FR 30481 (September 29, 1987) (Bering and Beaufort Seas General Permit); 50 FR 23570 (June 4, 1985) (Norton Sound General Permit); 51 FR 35400 (October 3, 1986) (Cook Inlet/Gulf of Alaska General Permit); 53 FR 37840 (September 20, 1988), modified 54 FR 39574 (September 27, 1989) (Beaufort Sea II/ Chukchi Sea General Permit). Where pertinent, today's notice discusses the major provisions of these general permits in relation to the effluent guidelines and standards being proposed. The rulemaking record for this proposal includes copies of the most significant **Federal Register** notices proposing these general permits and issuing them in final form.

The Gulf of Mexico General Permit was challenged by industry and an environmental group. *Natural Resources Defense Council* v. *EPA*, 863 F.2d 1420 (9th Cir. 1988). The Bering and Beaufort Seas General Permit was the subject of industry challenge. *American Petroleum Institute* v. *EPA*, 787 F.2d 965 (5th Cir. 1986); later opinion following partial remand, 858 F.2d 261, (5th Cir. 1988); clarified and rehearing denied, 864 F.2d 1156 (5th Cir. 1989). Copies of these decisions are also included in the rulemaking record for this proposal.

*B. Relationship of Today's Proposal to the 1985 Proposal*

The proposal being issued today does not supercede the 1985 proposal entirely, but rather changes the proposal in certain areas. Below is a discussion of the parts of the 1985 proposal that remain the same and the parts that are being changed. Reasons for the changes are discussed in the appropriate preamble sections as indicated.

1. Parts Changed from the 1985 Proposal

New data and information gathered since the 1985 proposal have led the Agency to consider and develop new treatment and control options for the offshore oil and gas waste discharges. New information regarding data gathering and analytical methods is outlined in section VII. New treatment performance data are presented in section X. The new treatment and control options developed as a result of this new information are presented in sections XII–XIV. Also included in these sections are a discussion of the 1985 options and how they differ from the current proposals. The revised costs and economic analyses performed on these new options are summarized in sections XV and XVI. Other sections of the 1985 proposal that have been changed are listed below.

*a. Section II of the 1985 Proposal: Scope of Today's Rulemaking.* In 1985, no BAT limitations were proposed for produced water. Today's notice is proposing BAT and NSPS effluent limitations for produced water for oil and grease as an indicator pollutant. The limitations being proposed today

are based on membrane filtration and set limits on oil and grease at 7 mg/l monthly average and 13 mg/l daily maximum not to be exceeded.

For drilling fluids, BAT and NSPS discharge limitations were proposed in 1985 for all drilling structures. This reproposal of BAT and NSPS is equivalent to the 1985 proposed discharge limitations for those structures located outside of 4 miles from the inner boundary of the territorial seas (shore). For wells located 4 miles or less from shore, zero discharge is proposed in today's notice.

For drill cuttings, the 1985 BAT and NSPS proposal included a prohibition on the discharge of diesel oil and free oil for all structures. Today's notice is proposing the same limitations for drill cuttings as for drilling fluids.

The 1985 BAT and NSPS proposal included a prohibition on the discharge of free oil for deck drainage, produced sand, and well treatment fluids. For BAT and NSPS, today's notice is proposing: (1) That deck drainage be subject to the same limitations as produced water during production operations and to requirements equal to the current BPT limits during the drilling operations before any wells on a given structure are put into production; (2) that zero discharge be required for produced sand; and (3) that for those well treatment, completion, and workover fluids that resurface as a discrete slug, zero discharge be required for the slug and a 100 barrel buffer on both sides of the slug. For those treatment, completion, and workover fluids that cannot be segregated from the produced water, the produced waters limitations would apply. In the case of acid workover fluids which resurface as a slug, neutralization (pH control) and application of the produced water limitations would be required. As in the 1985 proposal, no BAT requirements for domestic wastes or sanitary wastes are being proposed. NSPS for sanitary wastes were proposed in 1985 as equal to BPT. NSPS for domestic wastes was proposed in 1985 to prohibit the discharge of floating solids. Today's notice today proposes BPT, plus a requirement for no visible foam, as NSPS for domestic wastes. Proposed NSPS for sanitary wastes is identical to the 1985 proposal.

As in 1985, today's notice proposes BCT for produced water as being equal to BPT limitations on oil and grease. BCT limitations proposed in today's notice for deck drainage and well treatment, completion and workover fluids are identical to the 1985 proposed limitations equal to the BPT prohibition on the discharge of free oil. BCT for drilling fluids and drill cuttings was proposed in 1985 as being equal to BPT. In today's notice, BCT for drilling fluids and drill cuttings is proposed as zero discharge for structures located within four miles from shore and BPT for those structures at distances greater than four miles from shore. In 1985, proposed BCT for produced sand prohibited the discharge of free oil. As proposed in today's notice, BCT limitations would require zero discharge of produced sand. Today's proposed BCT limitations for sanitary wastes are identical to the 1985 notice and set BCT equal to BPT. Today's notice also proposes BCT limitations for domestic wastes prohibiting the discharge of floating solids.

*b. Section V of the 1985 Proposal: Overview of the Industry.* The location, size, and number of platforms, as well as the status of the oil and gas industry has been updated. New profile information is included in today's proposal in section III.

*c. Section XIII of the 1985 Proposal: Non-Water Quality Environmental Impacts.* Non-water quality environmental impact analyses on the new options EPA developed for this rulemaking have had significant influence on the selection of preferred options for proposal. Section XVIII of today's proposal presents a discussion of the non-water quality environmental impacts associated with the new options.

*d. Appendix 4 of the 1985 Proposal: Regulatory Boundaries.* This appendix lists regulatory boundaries associated with the shallow water classification proposed in 1985. The boundaries as proposed have not changed, only the applicability of this classification. The 1985 proposal states that this appendix is applicable to shallow production structures subject to a zero discharge requirement only. Today's notice deletes this statement so as not to limit the applicability of the shallow classification to zero discharge requirements. This change is included in appendix C of today's notice.

*e. Appendix 2 of the 1985 Proposal: Analysis of Diesel Oil in Drilling Fluids and Drill Cuttings Analytical Method.* Changes to this method were presented in appendix A of the 1988 Notice of Availability. These changes were a result of experience obtained during the Diesel Pill Monitoring Program. An incomplete version of the analytical method was published in the 1988 notice. A **Federal Register** notice was published later which contained the correct version (54 FR 634, Jan. 9, 1989).

2. Parts Not Changed from the 1985 Proposal

While the data acquired and treatment and control options for the offshore oil and gas industry are different in the current proposal, many items proposed in 1985 remain the same. These items, are not included in this proposal. Rather, those items that have not changed since 1985 are now subject to promulgation along with the items being proposed in today's notice. Those items proposed in 1985 that are not being affected by this reproposal are listed below.

*a. Section IX of the 1985 proposal.* Industry Subcategorization.

*b. Section XI of the 1985 proposal.* Selection of Control and Treatment Options where it concerns the toxicity limitation of 30,000 ppm in the suspended particulate phase for drilling fluids.

*c. Section XI.B of the 1985 proposal.* The proposed amendment to the BPT definition of "no discharge of free oil".

*d. Section XIV of the 1985 proposal.* Definition of "new source."

*e. Section XV of the 1985 proposal.* Best Management Practices.

*f. Section XVI of the 1985 proposal.* Upset and Bypass Provisions.

*g. Section XVII of the 1985 proposal.* Variances and Modifications, except for a new discussion on Stormwater Events included in section XX of today's proposal.

*h. Section XVIII of the 1985 proposal.* Relationship to NPDES Permits.

*i. Appendix 1 of the 1985 proposed regulation.* Static Sheen Test.

*j. Appendix 3 of the 1985 proposed regulation.* Drilling Fluids Toxicity Test analytical method.

## V. Industrial Sectors

### *A. Shallow/Deep Waters*

One method used in today's notice (and in the previous 1985 proposal) divided the industry into two sectors: Those in shallow waters and those in deep waters. The Agency proposed depth limits in order to allow for an option of onshore reinjection of produced water from those structures located in shallow water. The Agency found that in shallower waters a high percentage of the existing production platforms pipe produced waters to shore for treatment rather than treating produced waters on the platform. The Agency has also determined that the cost of drilling and equipping reinjection wells on land is less than drilling reinjection wells at the platform.

In the 1985 proposal, the Agency proposed variable depth limits that

defined "shallow" for different offshore areas which were based on bathymetric features and industry practice for produced water treatment and reinjection onshore. This proposed method of dividing the industry has not changed since 1985 but is discussed in today's notice for the reader's information.

Through the compilation of data from industry the following water depths were proposed to be shallow water:

*Gulf of Mexico:* Industry data indicated that 52 percent of all the projected new sources in 15 meters or less of offshore waters would pipe produced water to shore. The Agency believed the same percentage of platforms in water depths of 20 meters or less could pipe to shore and reinject.

*Atlantic:* The water depth of 20 meters was proposed as shallow for this region since there was no historic data for production.

*California:* It was determined that 60 percent of the active production platforms located in water depths of 50 meters or less piped to shore for treatment while only 8 percent of the structures in depths greater than 50 meters piped to shore for treatment. Based on this information, a depth of 50 meters or less was proposed as shallow water in California.

*Alaska:* It was assumed that southern Alaska bathymetry (ocean depth) was similar to California's bathymetry, so a water depth of 50 meters or less was proposed to be shallow. The southern Alaska region includes the Bristol Bay, Aleutian Island Chain, Cook Inlet, and the Gulf of Alaska. For other parts of Alaska the Agency proposed shallow water to be of a depth of 20 meters or less in the Norton Sound and 10 meters or less in the Beaufort Sea. The water depths in the North were proposed to be less than the 50 meters for southern Alaska because the harsher climates in the more northern region made piping to shore for treatment less probable.

For determination of water depth, appendix 4, "Regulatory Boundaries," of the 1985 proposed regulations (and appendix C of today's notice) referenced nautical charts or bathymetric maps available from the National Oceanic and Atmospheric Administration. The water depth of the structure was defined to be based on the proposed location of the structure's well slot or produced water discharge point.

The shallow/deep water grouping was considered in 1985 only for the production phase of the industry. This distinction was evaluated for certain zero discharge options based on reinjection of produced water. Today's current reproposal includes the same shallow/deep water classification for produced waters; in addition, those classifications also apply to drilling fluids and drill cuttings. As discussed later in section XII, a zero discharge option for drilling wastes is being considered for today's proposal. The technology basis for a zero discharge requirement for drilling wastes is barging to shore for disposal. In addition to requiring zero discharge for all structures, EPA considered requiring zero discharge only for those new wells drilled in shallow water in order to minimize the non-water quality environmental impacts from barging and land disposal of these wastes.

Table 2 presents the number of existing producing structures by geographic region, production type, and water depth and shows that 99 percent of the existing offshore structures are in the Gulf of Mexico. Shallow water structures account for approximately 58 percent of existing structures.

TABLE 2.—NUMBER OF EXISTING PRODUCING STRUCTURES BY GEOGRAPHIC REGION, PRODUCTION TYPE, AND WATER DEPTH

| Region | Shallow Water | | | | Deep Water | | | | Total all |
|---|---|---|---|---|---|---|---|---|---|
| | Oil only | Oil and gas | Gas only | Total shallow | Oil only | Oil and gas | Gas only | Total deep | |
| Gulf | 126 | 497 | 676 | 1,299 | 35 | 471 | 428 | 934 | 2,233 |
| Pacific | 0 | 10 | 0 | 10 | 0 | 16 | 1 | 17 | 27 |
| Alaska | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Atlantic | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Totals | 126 | 507 | 676 | 1,309 | 35 | 487 | 429 | 951 | 2,260 |

The definition of shallow depth for use with new well drilling is the same as the definition used in the 1985 proposals for production activities. Table 3 presents the estimate of the number of new wells to be drilled annually by geographic region and water depth (based on projections for the years 1986–2000, at $21/barrel). This shows that a greater percentage of the drilling is expected for new wells in deep waters than in shallow waters (approximately 71 percent).

TABLE 3.—ESTIMATE OF THE NUMBER OF NEW WELL DRILLINGS PER YEAR BY GEOGRAPHIC REGION AND WATER DEPTH

[1986 to 2000: 980 wells/year will be drilled (60 structures/year) 590 Producing Wells; 390 dry holes]

| Region | Shallow water | Deep water | Total |
|---|---|---|---|
| Gulf of Mexico | 265 | 450 | 715 |
| Pacific | 10 | 227 | 237 |
| Alaska | 9 | 3 | 12 |
| Atlantic | 0 | 16 | 16 |
| Totals | 284 | 696 | 980 |

*B. Distance From Shore*

In addition to those options which divided the industry by water depth, EPA evaluated regulatory options which grouped the industry based on distance and a well or structure from shore. This evaluation showed that the non-water quality environmental impacts associated with the zero discharge options for drilling wastes warranted further investigation and/or consideration of adopting different regulatory approaches for different portions of the offshore industry.

The impacts of concern are the fuel requirements and air emissions resulting from the barging of solid wastes to shore for disposal. Also, EPA was concerned with the long-term available on-land disposal capacity to support the zero discharge options. Thus, EPA investigated regulating the industry in a manner which would mitigate these non-water quality environmental impacts.

EPA evaluated a breakdown of structure location based on distance (in miles) from shore instead of depth of well. The distances evaluated were 4, 6, and 8 miles from shore. As a matter of consistency, these distances offshore were evaluated for produced waters as well as drilling fluids and drill cuttings. EPA also attempted to evaluate a distance of 3 miles from shore since the delineation between state and federal leased water areas for the purpose of oil and gas extraction provides a well-defined separation point. However, due to the problems in identifying existing offshore production facilities from the state data bases and the NOAA charts (as previously discussed in section III.B), an accurate count of facilities at 3 miles or less from shore could not be estimated. For the 4, 6, and 8 mile distances, MMS empirical data and projections were a basis for straight line extrapolations for distances at 3 miles and less for existing new sources. The Agency still considers the 3 mile delineation as a viable option and may use this in the final rule if accurate information on the number of existing production facilities and new source projections can be obtained for these waters.

EPA determined in its analysis of regulatory options that the use of a 4 mile category is preferable to the other distances evaluated (6 and 8 miles) because either the further distances from shore (8 miles or greater) do not reduce non-water quality environmental impacts sufficiently, or the difference between the pollutant removals at 6 miles from those at 4 miles are not significant. The 4 mile option is the Agency's preferred option based on distance. However, the Agency will consider setting the final rule on distances other than 4 miles with the receipt of additional state waters information on the number of existing structures and new well drilling projections.

Table 4 presents the number of existing producing structures by geographic region and production type according to the 4 mile cutoff. Approximately 208 structures are 4 miles or closer to shore. These represent approximately 9 percent of the total. This same percentage of structures, although not necessarily the same structures, would be equivalent to regulating the drilling and production activities at a water depth of 6.3 meters in the Gulf of Mexico.

TABLE 4.—EXISTING PRODUCING STRUCTURES ACCORDING TO DISTANCE FROM SHORE

| Region | Less than or equal to 4 miles | | | | | Greater than 4 miles | | | | | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Oil only | Oil and gas | Gas only | Sub-total | Per-cent | Oil only | Oil and gas | Gas only | Sub-total | Per-cent | |
| Gulf | 50 | 63 | 84 | 197 | 9 | 111 | 905 | 1,020 | 2,036 | 91 | 2,233 |
| Pacific | 0 | 11 | 0 | 11 | 41 | 0 | 15 | 1 | 16 | 59 | 27 |
| Alaska | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Atlantic | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Totals | 50 | 74 | 84 | 208 | 0 | 111 | 920 | 1,021 | 2,052 | 0 | 2,260 |

Table 5 presents the estimate of the number of new well drillings annually by geographic region according to the 4 mile cutoff (for the years 1986–2000 at $21/barrel). As can be seen by the table, approximately 16 percent of the estimated 980 new wells will be in waters 4 miles or less from shore.

TABLE 5. Estimate of New Well Drillings Per Year According to Distance from Shore "Unconstrained Development"

| Region | Less than or equal to 4 miles | Greater than 4 miles | Total |
|---|---|---|---|
| Gulf | 72 | 643 | 715 |
| Pacific (off California [1]) | 71 | 166 | 237 |
| Alaska | 9 | 3 | 12 |
| Atlantic | 0 | 16 | 16 |
| Total | | | 980 |

[1] This projection assumes no moratorium or restricted leasing off the coast of California.

This estimate is based on assumptions contained in the MMS Table 4 projections which do not take into account the recent moratorium and restricted leasing in the Pacific off California. A more "constrained" projection of new wells based on these conditions gives approximately 759 new wells drilled annually (for the years 1986–2000 at $21/barrel (BOE)). Table 6 shows projections on a regional basis for this constrained scenario and estimates approximately 11 percent of the new wells in waters 4 miles or less from shore.

TABLE 6. Estimate of New Well Drillings Per Year According to Distance from Shore "Constrained Development"

| Region | Less than or equal to 4 miles | Greater than 4 miles | Total |
|---|---|---|---|
| Gulf | 72 | 643 | 715 |
| Pacific (off California) | 71 | 32 | 32 |
| Alaska | 9 | 3 | 12 |
| Atlantic | 0 | 0 | 0 |
| Total | | | 759 |

## VI. Regulatory Definitions

### *A. Domestic Waste*

The August 26, 1985 proposal defines domestic waste as wastewater resulting from laundries, galleys, showers, etc. In today's proposal, other examples of domestic wastes are added for the purpose of clarity. These include wastes from safety shower and eye wash stations, hand wash stations, and fish cleaning stations. This clarification of the proposed definition does not change the regulation or its economic impact.

### *B. Well Treatment, Completion, and Workover Fluids*

The 1985 proposal defines well treatment fluids as "those fluids used in stimulating a hydrocarbon bearing formation or in completing a well for oil and gas production, and drilling fluids used in re-working a well to increase or restore productivity."

EPA is proposing to change this definition of well treatment fluids to make it similar to the definition being proposed in the coastal drilling permits for Texas and Louisiana by EPA's Region VI. This new definition makes a distinction between well treatment fluids, completion fluids, and workover fluids. The following definitions are being proposed in today's notice:

*Well Treatment Fluids:* "Any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing

strata after a well has been drilled." These fluids move into the formation and return to the surface as a slug with the produced water. Stimulation fluids include substances such as acids, solvents and propping agents.

*Well Completion Fluids:* "Salt solutions, weighted brines, polymers and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production." These fluids move into the formation and return to the surface as a slug with the produced water.

*Workover Fluids:* "Salt solutions, weighted brines, polymers, or other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures." High solids drilling fluids used during workover operations are not considered workover fluids by definition. Packer fluids—low solids fluids between the packer, production string, and well casing—are considered to be workover fluids.

The definitions above distinguish treatment, completion, and workover fluids from drilling fluids and each other based on clear descriptions of form and function. Drilling fluids remaining in the wellbore during logging, casing, and cementing operations or during temporary abandonment of the well are not considered completion fluids and are regulated by drilling fluids requirements.

Both high and low solids drilling fluids used during workover operations are not considered workover fluids and must also meet drilling fluids effluent limitations.

Production operations are defined as "operations including work necessary to bring hydrocarbon reserves from the producing formation beginning with the completion of each well in the development phase;" thus, treatment, completion, and workover fluids, as defined above, are considered part of the production phase. If these fluids do not come back up as a discrete slug, they will either remain in the hole, or diffuse within the well's formation fluids and resurface as part of the produced water.

*C. Produced Sand*

Sand is obtained with the fluids from the formation during the production process. This sand, termed "produced sand," is defined (1985 proposal) as "slurried particles used in hydraulic fracturing and the accumulated formation sands and scale particles generated during production." The sand is separated out from the produced water, washed with either water or solvent, and is either discharged overboard with the produced water waste stream or is stored in 55 gallon drums and transported to shore for disposal.

EPA is proposing to make this definition more specific to include "desander discharge from the produced water waste stream and blowdown of the water phase from the produced water treating system." Thus, for the options considered for this proposal, the definition of produced sand is being modified to include the following sentence:

> Produced sand also includes desander discharge from the produced water waste stream and blowdown of the water phase from the produced water treating system.

*D. Development Facility and Production Facility*

EPA is proposing to change the 1985 proposal definitions of "development facility" and "production facility" to more accurately reflect the waste streams that occur during these phases of the industry. The definition of development facility is being changed to cover only the drilling portion of the operation. Thus, the major waste streams associated with this phase are drilling fluids and cuttings.

The definition of production facility is being proposed to include the completion phase of the operation as well as actual hydrocarbon extraction. The major waste stream associated with this phase is produced water. Since well treatment and completion fluids resurface (if they surface at all) along with the produced waters, EPA believes it appropriate to associate well treatment and completion with the production phase.

**VII. Data Gathering Efforts**

*A. Existing Information*

In October 1988, the Agency published a Notice of Data Availability (53 FR 41356) which presented new technical, economic, and environmental information relating to the development of BAT and NSPS effluent guidelines limitations for the drilling fluid and drill cuttings waste streams. This new information was submitted to the Agency in public comments in the response to the 1985 proposal. The notice was organized in two parts. Part 1 of the notice discussed key issues surrounding the drilling fluids toxicity limitation, the proposed toxicity test method, the prohibition on the discharge of drilling fluids containing diesel oil additives, a re-evaluation of industry compliance costs, an economic impact assessment of the revised cost estimates and environmental impacts of the discharge of cadmium and mercury in drilling fluid waste streams. It also presented two variations on the August 1985 proposed regulatory approach related to the mercury and cadmium limitations in the whole drilling fluids and stock barite used in the drilling fluids.

Part 2 of the notice discussed information gathered on new treatment technologies for controlling the oil content of drilling wastes. Data on the performance and cost of thermal distillation/oxidation and solvent extraction technologies for treating drilling fluids and drill cuttings were presented for public review and comment. This information was being considered for the development of an oil content limitation on drilling waste streams. In addition, an analytical method for determining diesel oil and oil content was included for comment.

*B. New Studies*

Since the 1988 notice, additional studies were conducted in response to concerns over various aspects of this rulemaking. Such concerns include: The variability of the test method used to measure toxicity of drilling fluids and drill cuttings, additional technologies available for produced water treatment, procedures for the static sheen test, radioactivity associated with produced waters, and non-water quality environmental impacts associated with various treatment and control options. The evaluation of non-water quality environmental impacts including solid waste disposal, air emissions and fuel requirements are discussed separately in section XVIII of today's notice. A summary of new information acquired is given below.

1. EPA Variability Study for Drilling Fluids Toxicity Test

The 1985 offshore oil and gas proposal included a limitation on the toxicity of discharged drilling fluids. The toxicity limit is expressed as the concentration of the suspended particulate phase (SPP) from a sample of drilling fluid that would be lethal to 50 percent of a particular species exposed to that concentration of the SPP, i.e., the LC50 of the discharge. The species used in the toxicity test is *Mysidopsis bahia,* otherwise called mysid shrimp. The Agency proposed a toxicity limitation of 30,000 ppm (SPP) based on the toxicity of the most toxic of eight generic drilling fluids that were in general use at the time of proposal. In addition, permit writers have set this limit as their best professional judgment of BAT. It is currently included in the general permit for oil and gas activities on the outer continental shelf of the Gulf of Mexico.

several individual offshore oil and gas permits for California, and in Alaska.

As part of the evaluation of methods under section 304(h) of the Clean Water Act and as a response to comments from the 1985 offshore oil and gas proposal, the Agency has recently conducted a study of the variation in results from the toxicity test for drilling fluids. The study was conducted in two phases.

In Phase I, each lab was required to conduct one toxicity test on a sub-sample of generic drilling fluid #3 (lime mud). The participating labs included 2 Agency labs and 28 contract labs. The contract labs included all commercial, academic, and industry labs known to the Agency that claimed to have experience with some form of toxicity testing and were willing to participate. The Agency knows of over 100 commercial, academic, and industry labs that are potentially capable of conducting the required test.

In Phase II, each lab was required to conduct two toxicity tests on sub-samples of generic drilling fluid #8 (lignosulfonate freshwater mud) and two toxicity tests on sub-samples of generic drilling fluid #8 with 3 percent mineral oil. Contract labs were selected at random from those contract labs that demonstrated the ability to conduct the toxicity test at a competitive price.

A summary of the study results is presented in table 7. The "selected" labs in the summary for generic fluid #3 were included because a review of the raw lab reports indicated that they correctly followed the test protocol they received as part of the study. The primary summary statistics included in the table are the average toxicity (LC50), standard deviation (SD), prediction intervals, and the coefficient of variation (CV).

Table 7.—PRELIMINARY RESULTS FROM THE VARIABILITY STUDY OF THE DRILLING FLUIDS

| Drilling fluid | Responses | No. of labs | Average LC50 (percent) | SD (percent) | CV (percent) |
|---|---|---|---|---|---|
| Combined within- and between-lab variation | | | | | |
| Generic Fluid #3 | All | 28 | 25.6 | 12.0 | 47.1 |
| | Selected | 16 | 22.6 | 5.96 | 26.4 |
| Generic Fluid #8 | All | 9 | 50.9 | 19.4 | 38.1 |
| Generic Fluid #8 (3% Oil) | All | 9 | 0.27 | 0.36 | 133.9 |

| Drilling fluid, upper | Responses | No. of labs | Average LC50 (percent) | SD (percent) | CV (percent) | Lower (percent) | 95% prediction interval |
|---|---|---|---|---|---|---|---|
| Within-lab variation | | | | | | | |
| Generic Fluid #8 | All | 9 | 59.9 | 10.4 | 20.5 | 26.6 | 75.2 |
| Generic Fluid #8 (3% Oil) | All | 9 | 0.27 | 0.20 | 72.0 | +0.0 | 0.73 |

NOTES:
LC50 calculated using Probit Analysis by Maximum Likelihood with optimization for control mortality.
"Average LG50" is the average of the average LC50 for each lab.
*Standard Deviation* (SD) for combined within- and between-lab variation is the square root of the sum of mean squares for within-lab variation plus the sum of mean squares for between lab variation. SD for within-lab variation is the square root of the sum of squares for within-lab variation.
*Coefficient of Variation* (CV) is SD/Average LC50.
*Prediction Interval* is for within-process variation from labs that have demonstrated the ability to conduct EPA's toxicity test.

The average LC50 was slightly higher (less toxic) than expected for the sample of generic drilling fluid #3 and for the sample of drilling fluid #8. However, the average LC50 reported for drilling fluid #8 with 3 percent mineral oil was lower (more toxic) than expected. It is important to note that each of these averages is based on a sub-sample from a single well-mixed sample of drilling fluid. Hence, the variation found in this study is related only to within- and between-lab variation and any average result applies only to that one sample of drilling fluids. Generalizations to average levels for other batches of the same generic drilling fluid or the same generic drilling fluid with mineral oil are not supported by these data.

The standard deviations (SD) reported in Table 7 indicate the magnitude of variation found in lab results for a particular drilling fluid system. Because only one test per lab was conducted on the sample of generic drilling fluid #3 it is not possible to estimate within-lab variation for that sample. In order to provide comparable statistics, combined within- and between-lab standard deviations are presented for all samples tested in the study. However, the Agency is primarily interested in estimates of within-lab variation so these estimates are presented for generic drilling fluid #8 and generic drilling fluid #8 with 3 percent mineral oil. Estimates of within-lab variation from competent labs quantifies the natural variability inherent in the measurement process while between lab estimates of variability quantifies lab bias. Lab bias describes the situation when all results of a particular lab are consistently above or below the multi-lab average result. The Agency believes that between lab variation is caused by consistent lab practices that can be modified through learning from experience. Additionally, an hypothesis that lower LC50s are linked to lower standard deviations is suggested by table 7 and the Agency is considering further statistical analysis of this relationship.

Prediction intervals for within-lab variation reported in table 7 are calculated on the results from the number of labs indicated in the table and adjusted to account for the current population of 16 labs that have demonstrated the ability to conduct the Agency's toxicity test. These intervals indicate that within-lab variation would be unlikely to change the compliance status of the tested samples. In other words, when the LC50 was above 3 percent the Agency is 95 percent confident that within-lab variation would not cause a new measurement on that sample of drilling fluid to be below 3 percent. When the LC50 was below 3 percent, the Agency is 95 percent confident that within-lab variation will not cause a new measurement to be above 3 percent. If lower LC50s are linked to lower standard deviations, then the confidence intervals for LC50s will become smaller as the substance becomes more toxic.

Coefficients of variation (CV) indicate how much, on a percentage basis, the

LC50 could vary within a single standard deviation. However, for regulatory purposes, the Agency is primarily concerned with the magnitude of change in toxicity and industry's ability to use either product substitution with drilling fluids or treatment/disposal so that, based on within-lab variation, industry would be able to comply with proposed limitations.

Preliminary analysis of the multi-lab results for toxicity tests from the recent study continue to support the conclusion that the test protocol is adequate for use in a regulatory framework. Industry will be able to use either product substitution in order to discharge drilling fluids that comply with a 30,000 ppm limitation on toxicity or available technology to avoid discharging drilling fluids or drill cuttings:

2. Performance of Granular Media and Membrane Filtration Technologies on Produced Water

Filtration, as an add-on technology to BPT, is being considered as an option for treatment of the produced water waste stream for both BAT and NSPS effluent limitations guidelines. To assess the levels of pollutants in effluents from treatment and the efficiency of reducing pollutants in produced water, a "three facility study" of granular media filtration was conducted by the Agency in the summer of 1989. In addition, data were received on the performance of membrane filtration from an equipment vendor. The performance of membrane filtration differs from granular media filtration in that membrane filtration removes much of the soluble oil and grease from the produced water as well as suspended solids and the insoluble oil and grease fraction. A summary of the results of the use of both types of filtration technologies on produced water is discussed below.

The Agency selected facilities for the "three facility study" based on: (1) Their use of granular filtration, and (2) the oil and grease level being somewhat comparable to the BPT level prior to filtration. Not all of these facilities were located offshore (one was offshore, one was onshore, and one was coastal). However, the efficiency of granular media filters at each location is not dependent upon the facility's location. Each facility was unique in its handling of produced waters prior to filtration; however, two of the three use chemical feed prior to filtration and all facilities reinjected their produced water after filtering. Specifically, the onshore facility uses fresh makeup water, combines it with the produced water, and adds a chemical feed (polymer) prior to the filtration unit. The offshore facility (a three-well platform located off the coast of California) combines produced waters from the three wells after oil/water separation before entering the multimedia granular filtration unit. At the coastal facility, an "ultrahigh" rate filtration unit is utilized and a polymer is added to the produced water prior to entering the filtration unit.

Influent and effluent produced waters into each filtration unit were analyzed. At two of the facilities, the filtration influent waters are the effluent waters from gas flotation units (BPT technology basis). One facility does not use gas flotation. Statistical analyses of data from the "three facility study" were conducted. Results of these analyses and the examination of operational information showed that results from only the two facilities which used polymers provided satisfactory filter performance data. A summary of these results, shown in Table 8, demonstrates a 40 to 60 percent removal of oil and grease, from levels approximately at the BPT long-term average level of 25 mg/l, to 11.3 mg/l for the two facilities using polymer addition.

TABLE 8.—THREE FACILITY STUDY STATISTICAL RESULTS

| Parameter | Long Term Average Concentrations (mg/l) | |
|---|---|---|
| | Influent | Effluent |
| Oil and Grease | 27.26 | 11.33 |
| Total Suspended Solids | 44.83 | 21.17 |

NOTE: Only the onshore and coastal facilities data are included.

A vendor of membrane filtration equipment has supplied the Agency with limited data from a membrane separation unit that is operating in the Gulf of Mexico and several pilot scale evaluations at facilities in offshore, coastal, and onshore locations. Results from the full-scale operation indicate that, in most cases, regardless of the values of TSS and oil and grease in the influent, effluent values of less than 5 mg/l of oil and grease are readily attained. In addition, this technology shows potential for more efficient removals of soluble oil and grease (organics) than the BPT technology and granular media filtration technology. Further discussion of this technology and its performance is included in section X of today's notice.

*C. Analytical Methods*

1. Static Sheen Test

Since the 1985 proposal of a new analytical procedure to measure free oil, known as the "Static Sheen Test," other variations to this method have been suggested. EPA has reviewed three other methods: one developed by its Region IX office, one by its Region X office, and an additional version known as the "minimal volume" method. A comparison of the differences between the 1985 proposal and Region IX's suggested method is presented below:

- Receiving water—The "original" procedures require ambient seawater to be utilized as the receiving water in the test whereas Region IX procedures call for tap/drinking water.
- Mixing/stirring—The "original" procedures call for thorough mixing of both the test material samples and the mixture of test material and receiving water. Region IX procedures delete all references to mixing test material samples and require efforts to "minimize any mixing of the test material in the test water." This is because of test interferences due to bubbling/foaming and particulate surface deposits caused by mixing or stirring.
- Sample volumes/weights—The "original" procedures specify drilling fluid, deck drainage, or well treatment fluid samples of 0.15 mL and 15 mL and drill cuttings or produced sand samples of 1.5 g and 15 g on a wet weight basis. Region IX procedures call for 15 mL samples for drilling fluid, deck drainage, or well treatment fluid samples and 15 gram (wet weight) samples of drill cuttings or produced sand. Region IX's requirements simplify the test by requiring only the largest sample of the waste stream.
- Observations—The "original" procedures require observations to "be made no later than one hour after the test material is transferred to the test container." Region IX requirements dictate that observations occur "immediately, and at 15, 30, and 60 minutes after the test material is transferred to the test container."
- Sheen designation—"Detection of a silvery or metallic sheen, gloss, or increased reflectivity; visual color; or iridescence on the water surface" is considered to be an indication of "free oil" under the "original" guidelines. Under Region IX guidelines, the discoloration must cover "more than one-half of the surface of the test water" and "the appearance of a sheen must persist for at least 30 seconds" to be classified as indicating the presence of "free oil."

The method suggested by Region X is the same as the 1985 proposal except that the free oil detection criterion is similar to that for Region IX's version (that a sheen must cover more than one half of the surface of the test water).

The minimal volume test is a procedure designed to be more appropriate for laboratory analysis because of the smaller volumes: A 5 ml sample of drilling fluid is used instead of 15 ml. Drinking water is used as the receiving water and mixing is minimized. Observations are made immediately and 5 minutes after combining the test sample and receiving water. The free oil detection criterion is similar to the 1985 proposal.

A study was performed by industry which compared the static sheen methods. This study, among other aspects of the test, investigated the tendency of false positive readings for each method. False positive results are those that show a free oil detection for non-oil containing samples. A percentage of false positives results gives an indication of the reliability of the test. The 1985 proposed method, which was also the same method used by Region IX at the time of the study, showed 16.76 percent false positives (63 samples out of 376). The region X method showed 2.5 percent and the minimal volume method, 21.86 percent.

EPA is considering these variations on the static sheen test, although the method proposed in 1985 remains preferred. The Agency is soliciting comments, on this and the other three procedures as to the appropriateness of each method.

2. Diesel Oil Detection and Total Oil Content—Proposed Method 1651

The 1985 proposal included proposed methods for detecting the presence of diesel oil in drilling fluids and drill cuttings waste streams. The method based on retort distillation and gas chromatography, was subsequently modified based on experience gained during the conduct of the Diesel Pill Monitoring Program (DPMP). The DPMP study was performed in order to evaluate the efficiency of diesel recovery practices after spotting of a diesel pill. This study, performed in 1986–1987, is described in the 1988 Notice of Availability along with the modified analytical procedure (which was corrected in the January 1989 notice at 54 FR 634).

This modified procedure was the method accepted by EPA. No comments were received on it after the 1988 and 1989 notices. The method has an estimated detection limit of 100 mg/kg (0.02 percent of diesel oil). Documentation on precision and accuracy measurements of the test method is included in the record for the 1988 notice of availability.

The Offshore Operators Committee (OOC) of the American Petroleum Institute (API) conducted the Diesel Pill Monitoring Program (DPMP) in 1986 and 1987. One of the objectives of this program was to measure the recovery of diesel oil from drilling fluids and drill cuttings wastes. The test method used to determine the concentration of diesel oil employed a thermal (retort) extraction to separate the diesel oil from the mud system, solvent extraction to separate the diesel oil from the water and inorganic salts co-extracted in the thermal desorption process, evaporation of the solvent to concentrate the diesel oil in the solvent, and determination of the diesel oil in the solvent by gas chromatography. (For an explanation of gas chromatography, see the preamble to the test procedures for determination of pollutants in wastewater [49 FR 43234].)

This test method was practiced by two laboratories, one under contract to EPA and one under contract to industry. One of the conclusions from the DPMP was that thermal extraction/gas chromatography was capable of rigorously identifying and quantifying diesel oil in drilling wastes when the oil used to spot the pill was used as the reference oil for calibration of the gas chromatography, and when other potentially interfering oils were not present in the mud at concentrations large enough to affect the result. In instances where a reference oil were not available, number two diesel oil was used as the reference, and its use made identification and quantification of the diesel oil more difficult than when the reference oil was used. In instances where other oils were present in the wastes, determination of the identity and concentration of the diesel oil were also made more difficult, especially when the concentration of the interfering oil was large in comparison to the diesel oil. However, in nearly every instance in which a potential interference occurred (estimated at approximately 20 percent of all cases), both the EPA contract laboratory and the industry contract laboratory reported that an interference was present. Thus, from the testing done in the DPMP, EPA concluded that the thermal desorption/gas chromatography method was capable of determining the presence and concentration of diesel oil in the waste, and of identifying those situations in which an interference was present.

As a result, the details of the thermal desorption/gas chromatography test procedure and the results obtained were used to write EPA Method 1651 and to develop the quality control specifications for this method. The method included the requirement to use the diesel oil that was used for the pill for calibration of the gas chromatograph, if a sample of this oil was available. Method 1651 also provided criteria for identification of interferences, and suggested the use of gas chromatography combined with mass spectrometry (GCMS) for rigorous identification of diesel oil if an interference was suspected.

In 1990, EPA and the oil industry conducted a limited inter-laboratory validation study of Method 1651, using the EPA contract laboratory and industry contract laboratory that had participated in the DPMP, plus three industry laboratories that had either limited or no experience with the method. The results demonstrated that the inexperienced laboratories had difficulty in understanding the method. It was also noted that the EPA contract laboratory had difficulty with the thermal desorption apparatus. As a result, EPA agreed to modify Method 1651 to incorporate language clarifying some of the operational aspects of the method. EPA and the industry also agreed to investigate alternative extraction and analysis techniques, in order to simplify the operational portions of the method and enable better identification of diesel oil in the presence of interferences. However, because EPA does not want to further delay the regulation of pollutants discharged into the environment from offshore oil platforms, and because EPA believes that Method 1651 is adequate for determination of diesel oil in drilling fluids and drill cuttings when this method is followed, EPA is proposing this method for determination of diesel oil in drilling fluids and drill cuttings as published in the January 9, 1989 **Federal Register** (54 FR 634).

*D. Radioactivity of Produced Water*

Within the past year, there has been much concern over the presence and levels of radium–226 ($Ra^{226}$) and radium–228 ($Ra^{228}$) in the produced water waste stream from oil and gas facilities. Both $Ra^{226}$ and $Ra^{228}$ are naturally occurring radioactive isotopes with half-lives of 1620 years and 5.7 years, respectively.

Uranium and thorium (present in deep geologic formations) undergo a decay series whereby radium is the first element in the decay series that is water soluble. The level of radium present in the formation water—which ultimately becomes the produced water—has been found to be proportional to the salinity of the formation water. There has also been some evidence which indicates that the radium-salinity relationship

may vary depending on the source of the produced water, e.g., wells producing oil only or wells producing gas only.

There have been several studies conducted on produced waters from a range of locations, including offshore, coastal, and onshore facilities. The results of these studies have given preliminary information on the levels of radium in produced water across this range of locations. These results indicate that radium levels in the saline produced waters from the Gulf Coast region exceed proposed and existing radium discharge limits for other industries. Average open ocean surface waters contain 0.05 pCi/1 of $Ra^{226}$ "while coastal waters generally do not contain natural levels of $Ra^{226}$ much higher than 1 pCi/1.

In late 1986, API initiated a nationwide program to gather information on naturally occurring radioactive materials. This program involved voluntary sampling and analysis by oil and gas companies throughout the country. Specific sampling and analytical protocols were distributed to all the interested companies to ensure consistency of methodology. Companies were requested to perform radioactivity measurement for service equipment. Companies from twenty of the major oil and gas production states participated and a large volume of data were accumulated. The data were summarized in a final report from API entitled, "A National Survey on Naturally Occurring Radioactive Materials (NORM) in Petroleum Producing and Gas Processing Facilities" dated July 1, 1989. The report indicates that NORM activity levels showed wide variability, both geographically and among types of oil field equipment in the same geographic area. Although the data were not developed from a statistical plan, some trends have been noted. The geographic areas with the highest equipment readings for radioactivity are the entire Gulf Coast crescent (Florida panhandle to Brownsville, Texas), the northeast Texas crescent, southeast Illinois, and a few counties in southern Kansas. Gas processing equipment having the highest levels of radioactivity are reflux pumps, propane pumps and tanks, other pumps, and product lines. Water handling equipment in the production facilities category exhibits the greatest NORM activity levels.

Some findings of various other studies are summarized below:

- Battelle Laboratories completed a study for API in August, 1988 on the fate and effects of produced water discharges from four facilities in Louisiana coastal waters (three of which are covered by the offshore subcategory). The levels of $Ra^{226}$ "and $Ra^{226}$ combined were found to range anywhere from 605 to 1,215 pCi/1.
- Kramer and Reid in a 1984 publication, "The Occurrence and Behavior of Radium in Saline Formation Water of the U.S. Gulf Coast Region," reported measured amounts of total radium ranging from less than 0.2 pCi/1 in a produced water sample from a well in McAllen, Texas to 13,803 pCi/1 in a produced water sample from Vermillion Parish, Louisiana.
- In the Leeville oil field in LaFourche Parish, Louisiana, the produced waters were sampled and analyzed for $Ra^{226}$ levels over a five year period. The levels of $Ra^{226}$ varied from 16 pCi/1 to 397 pCi/1. Assuming that the average level in the produced water was about 280 pCi/1, over the five year sampling period, up to 1.76 Curies of $Ra^{226}$ were discharged into surface waters with the produced water. (One picoCurie = $1 \times 10^{-12}$ Curies.)

When elevated levels of up to 2,800 pCi/1 were discovered in the produced water discharges in Louisiana, the Louisiana Department of Environmental Quality (DEQ) issued an emergency rule which went into effect on February 20, 1989. This rule required a radioactivity measurement and toxicity tests to be performed on all existing produced water discharges that flow into the surface waters of the state (this includes offshore structures located in state waters).

The Louisiana DEQ has completed a preliminary analysis of the data received as a part of the sampling under the emergency rule. There were submissions of data from 450 sites discharging produced water into the surface waters of the state. The analyses for $Ra^{226}$ and $Ra^{228}$ were performed using the EPA Standard Method for drinking water. The results indicate that $Ra^{226}$ and $Ra^{228}$ are primarily found in the soluble phase and that one-third to one-half of the sites had levels of over 300 pCi/1. The maximum values were 930 pCi/1 of $Ra^{226}$ and 928 pCi/1 of $Ra^{228}$ while the overall average values were 158 pCi/1 of $Ra^{226}$ and 164 pCi/1 of $Ra^{228}$.

As a part of the "three facility filtration study" conducted by the Agency in the summer of 1989, samples of the produced water waste stream were analyzed at different locations in the treatment system for $Ra^{226}$ and $Ra^{228}$. Assessment of the raw data show effluent values after filtration of the produced water ranging from 10.6 to 213 pCi/1 $Ra^{226}$ and 0 to 68 pCi/1 $Ra^{228}$, with very little if any removal by the filters.

Data bases are scattered and, for the most part, preliminary. This information is presented today to notice its availability and solicit additional data. EPA is concerned about the levels of radium in produced water and possible effects on human health and the environment. EPA intends to investigate the presence of radionuclides in produced water from facilities further offshore and the effects of radioactivity on the oceanic environment surrounding the platforms. Following receipt of any data as a result of today's notice and EPA's investigations, EPA intends to issue a Notice of Data Availability and will take all available information about radioactivity into account in developing final regulatory controls on produced water.

*E. Other Studies*

EPA and other agencies have performed studies regarding several other aspects of regulatory developing for the offshore oil and gas rulemaking effort. The titles and subjects of these studies are listed below. Descriptions of them and conclusions derived are discussed throughout the later sections of today's notice where appropriate.

1. "An Evaluation of Technical Exceptions for Brine Reinjection for the Offshore Oil and Gas Industry." An investigation into the feasibility of reinjection for produced waters.
2. "The EPA/API Diesel Pill Monitoring Program." An evaluation of the efficiency of diesel recovery practices after a diesel pill has been injected to free stuck pipe.
3. "Summary of Data Relating to Minor Discharges." An assimilation of available data on miscellaneous and minor offshore oil and gas discharges.
4. "Onshore Disposal of Offshore Drilling Waste—Capacity and Cost of Onshore Disposal Facilities." An assessment of land available and suitable for disposal of drilling wastes required as a result of a zero discharge requirement. Costs for on land disposal were also estimated.
5. "An Assessment of Produced Water Impacts to Low-Energy, Brackish Water Systems in Southeast Louisiana." A study by the Louisiana Department of Environmental Quality on the produced water impacts on low flow systems.
6. "Produced Water Effects on Coastal Environments." Minerals Management Service.

## VIII. Waste Characterization

*A. Produced Water and Drilling Wastes*

Since the 1985 proposal, no new EPA field sampling data have been acquired

relating to the general character of untreated produced waters and drilling wastes. Additional studies have been conducted on BPT treated produced waters (the "three-facility study"), on the appropriateness of the diesel oil discharge prohibition for drilling wastes, and on treatment technologies for drilling wastes (discussed in the 1988 notice). In addition, statistical evaluations of some previously submitted data were conducted. The results of the studies and evaluations and how they affect this rulemaking are discussed in later sections of today's notice.

As discussed in the 1985 proposal, the Agency also categorized the pollutants present in drilling fluids waste streams for purposes of determining appropriate limitations and standards. First, drilling fluids contain organics and metals that are priority toxic pollutants. These toxic pollutants include the cadmium and mercury and organic constituents of the diesel and mineral oils which may be added to drilling fluids. Also, the large number of specialty additives which may be used can contain priority toxic pollutants or nonconventional pollutants. BAT limitations and NSPS are being proposed to control the toxic and nonconventional pollutants. As discussed in greater detail in section IX, the Agency has considered options that include specific numeric limitations on cadmium and mercury, both in the stock barite and in the drilling wastes (fluids and cuttings); a prohibition on the discharge of diesel oil and free oil; and a toxicity limitation. Second, the oil and grease and total suspended solids present in drilling fluids are listed conventional pollutants subject to BCT limitations as well as NSPS. The prohibition on the discharge of free oil is the current BPT requirement; a static sheen test is proposed to implement this requirement. The Agency's approach to determining the appropriate guidelines and standards for drill cuttings is the same as that used for drilling fluids since the drilling fluids that adhere to the drill cuttings are the major concern.

The conventional pollutants oil and grease and total suspended solids will be subject to BCT limitations and NSPS.

As further discussed in the 1985 proposal, for purposes of determining appropriate guidelines and standards, the Agency categorized the pollutants present in produced water waste streams as follows. Produced water contains priority toxic organics and metals. BAT limitations and NSPS are being proposed to control these pollutants. Other chemicals, such as those contained in biocides, coagulants, corrosion inhibitors, cleaners, dispersants, emulsion breakers, paraffin control agents, reverse emulsion breakers, and scale inhibitors which have not been identified as containing conventional or toxic pollutants, would be considered nonconventional pollutants subject to BAT limitations and NSPS. Any pollutants in these products which have been designated "toxic pollutants" would be subject to BAT and NSPS toxic limitations and standards. Finally, the oil and grease and total suspended solids present in produced water would be considered conventional pollutants subject to BCT and NSPS limitations, and possible indicator pollutants for the control of the toxic and nonconventional pollutants subject to BAT and NSPS.

*B. Deck Drainage*

Deck drainage results primarily from precipitation runoff, miscellaneous leakage and spills, and washdown of platform or drill ship decks, floors, and vessels. Virtually any material used at the site may find its way into the deck drainage system. Deck drainage often contains petroleum-based oils from miscellaneous spills and leakage of oils and other production chemicals used by the facility. It may also contain detergents from washdown operations and discarded or spilled drilling fluid components. The primary pollutant of concern in deck drainage wastes is oil and grease.

New data since the 1985 proposal were collected on deck drainage as part of a three-facility sampling program conducted during 1989. The Agency also recently reviewed extensive records of deck drainage collected in the 1970s by the API. Also, deck drainage information from platforms in Cook Inlet, Alaska, was reviewed.

The three-facility study sampled untreated deck drainage at two of the facilities. The API data review obtained influent to the deck drainage clean-up system and the actual discharge (effluent). Table 9 presents oil and grease loadings from deck drainage samples obtained from these studies and from the data contained in the 1985 proposal record. The Cook Inlet study acquired information about the compounds identified as hazardous chemicals found in deck drainage discharges. These include paraffins, sodium hydroxide, ethylene glycol, methanol, and isopropyl alcohol.

TABLE 9—DECK DRAINAGE CHARACTERISTICS

| Study | Oil and grease (mg/l) | |
|---|---|---|
| | Influent | Effluent |
| Three-facility study | 12–1,310[1]. | NA[2]. |
| API data | 1-16,908 | 1–673. |
| 1985 data | NA | 5–183[3]. |

[1] Ranges of individual sample values
[2] Not analyzed
[3] Range of monthly averages of Discharge Monitoring Reports (DMRs) from the 1985 rulemaking record.

Both the Agency's data gathering efforts and API's survey information indicate the frequency, volume, and oil and grease content of deck drainage is highly variable. Oil and grease content of deck drainage may greatly exceed the BPT level discharge limits of produced water. The content and concentration of materials in deck drainage is highly dependent upon the operating and maintenance practices at the site, the flow of the deck wash, time between deck washings, and the point of time during a washing. For example, pollutant concentrations would be higher during the early stages of a deck washing episode than at the end of the episode.

For the reasons described above, the Agency has identified priority pollutant constituents of oil as pollutants of concern in deck drainage.

*C. Produced Sand*

Produced sand consists of particulate matter from the producing formation and other solids, such as scale, corrosion by-products, and paraffin. This material accumulates in production tubing, flowlines, and various oil and gas process vessels. This waste stream would also cover any residential sludges generated by chemical polymers used in the filtration portion of the produced water treatment system.

These solids must be removed periodically to restore oil and gas production and processing and/or avoid interruptions to those same activities. The sand is separated out from the produced water, washed with either water or solvent, and either discharged overboard with the produced water waste stream or stored in 55-gallon drums and transported to shore for disposal.

Produced sand generation is estimated at an average rate of 1 barrel per 2,000 barrels of oil. Actual volumes of sand production experienced by individual facilities depends upon the characteristics of the producing reservoir, sand control procedures

utilized, and drawdowns experienced by the reservoir among other factors.

The primary pollutant of concern in produced sand wastes is oil and grease. The Agency collected new data on produced solids from three facilities in California and New Mexico during 1989. A review of individual sample results obtained from these facilities shows sand and solids associated with oil and gas production to have oil and grease contents as high as 132,000 ppm.

*D. Well Treatment, Completion, and Workover Fluids*

Well treatment fluids are used to improve the hydrocarbon recovery from productive reservoirs. These fluids move into the formation and either remain in the hole, return in diffused form with the produced water, or return as a discrete slug. Some of the more common well treatment fluids used include hydrofluoric acid; hydrochloric acid; ethylene diaminetetraacetic acid (EDTA); ammonium chloride; nitrogen; various alcohols and solvents such as methanol, xylene, and toluene; and numerous additives such as iron sequestering agents, corrosion inhibitors, surfactants, and fluid diverters. The acidic portion of well treatment fluids are generally spent on the formation and accompany the produced water phase. Other portions of the treatment fluids may become associated with the produced oil or gas phases.

Once production resumes, well treatment fluids are usually routed through the process equipment used to separate and treat the normal production stream. However, under current practice these fluids may also be captured in tanks at the surface and then disposed of by draining the water portion into the ocean or by transporting the fluid to onshore disposal sites. The volumes and constituents of well treatment fluids are well-specific, and the discharge frequency varies between locations. Well treatment discharges have been known to range from 12 bbls/day to 1,800 bbls/day.

EPA, during the three-facility study, sampled well treatment fluids at the coastal production facility. The well was acidized to enhance the productivity of the formation. The samples obtained of the treatment fluids prior to treatment showed an oil and grease level of 619 mg/l. The pH was 2.48. Other constituents present were aluminum, iron, magnesium, molybdenum, sodium, zinc, aniline, toluidine, and 2,4,5-trimethylaniline.

Completion and workover fluids are generally low solids fluids used to provide hydrostatic control and/or prevent formation damage. Typical well completion and workover fluid constituents may include hydroxyethyl cellulose, xanthan gum, hydroxypropyl guar, sodium polyacrylate, filtered seawater, calcium carbonate, calcium chloride, potassium chloride, and various corrosion inhibitors and biocides.

Completion and workover fluids currently may be collected and recycled, processed with the production stream and then discharged, or discharged directly into the ocean. The decision on whether to recycle or dispose of these fluids depends upon the cost and type of fluids utilized and various site specific factors. These fluids are more likely to be recycled if they are expensive or not contaminated with other materials. When these fluids are in use, discharges of completion and workover fluids have been estimated to range from 100 bbls/day to 1,300 bbls/day per facility.

Additional data since the 1985 proposal have also been obtained by the Cook Inlet study conducted by EPA's Region X on well treatment, workover, and completion fluids from structures in Alaska. This study lists the hazardous constituents associated with these fluids. These hazardous compounds include disodium salt of EDTA, quaternary polyamine, acetylenic acid, hydrochloric acid, hydrofluoric acid, isopropanol, and ethylene glycol. These compounds often comprise over 60 percent of the fluid composition.

A comparison was made between free oil detections (using the Static Sheen Test) and oil and grease levels in this Region X study. The data show that all well treatment, workover, or completion fluids did not exhibit a sheen, but oil and grease levels ranged from 0.1 to 1,420 mg/l.

Well treatment, completion, and workover fluids consist of acids, solvents, additives, polymers, or other low solids fluids. They are separate and distinct from drilling fluids. Oil and other organic constituents, which either are used in or surface with the well treatment, completion, or workover fluids, are the primary pollutants of concern.

*E. Sanitary and Domestic Wastes*

No additional data have been obtained on sanitary and domestic wastes since 1985.

*F. Other Minor Wastes*

In addition to those specific wastes for which effluent limitations are proposed, offshore exploration and production facilities discharge other wastewaters. Although believed to be minor, these wastes were nonetheless investigated. No control of these other wastes is being proposed by this notice, since these types of discharges from existing operations currently are being controlled by BPJ limits in NPDES permits. These sources are categorized into 15 "minor wastes" and are listed as follows:

(1) Desalinization unit discharge—wastewater associated with the process of creating fresh water from seawater.

(2) Blow-out preventer fluid—fluid used to actuate the hydraulic equipment on the blowout preventer.

(3) Laboratory wastes from drains.

(4) Uncontaminated ballast/bilge water (with oil and grease less than 30 mg/l)—seawater added or removed to maintain proper draft.

(5) Drilling fluid, drill cuttings, and cement at the sea floor that result from marine riser disconnect and well abandonment and plugging.

(6) Uncontaminated seawater including fire control and utility lift pumps excess water, excess seawater from pressure maintenance, water used in training and testing of fire protection personnel, pressure test water, and non-contact cooling water.

(7) Boiler blowdown—discharge from boilers necessary to minimize solids build-up in the boilers.

(8) Excess cement slurry that results from equipment washdown after a cementing operation.

(9) Diatomaceous earth filter media that are used to filter seawater or other authorized completion fluids.

(10) Waste from painting operations such as sandblast sand, paint chips, and paint spray.

(11) Uncontaminated fresh water such as air conditioning condensate and potable water.

(12) Material that may accidentally discharge during bulk transfer, such as cement materials, and drilling materials such as barite.

(13) Water flooding discharges—discharges associated with the treatment of seawater prior to its injection into a hydrocarbon-bearing formation to improve the flow of hydrocarbons from production wells. These discharges include strainer and filter backwash water, and treated water in excess of that required for injection.

(14) Test fluids—the discharge that would occur should hydrocarbons be located during exploratory drilling and tested for formation pressure and content.

(15) Source Water—Formation water used for water flooding (excess may be discharged).

Many of these wastes are low in volume and/or are infrequently discharged. In addition, the constituents in these wastes are mostly the same as those found in seawater or are inert material. Wastes containing the same constituents as the seawater include: Desalination unit discharge, uncontaminated ballast water, uncontaminated bilge water, and uncontaminated sea water. Minor waste sources that contain mostly inert material include source water and sand from enhanced recovery operations, boiler blowdown, and uncontaminated fresh water. The other minor wastes contain some degree of contaminants, but they are difficult to contain (such as waste from chipping, sanding, and painting operations, accidental releases during bulk transfer operations, and blow out preventer fluid), or their discharges are infrequent and expected to pose minor environmental impact (such as washdown after cementing operations; diatomaceous earth filter media from washing of filtration unit; and drilling fluids, cuttings, and cement at the sea floor resulting from marine riser disconnect and well abandonment and plugging).

The laboratory waste contains material used for sample analysis and the material being analyzed. The volume of this waste stream is relatively low and is not expected to pose significant environmental problems. However, freon may be present in laboratory waste. With the high volatility of freon, these wastes are not expected to remain in aqueous state for very long and are, therefore, not expected to be present in significant quantity. The Agency is discouraging the discharge of all chlorofluorocarbons, including foam, to the air or water media, and is proceeding under separate rulemaking with the identification and approval of alternate extraction solvents other than freon for the oil and grease analytical method.

## IX. Parameters Selected for Regulation

### *A. Free Oil*

A change in the test method of compliance for free oil was proposed in 1985. The proposal involved changing from a visual inspection after discharge to a "static sheen" test performed prior to discharge. The static sheen test would apply to certain options prohibiting the discharge of free oil. Affected waste streams are deck drainage, drilling fluids, drill cuttings, produced sand, and well treatment completion and workover fluids.

Based on comments received that the proposed test gave erroneous results, a modified test was also evaluated. Differences between the proposed test and the modified static sheen test are described in section VII. Below is a discussion of the reasons that the static sheen test was proposed in 1985.

Prior to the 1985 proposal, the compliance monitoring procedure required by BPT regulations was a visual inspection of the receiving water after discharge. However, since the intent of the limitation is to prohibit discharges containing free oil that will cause a sheen, the method of determining compliance should examine oil contamination prior to discharge. Also, concerns have been raised that the intent of the existing definition of "no discharge of free oil" may be violated too easily for the limitation to be effective. Violations which may result from intentional or unintentional actions include the use of emulsifiers or surfactants, discharges that occur under poor visibility conditions (i.e., at night or during stormy weather), and discharges into heavy seas, which are common on the outer continental shelf. Additionally, concerns have been expressed over the utility of the visual observation of the receiving water compliance monitoring procedure for certain discharges during ice conditions common in Alaskan operations. These include above-ice discharges where the receiving water would be covered with broken or solid ice, and below-ice discharges where the effluent stream would be obscured.

To address these monitoring problems, the Agency developed the static sheen test as an alternative compliance test. The alternative test continues the visual observation for sheen but provides for inspection before discharge using laboratory procedures. The test is conducted by adding samples of the effluent stream into a container in which the sample is mechanically mixed with a specific proportion of either seawater or fresh water, allowed to stand for a designated period of time, and then viewed for a sheen under controlled conditions.

Since the intent of a "no discharge of free oil" limitation is to prevent the occurrence of a sheen on the receiving water, the new test method will prevent the discharge of fluids that will cause such a sheen.

As proposed in 1985, free oil is being regulated under BAT and NSPS as an "indicator" pollutant for the control of priority pollutants (see section IX.B below). Free oil is being regulated under BCT as well. Although it is not a conventional pollutant, as is oil and grease, EPA is limiting free oil as a surrogate for oil and grease under BCT in recognition of its previous use under BPT to limit the creation of a visible sheen.

### *B. Diesel Oil*

In 1985, EPA proposed a prohibition on the discharge of diesel oil in several of its regulatory options for drilling fluids and cuttings. EPA is not changing that proposal in today's notice. As proposed in 1985 (and included here for informational purposes), the prohibitions on free oil and diesel oil are intended to limit the oil content in drilling fluids and cuttings waste streams and thereby control the discharge of the priority toxics as well as conventional and nonconventional pollutants present in those oils. The prohibition on the discharge of oil is included in this option as an "indicator" of the toxic pollutants. The discharge of diesel oil, either as a component in an oil-based drilling fluid or as an additive to a water-based drilling fluid would be prohibited. An indicator pollutant is one that, by its regulation, will provide control on discharges of one or more toxic pollutants. Diesel oil would be regulated as a nonconventional pollutant and an indicator because it contains toxic organic pollutants such as benzene, toluene, ethylbenzene, naphthalene, and phenanthrene. The Agency's primary concern is controlling the priority pollutants in the oils, although these prohibitions also will serve to control nonconventional and conventional pollutants. The Agency selected the "indicator" approach as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in these oil-contaminated waste streams. The sampling and analysis data demonstrate that when the amount of oil is reduced in drilling fluid, the concentrations of priority pollutants and the overall toxicity of the fluids generally are reduced. The Agency has determined that the proposed controls on diesel oil will provide BAT-level control of the priority toxic and nonconventional pollutants present in drilling fluids. This method of toxic regulation is necessary because it is not economically or technical feasible to establish specific BAT limitations upon each of the toxic pollutants present in the drilling fluids. The technology basis for this limitation is product substitution.

### *C. Toxicity*

In 1985, EPA proposed a limitation on toxicity as part of the regulatory options for drilling fluids and drill cuttings. EPA is not changing that proposal in this

rulemaking. The limitation is set at 30,000 ppm and is based on the toxicity of the most toxic of eight generic drilling fluids in use at the time of the 1985 proposal. The toxicity limit is expressed as the concentration of the suspended particulate phase (SPP) of the drilling fluid that is lethal to 50 percent of *Mysidopsis bahia* exposed to that concentration of the SPP, i.e., the LC50 of the discharge.

The purpose of the LC50 toxicity limitation on the discharge of drilling fluids is to control the toxic constituents in drilling fluid discharges. While the limitations on free oil and diesel oil could significantly reduce the toxic pollutants present in drilling fluids, other additives, such as mineral oil or some of the numerous specialty additives, could greatly increase the toxicity of the drilling fluid, especially water-based drilling fluids. The toxicity is, in part, caused by the presence and concentration of priority pollutants. Thus, as proposed in 1985, the toxicity limitation will control toxic pollutants and effluent toxicity.

*D. Cadmium and Mercury*

The trace metals of concern in drilling fluids include cadmium, mercury, barium, zinc, lead, chromium, copper, and arsenic. One of the sources of barium and some of the other trace metals in drilling fluids is barite. Barite is mined from either bedded or vein deposits. Research has shown that the bedded deposits of barite are characterized by substantially lower concentrations of heavy metal contaminants such as cadmium and mercury (Kramer, J.R. et al, "Occurrence and Solubility of Trace Metals in Barite for Ocean Drilling Operations," Symposium—Research on Environmental Fate and Effects of Drilling Fluids and Cuttings, Sponsored by API, January 1980).

Barite may be contaminated with several metals of concern, including mercury, cadmium, zinc, lead, arsenic, as well as other substances. The Agency believes that by limiting the levels of cadmium and mercury in either the stock barite or the drilling fluid system discharge, concentrations of other related metals would be limited as well. EPA is proposing to regulate these two toxic metals in order to control the metals content of the barite component of any drilling fluid discharges. Cadmium and mercury are "toxic pollutants" subject to BAT and NSPS limitations.

The 1985 proposal included proposed effluent limitations of 1 mg/kg each of cadmium and mercury in the discharge of the whole drilling fluid on a dry weight basis. The proposed limitations would be maximum values. These effluent limitations are also included in some of the regulatory options proposed today.

In the 1988 notice, two alternative limitations for cadmium and mercury were presented. One established limits at 2.5 mg/kg cadmium and 1.5 mg/kg mercury in the whole drilling fluid. This was developed in response to comments regarding the cost and availability of barite "clean" enough to meet the 1 mg/kg cadmium and 1 mg/kg mercury limitations. The 2.5/1.5 mg/kg cadmium/mercury limitations were suggested based on the use of barite containing no more than 5 mg/kg cadmium and 3 mg/kg mercury which, commenters declared, was available in adequate supply. The 2.5 mg/kg cadmium and 1.5 mg/kg mercury limitations were derived using an assumption that barite is diluted by 50 percent or more in the drilling fluid. In the 1988 notice, the Agency also presented the option of limiting cadmium and mercury at 5 mg/kg and 3 mg/kg, respectively, in the stock barite instead of setting an effluent limitation in the drilling fluid.

The limitations for cadmium and mercury of 2.5 and 1.5 mg/kg, respectively, in the drilling fluid are no longer considered appropriate because insufficient support exists for the assumption that a 50 percent dilution occurs once barite is mixed with drilling fluids.

Based on additional information since the 1988 notice, today's proposal further presents three alternatives for cadmium and mercury limitations: (1) Maintaining the 1985 proposed discharge limitations of 1 mg/kg cadmium and 1 mg/kg mercury each in the drilling fluid, (2) limitations based on barite composition of 5.0 mg/kg cadmium and 3.0 mg/kg mercury as included in the 1988 notice, and (3) limitations of 3.0 mg/kg of cadmium and 1.0 mg/kg of mercury based on stock barite composition. All of these limitations would be a maximum (no single sample to exceed) value.

Recent information to evaluate EPA's current alternatives for metals limitations comes from data compiled during a joint effort by EPA and API. The current version of this database, "API—USEPA Metals Database for Metals Content in Drilling Muds—Drill Cuttings/Formations—Barites—Sediments," is from April 1990. This database contains data sets, from all studies currently known to EPA and API, on the metals content of drilling fluids and drill cuttings.

Analysis of a select set of data sources from this data base, considered appropriate for the following statistical analyses, was performed to determine compliance rates with each set of limitations. All of the data sets show passing rates to some degree for all limitation options. The limitations for 1 mg/kg cadmium and 1 mg/kg mercury in the drilling fluids are the most stringent; however, 100 percent compliance was achieved by the four samples measured in EPA's Region IX. This is probably due to the fact that some of the recent Region IX individual permits have limitations of 2 mg/kg cadmium and 1 mg/kg mercury in the barite composition. Region X, which includes in its general permits limitations of 3/1 mg/kg cadmium and mercury, respectively, in barite composition, shows a 67 percent compliance rate for 1/1 mg/kg cadmium/mercury limit in drilling fluids. Data from Gulf of Mexico facilities show a lower percentage of compliance; however, there are currently no metals limitations in the Region VI general permit. Region VI is preparing limitations for proposal in response to the decision of the United States Court of Appeals for the Ninth Circuit in *NRDC* v. *EPA*, 863 F.2d 1420, 1432-33 (9th Cir. 1988). For comparative purposes, EPA is evaluating in its regulatory options, discussed later in section XII, the most stringent cadmium and mercury limitations (1/1 mg/kg in the fluids) and the least stringent option (the 5/3 mg/kg cadmium and mercury limitations in the barite composition).

In response to comments regarding concern over availability of barite supplies, EPA investigated the adequacy of available foreign and domestic supplies of barite that meet the proposed cadmium and mercury limitations of either 1/1 mg/kg in the fluids or 5/3 mg/kg in barite. This investigation compared foreign and domestic barite supplies, with compositions adequate to meet the proposed limitation, to the projected industrial demand. The conclusion was that supplies are adequate to meet the needs of offshore drilling operations if either limitation were in place.

In addition to noncompliance being caused by the use of barite with high cadmium and mercury content, commenters stated that the presence of cadmium in the formation itself could cause noncompliance with limitations applied at the drilling waste discharge point. In particular, an analysis of API's 15 Rig Study (discussed later in section XIII.A.2) estimates cadmium formation contribution to drilling fluids as high as 79 percent. However, this report is based on certain assumptions for which EPA is also requesting comment. If,

however, the metals limitations could not be met for this or any other reason, then barging would be necessary for land disposal.

The proposed BAT and NSPS limitations on cadmium and mercury would also serve to control the concentration of other toxic metals in the drilling waste discharges. The same metals data base study referenced above concluded that concentrations of other toxic metals are positively correlated with concentrations of cadmium and mercury. This information supports EPA's proposal in 1985 to consider limiting mercury and cadmium in order to control other toxic metals.

*E. Oil Content*

The 1985 proposal included an option for regulating oil content for drill cuttings. However, this option was rejected in 1985 because EPA believed that establishing an oil content limitation on drill cuttings was redundant since the prohibition on the discharge of free oil appeared to be a more stringent limitation. Data on the performance of cuttings washer technologies showed residual oil content levels near 10 percent by weight. Data on the visual sheen test (used then for the free oil discharge limitation) showed compliance with this limitation required levels of oil content to be reduced to less than 1 percent.

The Agency continued to study technologies for controlling the oil content of drilling wastes. and presented its findings in the 1988 notice. This study was expanded to explore the applicability of an oil content limit to drilling fluids as well as to drill cuttings. A number of conclusions evolved from this study which EPA reiterates below.

1. Drilling Fluids

An oil content limit for drilling fluids based on the technologies studied is not appropriate because the volume of fluids at the end of the drilling that would require treatment is much greater than the technologies evaluated were capable of handling (with regard to treatment rate). In addition, space is insufficient on platforms to accommodate these kinds of drilling volumes of fluids that must be stored in preparation for processing at rates acceptable by the technologies.

2. Drill Cuttings

The 1988 notice discussed technologies for controlling the oil content of drilling wastes with respect to both oil-based and water-based systems. Oil content of untreated drill cuttings associated with oil-based drilling fluids was estimated at 20 percent oil by weight. Untreated drill cuttings from water-based drilling fluids to which oil had been added for spotting or lubricity were estimated to contain 1 percent oil by weight. Data on performance of thermal distillation showed that oil content for drill cuttings (associated with either water- or oil-based fluids) could be reduced to 1 percent by weight. For solvent extraction, reductions were attained to 0.3 percent by weight. Thus, it was stated that drill cuttings from water-based systems to which oil had been added for spotting or lubricity would not require treatment to comply with an oil content limit of 1 percent by weight.

EPA continues to believe that reductions even to 1 percent in water-based systems are redundant. The free oil limitation already results in compliance to this level. In addition, the limitation on diesel oil and toxicity adequately covers toxic pollutants associated with oil content of drilling wastes. Reductions of another 0.7 percent exhibited by the solvent extraction technology do not compensate for the disadvantages in using this system. As discussed in the 1988 notice, the potential for losses of chlorofluorocarbon-type solvents to the atmosphere are a major concern for solvent extraction.

In addition, EPA is not in the position to develop limitations based on the thermal distillation technologies because this technology has not been demonstrated either by full-scale or pilot testing to be capable of operating at offshore facilities and due to safety concerns regarding fire hazards. EPA is not prohibiting the use of these technologies, as it remains an operator's decision to choose a preferred compliance method. However, federally applicable limitations based on these technologies are not appropriate at this time.

*F. Oil and Grease*

The most obvious pollutant of concern for produced waters is oil and grease. This pollutant is already regulated under BPT. EPA is proposing certain options that will either equal or be more stringent than the BPT oil and grease limits for produced water. Oil and grease is a conventional pollutant subject to BCT limitations as well as NSPS. EPA is also limiting oil and grease under BAT as an indicator pollutant for certain toxic and metal priority pollutants as well as nonconventional pollutants.

EPA believes it is appropriate to regulate oil and grease under BAT as an indicator for other organic and metal toxic pollutant removals because the technologies used to remove oil and grease also remove additional pollutants of concern. As discussed in section X, membrane and granular media filtration along with chemical polymer addition form the basis for certain regulatory options. Granular media filtration, while it primarily removes suspended insoluble matter, does achieve a degree of organic and metal removal as well. Membrane filtration removes considerably more of the soluble hydrocarbon constituents.

Analysis of data from the three-facility study on performance of granular media filtration showed significant reductions for total suspended solids and oil and grease. Significant reductions in the metals aluminum, calcium, iron, magnesium, and manganese were also achieved. Additionally, significant reductions were achieved in 2-propanone. The Agency believes other compounds would show significant reductions if a larger number of samples had been collected.

*G. Residual Chlorine and Floating Solids*

NSPS limitations on residual chlorine and floating solids were proposed in 1985 for sanitary wastes as being equal to BPT. The presence of residual chlorine gives positive indication that fecal coliform does not exist. BCT and NSPS were proposed in 1985 for domestic wastes as prohibiting the discharge of floating solids. Today's notice does not change that 1985 proposal. No BAT limits were proposed for these parameters because no toxic or nonconventional pollutants of concern were identified in sanitary or domestic wastes.

*H. Foam*

The general permit for the Gulf of Mexico prohibits the discharge of visible foam in other than trace amounts for all wastes. Limitations on foam are intended to control discharges that include detergents. EPA believes this is a particularly appropriate pollutant to limit for domestic wastes. The sources of domestic wastes include laundries, galleys, showers, safety shower and eyewash stations, hand wash stations, and fish cleaning stations. Detergents are an inherent nature of this waste. Foam is a nonconventional pollutant proposed for NSPS.

**X. Control and Treatment Technologies**

*A. Current Practice*

The BPT regulations established for the offshore subcategory are focused primarily on the control of free oil and

the oil and grease content of waste streams that are discharged to the ocean. The information concerning current practice, and discussed in this section, was obtained both for the 1979 rulemaking and the 1985 proposal. The only change in the data obtained for these previous efforts and discussed at this time is an updated statistical analysis on sample results for BPT produced water effluents.

Drilling Fluids

The current BPT regulation for drilling fluids prohibits the discharge of free oil. In general, water-based drilling fluids are discharged directly to the ocean, because they do not cause a sheen unless the fluids have been contaminated with oil. In the case of water-based drilling fluids to which oil has been added for spotting or lubricity, current BPT regulations prohibit their discharge if they cause a sheen. Compliance with the prohibition of free oil is achieved by transportation of the spent fluids to shore for land disposal, or treatment to recover the oil and land disposal of the residual solids. When oil-based drilling fluids are used offshore, the fluids are not discharged, but are returned to shore for reconditioning and reuse or disposal.

In addition to the requirement for no discharge of free oil, current NPDES permits require compliance with toxicity limits and prohibit the discharge of diesel oil. Failure, or anticipated failure, of the drilling fluid system to meet the toxicity limit or diesel oil discharge prohibition also causes the spent fluids to be returned to shore for disposal.

2. Drill Cuttings

The cuttings are segregated from the drilling fluid with a shale shaker and associated separation equipment. Existing practices for drill cuttings based on the same BPT requirement as drilling fluids (i.e., no free oil) and current permits for the handling of drill cuttings include: (1) On-site disposal of drill cuttings with an oil content that does not cause a sheen on the receiving water; (2) washing of drill cuttings that contain oil at a level that would cause a sheen so that they may be discharged on-site to the receiving water; and (3) transportation to shore for treatment and/or land disposal.

3. Produced Water

Existing technologies for the on-site removal of oil and grease from produced water discharges include gas flotation, gravity separation, chemical addition to assist oil-water separation, and, less often, parallel plate coalescers and loose or fibrous media filtration. On-site disposal methods from offshore production platforms include free fall discharge to the ocean, discharge below the water surface, and, at times, reinjection into a subsurface formation. As an alternative, some production sites transport produced fluids by pipeline to shore facilities for oil-water separation and disposal.

The removal of priority pollutants in BPT treatment systems is minimal. While the sampling data indicated quantifiable reductions of naphthalene, lead, and ethylbenzene by the BPT treatment (i.e., by oil-water separator technology), the presence of significant levels of priority pollutants (e.g., naphthalene and ethylbenzene) in all effluent samples demonstrates the limitations of such treatment technologies.

Reinjection is a disposal technique for injection of produced water into a subsurface formation. When reinjection is used for disposal purposes only, it is possible that the receiving formation may not be the same formation from which produced fluids were extracted. Secondary recovery or pressure maintenance (water flooding) is a practice under which produced water (or other fluids) is injected into a producing formation to enhance recovery of hydrocarbons. Reinjection of produced water into a producing formation may serve both purposes, i.e., disposal of produced water and enhanced recovery of hydrocarbons.

Treatment of produced water (or other fluids) prior to injection may be necessary, and such treatment may include oil-water separation and/or filtration to minimize plugging of the receiving formation. (Oil-water separation also serves for recovery of oil as a commercial product.) Also, biocides, corrosion inhibitors and sequestering agents (or ionic bonding agents) may be added to the water to reduce or prevent scaling and corrosion of the injection equipment. The type and amount of treatment depends primarily on the properties of the receiving formation and characteristics of the fluids being injected.

The concentration of toxic pollutants in BPT treated produced waters was investigated during an extensive sampling and analysis effort performed at 30 platforms prior to the 1985 proposal. Selected conventional and nonconventional pollutants were also analyzed.

EPA updated the statistical analysis of results from the 30 platform study in 1989 in order to correct inadequacies in the consideration of detection limits, duplicate samples, and sample exclusion. The results of the analysis do not affect this or previously proposed regulations. Data simply are recalculated in an effort to more accurately estimate BPT effluent pollutant loadings. The results of the analysis show flow-weighted oil and grease effluents averaging 89.8 mg/l. The priority organics most often present in significant amounts were benzene, bis (2-ethylhexyl) phthalate, ethylbenzene, naphthalene, phenol, toluene, and 2,4-dimethylphenol. Priority metals present were cadmium, copper, lead, nickel, silver, and zinc.

4. Deck Drainage

The current BPT requirement for deck drainage prohibits the discharge of free oil (i.e., sheen). Under current practices, deck drainage is either collected and treated separately for oil removal by gravity separation or is handled by the produced water treatment system before discharge.

A commonly used treatment technology for removal of free oil from deck drainage is oil-water separation. This is typically a gravity separation process, whereby the waste stream is collected and diverted to a tank or other vessel. Adequate volume is provided in the vessel to provide sufficient detention time for the free oil and water to separate. The oil layer is then removed by decanting or skimming and returned to the production process, and the water layer drawn off for discharge. The majority of platforms in the Gulf of Mexico and offshore California use gravity separation technology on the platform for treatment of deck drainage. Some California platforms pipe deck drainage along with produced water to shore for treatment. Alaska operations typically treat deck drainage wastes on the platform.

Deck drainage treatment systems and systems that handle both produced water and deck drainage operate much more efficiently when good housekeeping and maintenance practices are employed. These include separation of crankcase oils from the deck drainage collection system, minimization of spills, discriminate use of detergents, and preventing drilling fluids from entering the deck drainage collection system.

5. Produced Sand

Produced sand wastes are either transported to shore for treatment and/or disposal or are treated by water and/or solvent washes for oil removal to prevent the discharge of free oil and discharged to the ocean.

6. Well Treatment Fluids

The current BPT requirement for well treatment fluids prohibits the discharge of free oil (i.e., sheen). Well treatment fluids are used to enhance production from oil and gas bearing zones. These fluids are injected into the producing formation as a slug, and some of the fluids remain in the hole. Under current practices, well treatment fluids that resurface are not treated as discrete sources but are considered to be mixed with the oil, gas, and water produced from the formation. Therefore, separate processing equipment is not provided for well treatment fluids. The spent acid, or other treatment fluid, moves through the normal processing system. After separation, well treatment fluids may end up with the oil, gas, or water phase depending upon the type of fluid. For instance, solvents such as xylene or toluene will normally become part of the oil stream while nitrogen used as a displacement fluid will separate with the gas, and spent acid will be discharged with the produced water. Minor volumes of well treatment fluids may also be disposed of through the deck drainage system as a result of leakage and washdown operations.

Normally all of the well treatment fluids brought to the location are utilized. However, occasionally a portion of the treatment is not used. If this occurs, the service company supplying the fluids usually retains it for reuse or disposal.

7. Completion and Workover Fluids

Completion and workover fluids are generally low solids fluids used to provide hydrostatic control and/or prevent formation damage. Usually, these fluids are handled by processing through the normal production system, capturing for reuse or disposal, or direct discharge into the ocean. This decision is dependent upon the type of fluid, its cost, and the facilities available.

8. Sanitary Wastes

Sanitary wastes from offshore facilities are usually treated at the source by physical/chemical systems. Facilities that are manned continuously by ten or more people are required by current BPT regulations to maintain a residual chlorine concentration in the sanitary waste discharge at a minimum of 1 mg/l for disinfection purposes and to maintain the residual chlorine as close to this level as possible. This chlorine residual is achieved by introducing chlorine in flow dependent amounts. Chlorine is either supplied from commercial sources or may be electrocatalytically generated from seawater. This chlorine requirement is based upon the use of U.S. Coast Guard-approved marine sanitation devices (described in 40 CFR part 140) and is required by the BPT regulations.

9. Domestic Wastes

Current permits require domestic wastes at all facilities to be free of floating solids. This is accomplished by the use of shredders or screening devices. In addition, a general permit controls the discharge of foam.

*B. Additional Technologies Considered*

The Agency has investigated additional control and treatment technologies in the formulation of today's proposed regulations. Some of these technologies were considered in the 1985 proposal and some in the 1988 notice. Additional technologies, particularly for produced waters, have been evaluated since the 1988 notice. These technologies, as well as those previously considered technologies no longer deemed appropriate for use in this regulation, are discussed below.

1. Drilling Fluids

*a. Product Substitution.* Product substitution was one of three technology bases considered for drilling fluids and drill cuttings in 1985. Product substitution is a method to achieve the discharge limitations on free oil, diesel oil, cadmium, mercury, and toxicity. Some typical methods for compliance with these limitations are: (1) Use of water-based drilling fluids; (2) use of product substitutes such as low toxicity mineral oils for spotting and lubricity purposes; (3) use of low-toxicity specialty additives, and (4) use of barite with low toxic metals content. EPA's preferred option for control of drilling fluids in the 1985 proposal was based on product substitution. Comments expressed concern over the diesel oil discharge prohibition and the fact that it would force the use of mineral oil.

Studies performed by EPA and industry (53 FR 41356; 51 FR 29600; 52 FR 3646) support EPA's conclusions that: (1) Mineral oil is in common use by operators in the Gulf of Mexico and Alaska, as well as internationally; (2) mineral oil is an available alternative to the use of diesel oil; and (3) success rates (for spotting purposes) comparable to those with diesel oil can be achieved with mineral oil.

Other comments submitted after the 1985 proposal suggested allowing the discharge of diesel oil when it is used as a spotting fluid. In response to this, EPA also conducted a study to determine the recovery capability of diesel oil when using it as a spotting fluid. This study, known as the "Diesel Pill Monitoring Program" (DPMP) and described in the 1988 notice, supported EPA's conclusions that pill recovery techniques implemented during the program do not result in recovery of sufficient amounts of the diesel pill and reduction of drilling fluids and cuttings toxicity to acceptable levels for discharge of bulk systems. Systems for approximately one-half of all wells in the DPMP contained residual diesel levels between 1–5 percent by weight after introduction of a diesel pill and subsequent pill recovery efforts. In addition, systems for approximately 80 percent of the DPMP wells failed the 30,000 ppm LC50 toxicity level after pill recovery. Almost half that number (40 percent of the total) of the DPMP wells had water-based systems that contained residual diesel following pill recovery and showed LC50 values of less than (more toxic than) 5,000 ppm.

For the reasons discussed above, the Agency believes that its proposed prohibition on the discharge of drilling fluid and drill cuttings which have been contaminated with diesel oil is appropriate for the BAT and NSPS levels of control for waterbased drilling fluids. The pollutant "diesel oil" is being used as an indicator of the listed toxic pollutants present in diesel oil. The technology basis for the prohibition on the discharge of diesel oil in drilling fluids and drill cuttings is substitution of mineral oil for diesel oil in the fluid system and for lubricity and spotting purposes, and the barging and land treatment and/or disposal of drilling fluids and cuttings which fail the sheen test or toxicity limits. Such a prohibition on the discharge of diesel oil contaminated drilling fluids and drill cuttings was upheld by the United States Court of Appeals for the Fifth Circuit, *American Petroleum Institute* v. *EPA*, 858 F.2d 261, 263–66, clarified and rehearing denied, 864 F.2d 1156 (5th Cir. 1988) (Bering and Beaufort Seas general permits).

*b. Zero Discharge.* EPA also considered zero discharge of drilling fluids and drill cuttings in 1985. This option is based upon the transport of spent drilling wastes to shore for recovery, reconditioning for reuse, or land disposal. EPA rejected this option in 1985 because the costs of barging and land disposal were too high. The availability of landfill sites was also a concern.

Since the 1985 proposal, EPA has re-evaluated this option and determined that barging drilling wastes is technically and economically feasible. In addition, in response to both industry

and Agency concerns, EPA has studied the availability of land disposal capacity ("Onshore Disposal of Offshore Drilling Waste—Capacity and Cost of Onshore Disposal Facilities," ERC Environmental and Energy Services Co. for U.S. EPA, January 1991). The study concluded that enough land is projected to be available to support the disposal requirements for this option. Yet, while available disposal sites exist, EPA has concerns over the use of large land areas for the disposal of drilling wastes. In addition, the increased barging and handling operations, both on platforms and at dock facilities, require a significant increase in fuel use and result in large amounts of air pollutant emissions. Thus, this option is considered in today's proposal for all structures, and then, to accommodate the non-water quality environmental impact concerns, for shallow water structures only and for structures located 4 miles or less from shore.

*c. Clearinghouse Approach.* In the 1985 proposal, one of the options proposed for limiting the discharge of muds was referred to as the "Clearinghouse/Toxicity Approach" (50 FR 34592). The clearinghouse concept is based on the fact that operationally satisfactory drilling fluids can be formulated with constituents that are less environmentally harmful than many that are available. The generic drilling fluid concept was developed in 1978 when the Agency instituted a joint testing program for various formulations for operations in the Atlantic Ocean lease sale areas. EPA Region II and the Offshore Operators Committee (OOC) conducted the Mid-Atlantic Bioassay Program which identified eight water-based drilling fluid types (generic fluids) that encompassed virtually all types of drilling fluids in use at the time. The generic fluids were then bioassayed once as an alternative to having the participating operators perform bioassay and chemical tests every time a discharge occurred. The selected generic fluids demonstrated relatively low toxicity in the referenced bioassay program. Operators were then allowed to discharge the generic fluid types, including certain approved specialty additives ("additives"), without conducting additional testing (50 FR 34603). Other EPA Regions used the results from the generic fluids testing in permits issued for Outer Continental Shelf (OCS) lease areas.

In the 1985 proposal, Option 2—Clearinghouse Approach discussed the establishment of a national clearinghouse to be administered by EPA. Under this option, the Agency would serve as repository for all toxicity and related physical and chemical characteristics of base drilling fluid formulations and additives. The information would be used by the public and operators for use in selecting fluid/additive formulations that would likely comply with the established toxicity regulation (50 FR 34608).

EPA Region X later issued several NPDES general permits (Norton Sound (50 FR 23578, June 4, 1985), Cook Inlet/Gulf of Alaska (51 FR 35460, October 3, 1986), Chukchi Sea and Beaufort Sea II (53 FR 37846, September 28, 1988)) that used the generic fluids concept and authorized the discharge of certain additives without bioassay testing in the discharged fluids upon discharge. In all of these permits, Region X listed generic fluids and additives authorized without further bioassay requirements in a table in the permit. However, operators required specialty additives that were not authorized in the Region X permit. Lacking any method to precisely determine the cumulative toxicity of generic fluids discharge with additives not in the permits, Region X applied the concept of additivity to estimate the cumulative toxicity of fluids and additives.

In the 1985 proposal, the Agency rejected the Clearinghouse option based on the time required to develop such a program, and the complexity of managing such a program on a national level (50 FR 34592). Although the Agency has received many comments in favor of a clearinghouse approach to fluids/additive discharge authorization, several important reasons remain that support rejection of this regulatory option.

First, the Agency's NPDES permitting program (sec. 402 of the Act) is based on point of discharge ("end-of-pipe") accountability. While bioassays of drilling wastes to be disposed of are an established measure of compliance with "end-of-pipe" toxicity limits, a clearinghouse approach would require the cumulative toxicity of the fluids and additives to be projected in advance. These advance estimates would have to be performed for each discharge of drilling fluids by hundreds of offshore wells annually. Whether EPA performs the estimates or industry submits them for Agency review, the administration of such a program would be complex and would place a huge administrative burden on the Agency. Compounding this, EPA would be required to maintain a data base with up-to-date information on fluids and additives, provide resources to track the data, and respond to challenges to clearinghouse determinations.

Although it has been demonstrated that the clearinghouse system can be effective on a small scale, the Agency has reservations regarding a nationwide program. The success of the Region X program is due, in large part, to the relatively small number of wells drilled in the past and estimated for the future. (The projected number of new drillings for the Region X offshore area is 12 per year in the unconstrained scenario). A national clearinghouse program involving almost 1,000 new drillings per year and requiring maintenance and updating of a database containing information on numerous additives and fluids combinations would be much more difficult to manage and would place an enormous burden on the Agency.

For these reasons, EPA continues to reject the clearinghouse option as a component of nationally applicable regulations; however, this would not necessarily preclude the use of a clearinghouse approach in permits as a means of implementing toxicity limits in these regulations, if appropriate.

*d. Other technologies.* Thermal distillation and solvent extraction were discussed both in the 1985 proposal, the 1988 notice and a proposed general demonstration permit issued by Region VI on October 16, 1989 (54 FR 42335). The operation of these technologies results in a reduction of oil content in drilling wastes. Thus, the regulated parameter associated with these technologies would be oil content. EPA rejected these technologies as a basis for regulatory control on the general premise that limitations on the other parameters, diesel oil, free oil, and toxicity are sufficient to reduce toxics from drilling wastes. In addition, thermal distillation is no longer being considered as an option because it has not been adequately demonstrated at the present time as a viable technology for use on an offshore platform. Solvent extraction is not considered because the Agency remains concerned (as stated in the 1988 notice) over the potential losses of chlorofluorocarbon-type solvents from these processes to the atmosphere.

Incineration was discussed in the 1985 proposal but rejected due to equipment size, energy costs, and possible fire hazards associated with this process. Some of these technologies may be applicable for onshore treatment of drilling fluids and cuttings that are barged and transported to central locations for reconditioning, treatment, and/or disposal.

2. Drill Cuttings

EPA is considering requirements for drill cuttings based on the same treatment/disposal methods described in the previous section on drilling fluids. Those methods involve the use of certain types of drilling fluids which would be mixed with the drill cuttings extracted from the drilled hole (bore hole). The use of water-based drilling fluids, mineral oil instead of diesel oil for spotting or lubricity, barite with low cadmium and mercury content, or on-land disposal are the basis for meeting the proposed requirements. The same technologies considered in the 1985 proposal and 1988 notice, but rejected for drilling fluids, were also rejected for cuttings.

3. Produced Water

EPA evaluated each of the following treatment technologies in addition to the control technology. These technologies were considered for implementation at offshore facilities and onshore where produced water is piped to shore for treatment.

*a. Improved Performance of BPT Technology.* The 1985 proposal evaluated the costs and feasibility of improved performance of existing BPT treatment technologies to determine whether more stringent effluent limitations for oil and grease would be appropriate. This approach would be based on improved operation and maintenance of existing BPT treatment equipment (e.g., gas flotation, coalescers, gravity oil separation), more operator attention to treatment system operation, and possibly re-sizing of certain treatment system components for better treatment efficiency.

When discussed in the 1985 proposal, statistical analysis of effluent data from facilities sampled during the Agency's 30-platform survey showed that an oil and grease effluent limitation of 59 mg/l maximum (i.e., no single sample to exceed) could be achieved through improved performance of BPT technology. Problems with the original analysis included lack of documentation for the platforms selected as examples of improved performance for BPT and the treatment of samples split for quality control of lab results as if they were independent samples from the wastewater treatment process.

This re-analysis shows that the appropriate limitations are 38 mg/l as a daily maximum value not to be exceeded in any single daily composite analysis and 27 mg/l as a monthly average value not to be exceeded. A daily composite sample consists of four grab samples taken at different times throughout the day. These potential limitations can be compared to current BPT limitations of 72 mg/l daily maximum and 48 mg/l monthly average. The potential limitations are calculated based on the same number of grab samples per day as current limitations. The data used to determine the potential limitations were obtained at platforms whose selection is documented and where split sample results are averaged prior to capability analysis for the effluent.

The 1985 proposal, in its options selection process, chose this option for all deep water facilities, and for all gas facilities regardless of water depth. This option, although still being considered, is no longer a preferred option for this rulemaking because of the problems identified with the performance evaluation.

*b. Filtration.* In the 1985 proposal, EPA discussed filtration as both an add-on technology to BPT and as pretreatment for reinjection. The primary purpose of filtration is to remove suspended matter, including insoluble oils, from produced water. Additional removal of soluble pollutants can also be achieved, but it is not as significant as the reduction of conventional pollutants such as suspended solids and oil and grease. The 1985 proposal discussed the granular media technology as an option for treatment of produced waters, but only for BCT and NSPS, since significant reduction in soluble organics or metals was not evident. For NSPS, the proposal included, as an option, limitations for both TSS and oil and grease of 20 mg/l monthly average and 30 mg/l daily maximum. However, this option was rejected in the 1985 proposal.

After the 1985 proposal, EPA continued to evaluate filtration technologies. A granular media filtration study (known as the "three-facility study" and discussed in section VII, Data Gathering) was conducted to acquire additional data on the performance of this technology. In addition, the Agency has been supplied with information on a membrane filtration technology and its application to treating oil and gas wastes, specifically by the use of ceramic membranes to treat produced water. Membrane filtration is more effective in removing constituents of wastewaters that are normally referred to as soluble and are more resistant to physical separation by filters. However, the three facility study showed significant removals of hydrocarbons from granular media filtration as well. Today's notice presents additional filtration performance data, both for granular and membrane filters, upon which regulatory options are based.

Granular media filtration involves the passage of water through a bed of filter media with resulting deposition of solids. The filter media can be single, dual, or multi-media beds. When the ability of the bed to remove suspended solids becomes impaired, cleaning through backwashing is necessary to restore operating head and effluent quality. In many cases, filters are operated in conjunction with chemical polymers which are added to increase removal efficiencies. There are a number of variations in filter design. These include (1) the direction of flow: down-flow, up-flow, or bi-flow; (2) types of filter beds: single, dual, or multi-media; (3) the driving force: gravity or pressure; and (4) the method of flowrate control: constant-rate or variable-declining-rate.

Filtration is widely used for produced water treatment prior to reinjection. The filters are used for the removal of suspended solids and are usually preceded by chemical pretreatment and/or oil removal treatment systems. EPA has investigated this technology, not only as a pretreatment to reinjection but as an add-on system to BPT prior to discharge.

During the three-facility filtration study, influent and effluent samples were taken from three granular media filtration units used as a means of pretreatment prior to reinjection. One of the facilities was an onshore operation in New Mexico, one was an offshore operation off of California, and the third facility was a California coastal production facility (gravel island) which treated and reinjected produced water.

The gravel island facility generated approximately 18,000 barrels per day of produced water to be treated. However, in order that there be sufficient water for reinjection purposes, approximately 5,000 barrels per day of fresh water were added to the produced water before filtration, requiring the filters to handle approximately 24,000 barrels per day. Prior to the addition of fresh water at the filtration step, skim tanks receive all the produced water from the oil field after the initial removal of oils from each group of production facilities. The skim tanks remove additional oil by gravity before treatment. The fresh water is then combined with the produced water along with chemicals consisting of a corrosion inhibitor, a coagulant, and a flocculent aid prior to the filters. These combined waters are pumped to three sand filters. Normally, two filters are operating in an upflow

direction while the third either is on standby or backwashing.

Operation of the other two facilities is somewhat similar except that the New Mexico facility does not employ gas flotation, and the offshore facility does not employ chemical addition prior to filtration and subsequent reinjection.

EPA statistically analyzed the data from this study to determine effluent levels achievable from granular-media filtration technology. Data from two of the three facilities were determined to reflect adequate treatment beyond BPT. The third facility had poor performance due to the absence of chemical addition prior to filtration.

Effluent limits for oil and grease, based on granular media filtration, are calculated from concentration data collected during the three facility study. The daily maximum of 29 mg/l is the estimated 99th percentile for daily composite samples. Each daily composite value is the average of chemical analytical results from 12 grab samples taken at two hour intervals throughout the day. The monthly average of 16 mg/l is the estimated 95th percentile for the average of four daily composite samples. For comparison purposes, effluent limitations on the same four grab sample per day basis as current BPT limitations are 32 mg/l as a daily maximum and 17 mg/l as a monthly average.

The use of membrane filters to treat produced water from oil and gas extraction activities is a relatively new application for this process. However, membrane technology has been applied in a number of industries for many years. Ceramic (membrane) filters are used to separate oil, bacteria, solids, and emulsified material from water in several industrial applications, including the dairy, beverage, and pharmaceutical industries. In the case of produced water, the waste stream is first chemically pretreated to produce discrete solids that flocculate a portion of the emulsified oil and suspended solids. The pretreated water is then passed through ceramic filters which consist of multichannel, cylindrical passages in a ceramic block and one or two layers of alumina ceramic material.

As the wastewater passes through the cylindrical passages, a portion of the wastewater moves though the ceramic material to the outside of the filter, leaving a relatively small volume of concentrated retenate behind. The retenate is recycled to the pretreatment process where a blowdown periodically occurs. The membranes may require periodic chemical cleaning to remove foulants, in addition to the operational back-pulsing which is used to continuously clean the passages in the ceramic block. The units are tolerant of high temperatures and pressures, and, due to their compact size, are suited for use on offshore oil and gas platforms.

At the present time, the Agency knows of one membrane unit operating in the Gulf of Mexico and three additional units under construction or in start-up phase in the Gulf of Mexico, Canada and the North Sea. The Agency has been supplied with information concerning the ceramic membrane filtration unit operating in the Gulf of Mexico and data from pilot scale tests conducted in Kansas, Alaska, California, Canada, the Gulf of Mexico, and the North Sea. Table 10 shows the results of some of these tests. The tests show that the performance of ceramic membrane technology is capable of giving a range of effluent values of oil and grease as low as 1 to 9 mg/l even when influent levels are much greater than the current BPT levels.

TABLE 10.—MEMBRANE SEPARATION PERFORMANCE: RANGE OF CONCENTRATION RESULTS BY GEOGRAPHIC LOCATION

| Location | Test scale | Character of feed | Oil and grease (mg/l) | | Total suspended solids (mg/l) | |
|---|---|---|---|---|---|---|
| | | | Infl. | Effl. | Infl. | Effl. |
| North Sea | Bench | Spiked raw produced water | 50,000 | 4 | N/A | N/A |
| Louisiana (onshore) | Pilot | Effluent from separator/chemical addition | 166–582 | <8.8 | N/A | N/A |
| Gulf of Mexico | Full-scale | Chemical addition/water precipitator | 27–108 | <5.0 | 100–290 | <1 |
| Gulf of Mexico | Pilot | Chemical addition/water precipitator/parallel plate coalescers. | 105–574 | 2–5 | 73–350 | <1 |

Membrane filtration may be utilized as add-on technology or as replacement equipment for present produced water treatment technologies and shows potential for more efficient removals of the organic compounds than the BPT technology and granular filtration technology.

The effluent limits based on membrane filtration were developed from data with an assumed detection limit (ASTM Gravimetric Method 4281) of 5.0 mg/l. Data obtained from performance tests of the membrane technology are reported lower than this limit (as low as 1 mg/l), but the Agency believes that it is not appropriate for technology based limitations to be set lower than the detection limit specified for the Agency approved oil and grease method. Hence, the Agency will consider 5.0 mg/l to be the long-term average oil and grease concentration. The daily maximum limitation of 13 mg/l and the monthly average of 7 mg/l are calculated using variability factors estimated from the three facility study of granular filtration. The variability factor for the daily maximum limitation is based on the 99th percentile for the distribution of daily oil and grease measurements where four grab samples are composited each day. The variability factor for the monthly average limitation is based on the 95th percentile for the average of four daily composite samples.

*c. Reinjection.* Reinjection technology for produced water typically consists of injecting it under pressure into subsurface strata or formations. Treatment of the waters prior to injection is usually necessary, and such treatment may include removal of oils and suspended matter by oil separation and filtration technology. The removal of suspended matter for injection is usually performed to prevent pressure build-up and plugging of the receiving formation or strata and/or protect injection pumps from damage. Biocides and corrosion inhibitors are typically added to the waters to minimize corrosion and scaling of injection equipment. Reinjection technology results in no discharge to surface waters, i.e., zero discharge.

Reinjection was considered in the 1985 proposal, both for all structures and for shallow water structures only. EPA, in its preferred option, chose reinjection for all shallow water structures except for gas wells, which were allowed to discharge according to the improved BPT performance option. Gas wells create considerably less discharge

volumes, and it was considered appropriate not to require zero discharge for these wells. Zero discharge was considered appropriate for shallow water wells (and not for deep water wells) because EPA found that shallow water structures can, and do, pipe produced water to shore because onshore treatment and reinjection is less costly than installing and operating individual on-platform systems.

As part of today's proposal, and in response to industry concerns about the feasibility of reinjection due to the formation characteristics, EPA evaluated the implementation of this technology for both existing and new platforms. The study showed that reinjection is generally technologically feasible in all offshore areas, i.e., suitable formations and conditions are available for disposal operations. However, specific locations may experience problems in being able to inject due to formation characteristics or proximity to seismically active areas.

EPA is evaluating options which are based on reinjection of produced water from shallow wells only, or from all producing structures regardless of location or water depth.

*d. Other Technologies.* In 1985, EPA also considered other technologies such as carbon adsorption and biological treatment for treatment of produced waters. Carbon adsorption was rejected from further investigation because the limited use of this technology does not give sufficient performance data to evaluate competitive adsorption phenomena. Biological treatment was rejected because of the severely difficult problems associated with biologically treating briny waters. Chemical precipitation was also considered but rejected because of operational problems and non-quantifiable reductions of priority pollutant metals levels.

The use of hydro-cyclones to treat produced water was also investigated in 1985. This process uses the kinetic energy of pumped produced water to spin it causing materials of different specific gravity to separate, in this case, oil and water. Theoretically, the higher the pressure that the units are operated, the higher the induced gravity and the greater the oil-water separation and contaminant removal. The units are relatively simple to operate and are suited for use on offshore platforms. Little maintenance is required except for unit or liner replacement due to wear. The removed oil can be combined with the platform oil production. Information on this technology at the present time demonstrated only that it was capable of meeting the BPT limits for oil and grease.

4. Deck Drainage, Domestic and Sanitary Wastes

The treatment technologies evaluated for deck drainage are the same as those for the produced water waste stream. No additional technologies beyond BPT and current permit requirements were considered for domestic and sanitary wastes. (However, control of foam is an additional requirement proposed for domestic wastes.)

5. Produced Sand

In addition to current permit requirements zero discharge has been evaluated for produced sand. This is considered feasible because, in most cases due to the small volumes, produced sands can be stored in barrels and barged onshore for disposal, especially in cases where barging is already necessary for other transport requirements.

6. Well Treatment, Completion and Workover Fluids

EPA is considering treatment options for zero discharge of all well treratment, completion, and workover fluids, zero discharge of a 100-barrel buffer on both sides of the fluids slug plus the slug itself or setting the limitation on these fluids equal to the BPT requirement prohibiting the discharge of free oil. For those fluids where a discrete slug does not resurface, the 100-barrel buffer option would not apply. Rather, the fluids would be treated along with the produced water.

## XI. Best Practicable Technology

EPA is not proposing to modify existing BPT limits in this rulemaking; however, the Agency is considering requiring the use of a static sheen test method for demonstrating compliance with the BPT as well as BAT, BCT, and NSPS "no free oil" requirement. This is discussed in section VII of today's notice.

## XII. Selection of Control and Treatment Options for BCT

### *A. Methodology*

The BCT level of control is based upon the requirement that limitations for conventional pollutants be assessed in light of "cost-reasonableness." The methodology for determining cost reasonableness was proposed by EPA on October 29, 1982 (47 FR 49176) and became effective on August 22, 1986 (51 FR 24974). These rules set forth a procedure which includes two tests to determine the reasonableness of costs incurred to comply with candidate BCT technology options.

BCT limitations for conventional pollutants more stringent than BPT are appropriate in instances where the cost of such limitations meet the following criteria:

1. The removal cost is less than the comparative cost for removal of conventional pollutants at a typical publicly owned treatment works (POTW); the POTW cost is $0.46 per pound (in 1986 dollars).

2. The ratio of the incremental BPT to BCT cost divided by the BPT cost for the industry must be less than 1.29; as such, the cost increase must be less than 129 percent.

These two criteria represent the two-part BCT cost test. Each of the regulatory options was analyzed according to this cost test to determine the appropriate BCT limitations for drilling fluids, drill cuttings, and produced water are appropriate. BOD was not used because it was not a parameter normally measured in wastewaters from this industry since it is associated with the oil content, e.g., oil and grease measurement. The use of BOD and oil and grease would result in double-counting, thus giving erroneous results. The differences between the various BCT options are explained below.

### *B. Drilling Fluids and Cuttings*

1. Options Considered

There are four options considered for drilling fluids and drill cuttings for BCT. One option is based on water depth, one option is based on well distance from shore, and two are applicable to all structures regardless of location or water depth. They are summarized in Table 11 as described below.

TABLE 11.—SUMMARY OF BCT DRILLING FLUIDS AND CUTTINGS OPTIONS

| Option | Applicability | Control level |
|---|---|---|
| BPT All Structures. | All structures..... | BPT.[1] |
| Zero Discharge Shallow; BPT Deep. | Shallow water structures. | Zero discharge. |
| | Deep water structures. | BPT.[1] |
| Zero Discharge Within 4 Miles; BPT Beyond.[2]. | <4 miles from shore. | Zero discharge. |
| | >4 miles from shore. | BPT.[1] |
| Zero Discharge All Structures. | All structures..... | Zero discharge. |

[1] BPT requirement of "no free oil" determined by static sheen test.

[2] Preferred option in today's notice. BPT would apply to all wells in Alaskan waters.

*BPT All Structures:* This option is equal to BPT as promulgated on April 13, 1979 (44 FR 22069) except the static sheen test would be used to determine free oil. This was the option proposed in 1985.

*Zero Discharge Shallow; BPT Deep:* This option distinguishes between offshore structures located in shallow water and those located in deep water. For offshore structures located in shallow water, there is a zero discharge requirement which is based on recycle/reuse of the drilling fluid portion of the drilling fluid system and/or transport (mostly by barging) to shore for treatment and for land disposal of the spent mud system and associated cuttings. For offshore structures located in deep water, discharge requirements are the same as for the "BPT All" option described above.

*Zero Discharge Within 4 Miles; BPT Beyond:* Zero discharge is required for wells drilled at a distance of 4 miles or less from shore. All structures drilled at a distance greater than 4 miles would be regulated by the "BPT All" discharge limitations option.

*Zero Discharge All Structures:* Zero discharge would apply to all offshore structures regardless of location or the depth of water in which they are located.

TSS and oil and grease are the only conventional parameters for which the BCT analysis was conducted for drilling wastes. BOD was not used because it was not a parameter normally measured in wastewaters from this industry since it is associated with the oil content, e.g., oil and grease measurement. The use of BOD and oil and grease would result in double-counting, thus giving erroneous results. The parameter of settleable solids was not included as a limitations option for consideration because both drilling fluids and drill cuttings are so high in total solids content, both settleable and suspended. The only option suitable for the control of suspended solids is zero discharge. In addition, EPA is not aware of any control technologies other than zero discharge that are specifically developed and operated for the removal of total suspended solids from drilling wastes. Rather, there are technologies that remove oils from drilling wastes. Therefore, the only BCT options more stringent than BPT that are considered are those involving zero discharge.

2. Alaskan Waters

Comments were submitted to EPA regarding specific situations in Alaskan waters (state and OCS waters off of Alaska) which make compliance with a zero discharge requirement based on barging and land disposal difficult. Reasons for this primarily relate to the severe weather conditions. Because of sea ice, tugs and barges can only be used for 4 months in the summer during open-water/broken ice season. In addition, winter snow and fog conditions restrict visibility. White-out conditions occur restricting air and water travel. For these reasons, the long distances required to barge to areas which may be suitable for land disposal, and the lack of current land disposal sites, EPA is proposing to exclude Alaskan waters from zero discharge based on barging (under any options).

However, zero discharge of drilling wastes may be attained by reinjection of the fluids and ground cuttings. EPA is aware that this is occurring at one location in Alaska on an experimental basis only. EPA solicits comments on the feasibility of requiring zero discharge based on reinjection, rather than barging of wastes to land for onshore disposal, for Alaska.

3. Options Selection

Cost for BPT for drilling fluids was calculated based on disposal of oil-based drilling fluids which had to be disposed onshore because they failed the sheen test. This is the only cost attributed to BPT. Since oil and grease related parameters (such as oil content) are normally measured in drilling wastes and not the oil and grease content, the pounds of oil content removed is used as a surrogate for oil and grease in the calculations. The following are annual costs and conventional pollutant removals for drilling fluids:

Cost: $13,895,000 (1986 dollars).
TSS Removal: 186,373,000 lb/yr.
Oil Removal: 7,862,000 lb/yr.
Total Conventional Pollutants Removal=194,235,000 lb/yr.

Thus, the BPT cost of conventional pollutant removal for drilling fluids is $0.0715 per pound.

The cost of each regulatory option for drilling fluids was determined by dividing the "Cost of Pollutant Removal" by the amount of TSS and oil removal achieved under the option. For example, the annual cost of removal for zero discharge for all structures is $235,984,000 (in 1986 dollars). Zero discharge achieves an incremental removal above BPT of 1.443 billion pounds of TSS and 10.0 million pounds of oil. The BCT (option) removal cost is $0.162 per pound. This is less than the comparable POTW benchmark removal cost ($0.46/lb in 1986 dollars); thus, the option passes the first test. The second test, the Industry Cost Ratio (ICR), is calculated as follows:

$$ICR = \frac{\text{BCT cost—BPT cost}}{\text{BTP cost—preBPT cost}} = \frac{\$/\text{lb BCT—}\$/\text{lb BPT}}{\$/\text{lb for BPT—}\$/\text{lb preBPT}}$$

$$ICR = \frac{.162—.0715}{.0715—0} = 1.27$$

The ICR is less than 1.29; thus, the option passes the second portion of the test. As such, BCT limitations based on the zero discharge regulatory option for drilling fluids pass both tests. Table 12 presents the results of the BCT cost tests for drilling fluids. All options pass both tests.

TABLE 12.—BCT COST TEST FOR DRILLING FLUIDS

| Option | Cost ($/yr) | Removal (lb/yr) | Removal Cost ($/lb) | POTW Test (must be <0.46) (Pass/Fail) | ICR | ICR Test (must be <1.29) (Pass/Fail) |
|---|---|---|---|---|---|---|
| Zero Discharge Shallow; BPT Deep | 68,387,200 | 421,073,000 | 0.162 | Pass | 1.27 | Pass. |
| Zero Discharge All | 236,984,000 | 1,453,000,000 | 0.162 | Pass | 1.27 | Pass. |
| 4 Mile Zero Discharge; BPT Beyond | 36,601,600 | 225,360,000 | 0.162 | Pass | 1.27 | Pass. |

Costs expressed in 1986 dollars.
ICR: Industry Cost Ratio

For the various drill cuttings options, the cost and conventional pollutant removals for BPT were calculated based on the disposal of cuttings from oil based muds which required disposal onshore because they failed the sheen test. The following are the annual costs and pollutant removals:

Cost—$4,852,000.
TSS Removal—51,221,000 lb/yr.
Oil Removal—7,122,000 lb/yr.
Total Conventional Pollutants Removal=58,343,000 lb/yr.

The BPT cost per pound of conventional pollutant removal for drill cuttings is $0.083 per pound.

The BCT cost test procedure was then applied to the drill cutting wastes, and a summary of the results is shown in Table 13. Each of the options evaluated passes both test criteria.

TABLE 13.—BCT COST TEST FOR DRILL CUTTINGS

| Option | Cost ($/yr) | Removal (lb/yr) | Removal Cost ($/lb) | POTW Test Must be <0.46) (Pass/Fail) | ICR | ICR Test (Must be <1.29) (Pass/Fail) |
|---|---|---|---|---|---|---|
| Zero Discharge Shallow; BPT Deep | 20,924,714 | 222,909,571 | 0.094 | Pass | 0.95 | Pass. |
| Zero Discharge All | 72,205,000 | 769,195,000 | 0.094 | Pass | 0.95 | Pass. |
| 4 Mile Zero Discharge; BPT Beyond | 11,199,143 | 119,303,714 | 0.094 | Pass | 0.95 | Pass |

Costs expressed in 1986 dollars.
ICR: Industry Cost Ratio

Zero discharge for all structures was determined to be available and technologically feasible technology and it passes the BCT cost test. Upon detailed evaluation, however, certain non-water quality environmental impacts incident to ship transportation and barging surfaced as significant concerns. As a result of these concerns, "Zero Discharge All Structures" is not being proposed as the preferred option for BCT control of drilling fluids and drill cuttings; instead, EPA is proposing as preferred the "4 Mile Zero Discharge; BPT Beyond" option.

Section 304(b)(4)(B) of the Clean Water Act requires EPA to take into account a variety of factors, in addition to the foregoing BCT cost test, in establishing BCT limitations. These additional factors include "non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate." EPA conducted an investigation into both the impacts of barging and the availability of land for drilling waste disposal (see section XVIII). These non-water quality environmental impacts and energy requirements and their effect on the selection of EPA's preferred options for control of drilling fluids and drill cuttings covering existing sources and new sources are summarized here; however, they are discussed in greater detail in section XIV and section XVIII.

While EPA's study of non-water quality environmental impacts estimated that sufficient land disposal facility capacity is, or would be, available to support a zero discharge requirement applicable to existing sources and new sources, EPA is concerned about the use of the large amount of land that would be required for this purpose. In addition, EPA is currently conducting a study under the Resource Conservation and Recovery Act (RCRA) of wastes associated with oil and gas activities to determine whether additional, more stringent requirements are necessary for the treatment and disposal of such wastes. The outcome of this effort might have a significant effect on the future available capacity and/or cost of land disposal for drilling fluids and drill cuttings.

The evaluation of barging requirements also estimated the air emissions from fuel consumption that would be necessary for transport of the fluids and cuttings to shore from existing sources and new sources as a result of a zero discharge requirement applicable to all sources. These estimates were unexpectedly high in air emissions and fuel use in comparison with the other options (See section XVIII). Thus, while zero discharge is technologically feasible and passes the BCT cost test, other options were explored which allowed discharges for certain portions of the industry in order to minimize these impacts.

EPA has selected the "4 Mile Zero Discharge; BPT Beyond" option as its preferred option for BCT effluent limitations for drilling fluids and cuttings. This option proposes zero discharge based on barging and land disposal for new wells drilled on existing structures at a distance from the inner boundary of the territorial seas (shore) of 4 miles or less. New wells drilled on existing structures at a distance greater than 4 miles would be allowed to discharge after meeting BPT requirements using the static sheen test. However, for BCT in the Alaska region, BCT would be set equal to BPT for new wells because, as previously discussed, the special climate and safety conditions that exist for parts of the year make barging especially difficult and hazardous, the lack of current disposal sites, and the long distance that barging would have to occur over.

The "4 Mile Zero Discharge; BPT Beyond" option, when compared to the zero discharge option for all drilling fluids and drill cuttings, substantially reduces the amount of material requiring land disposal. Increases in both air emissions and fuel use are also substantially less. See section XIV. EPA believes the non-water quality environmental impacts associated with the "4 Mile Zero Discharge; BPT Beyond" option, in conjunction with those associated with the BAT/NSPS preferred option for control of drilling fluids and drill cuttings, are reasonable.

See sections XV, XVI, XVII, and XVIII of today's notice for detailed discussions of non-water quality environmental impacts, costs, and economic impacts.

*C. Produced Water*

1. Options Considered

Seven options were considered by EPA for the regulation of produced water for BCT. Three options are based on water depth, one option on platform distance from the shore, and three options apply to all platforms regardless of location or water depth. Table 14 summarizes the options.

TABLE 14.—SUMMARY OF BCT PRODUCED WATER OPTIONS

| Option | Applicability | Control level |
|---|---|---|
| BPT All Structures [1] | All structures | BPT. |
| Filter and Discharge Within Four Miles; BPT Beyond | ≤ 4 Miles from shore | Filter and discharge.[2] |
| | ≤ 4 miles from shore | BPT. |
| Filter and Discharge Shallow; BPT Deep | Shallow water structures | Filter and discharge.[2] |
| | Deep water structures | BPT. |
| Filter and Discharge All Structures | All structures | Filter and discharge.[2] |
| Zero Discharge Shallow; BPT Deep | Shallow water structures | Zero discharge. |
| | Deep water structures | BPT. |
| Zero Discharge Shallow; Filter Deep | Shallow water structures | Zero discharge. |
| | Deep water structures | Filter and discharge.[2] |
| Zero Discharge All Structures | All structures | Zero discharge. |

[1] Perferred option in today's notice.
[2] Discharge limits for "Filter and Discharge" options are being considered based on membrane and granular filtration. Within these options, EPA prefers filtration limits for oil and grease of 13 mg/l daily maximum and 7 mg/l monthly average, based on membrane filtration. The granular filtration discharge limits for oil and grease that are being considered are 29 mg/l daily maximum and 16 mg/l monthly average.

The manner of control involves various combinations of treatment and discharge and/or zero discharge. The treatment and discharge technologies considered in the options described below involve either BPT, filtration, or reinjection. The limits associated with these technologies are for oil and grease.

*Filter and Discharge Shallow; BPT Deep:* This option distringuishes between those offshore structures that are located in shallow water and those located in deep water. The offshore structures located in shallow water would have requirements based on the use of filtration (granular media or membrane separation) technology as an add-on to the existing BPT technology (dissolved gas flotation). The 1985 proposal contained a produced water filtration option; however, new data have been collected for both types of filtration—granular and membrane separation—since then, and the proposed limits would be based on the new data. Two sets of limits are considered in this option; however, EPA is identifying the set based on membrane filtration as preferred. For offshore structures that are located in deep water BCT would be set equal to BPT. Better operation of the BPT technology was not selected as preferred because of the problems with the original performance analysis as discussed previously.

*Zero Discharge Shallow; BPT Deep:* This option also makes a distinction between those structures located in shallow water and those in deep water. Under this option, the offshore structures located in shallow water would be subject to a zero discharge requirement based on reinjection of the produced water. The reinjection system would include oil flotation and gas separation technology (BPT level control), filtration, and an injection well system. For offshore structures located in deep water, BCT would be set equal to BPT.

*Filter and Discharge All Structures:* All structures, regardless of the water depth or distance from shore at which they are located, would be required to meet limits based on filtration of the produced water prior to discharge. Two sets of limits are considered; however, the limits based on membrane filtration are preferred.

*Zero Discharge Shallow; Filter Deep:* This option would require offshore structures located in shallow water to meet a zero discharge requirement for the produced water waste stream, while those structures located in deep water would be required to meet discharge limits based on membrane filtration.

*Zero Discharge All Structures:* This option would require all structures to meet a zero discharge requirement based on reinjection of the produced water.

*Filter and Discharge Within 4 Miles; BPT Beyond:* Structures located at a distance of 4 miles or less from shore would be required to meet discharge limits based on membrane filtration. Structures located at distances greater than 4 miles from shore would be required to meet the existing BPT limitations only. Other distances, specifically 3, 6, and 8 miles from shore were being considered and are being evaluated for suitability with respect to minimizing non-water-quality impacts.

*BPT All Structures:* EPA has included as an option setting BCT equal to BPT. By doing so, EPA is not ruling out the possibility that, based on the fluctuating economic stability of the oil market, nature of control technology, costs and pollutant removals, compliance with stricter standards may be unachievable.

2. Options Selection

All options considered for BCT regulation were evaluated according to the BCT cost tests. The pollutant parameters used in this analysis were TSS and oil and grease. All options (except the "BPT All Structures" option) fail the BCT cost test. The range of results for the first (POTW comparison) test is $3.47 to $3.71 per pound of conventional pollutant removed. Thus, EPA is proposing BCT equal to BPT for produced waters. This proposal is the same as that proposed in 1985.

*D. Deck Drainage*

BPT limitations for deck drainage are for no discharge of "free oil." Typical BPT technology for compliance with this limitation is a "skim pile" which facilitates gravity separation of any floating oil prior to discharge of the deck drainage.

EPA's preliminary cost estimates for BCT for deck drainage concluded that the cost to provide treatment capacity for deck drainage (which included dissolved air floatation/filtration) would be considerably more expensive than the cost for BPT treatment. BPT treatment consists of a skim pile and the annual cost to operate a skim pile is on the order of a few pennies per thousand gallons. The cost to operate a filtration unit is $3.36 per thousand gallons and this does not include the operating cost of the dissolved air flotation portion of the treatment unit. As the second cost test for BCT limits the incremental cost to 129 percent of the BPT cost, this option would doubtlessly fail this test.

If the filtration/reinjection option were employed, the costs and conventional pollutant removals would only increase compared to the filtration/discharge option. The conclusions reached above for filtration/discharge option regarding the second cost test would also hold for the reinjection option. As the second test limits the incremental cost to 129 percent of the BPT cost, the option fails this test also.

Thus, EPA is proposing BCT equal to BPT for deck drainage. This is the same as that proposed in 1985.

*E. Produced Sand*

BPT limitations for produced sand have not previously been promulgated, however, the current permit requirement for produced sand is no discharge of free oil. EPA has not performed a BCT cost analysis on this option, because it is assumed no incremental costs will be incurred since the limitation is currently in effect. Therefore, BCT for produced sand is being proposed as equal to no discharge of free oil.

*F. Well Treatment, Completion and Workover Fluids*

EPA is not changing the 1985 proposal which set BCT equal to BPT for treatment fluids. No additional cost tests have been performed, however, due to a lack of sufficient data on TSS concentration, both in treated and untreated wastes.

*G. Sanitary and Domestic Wastes*

Sanitary wastes are human body wastes from toilets and urinals. BPT requirements for discharge are for a minimum free chlorine content residual exceeding 1 mg/l and maintained as close to this concentration as possible.

Domestic wastes result from laundries, galleys and sinks. Current permits require that the discharge of domestic wastes does not result in floating solids. Treatment using macerators is usually sufficient to ensure that the discharge complies with permit requirements.

Given the high cost of offshore operations, it would probably be less costly to transport these wastes to shore than to install a treatment unit. No cost data are available on transport costs for shipment to shore. As muds/cuttings can be transported to shore and disposed of for $36 to $51 a barrel, onshore disposal of sanitary wastes should be less costly by an amount equal to the fee charged by the onshore disposal facility. This cost equals $7 to $10 per barrel. Using the low cost of $26 per barrel and average BOD and TSS levels reported earlier, the cost is $67 per pound of conventional pollutants in the domestic/sanitary waste. Obviously, this greatly exceeds the POTW cost of $0.46 per pound and requiring transfer to shore would not be justified.

Possibly, some on-platform treatment process could achieve a lower cost per pound of conventional pollutant removal than onshore disposal, but it is highly unlikely that it could compete with a POTW (which is designed to achieve the same result on a massive scale) in terms of operational cost. Thus, EPA is not changing the 1985 BCT proposal for sanitary and domestic waste.

## XIII. Selection of Options for BAT

*A. Drilling Fluids and Drill Cuttings*

1. Options Considered

Seven options are being considered for BAT control of drilling fluids and drill cuttings. Below is a discussion of all of the options with particular emphasis on regulation of toxic pollutants. Table 15 summarizes these options.

TABLE 15.—SUMMARY OF BAT/NSPS DRILLING FLUIDS AND CUTTINGS OPTIONS

| Option | Applicability | Control level |
|---|---|---|
| 5/3 all structures | All structures | ● Toxicity ≥ 30,000 ppm (SPP).<br>● No diesel oil discharge.<br>● No free oil discharge.[1]<br>● 3 mg/kg mercury, 5 mg/kg cadmium, both in stock barite. |
| 1/1 all structures | All structures | ● Toxicity ≥ 30,000 ppm (SPP).<br>● No diesel oil discharge.<br>● No free oil discharge.[1]<br>● 1 mg/kg mercury, 1 mg/kg cadmium, in the whole drilling fluid. |
| Zero discharge shallow; 5/3 deep | Shallow water structures | Zero discharge. |
| | Deep water structures | Discharge limits for "5/3 All Structures". |
| Zero discharge shallow; 1/1 deep | Shallow water structures | Zero discharge. |
| | Deep water structures | Discharge limits for "1/1 All Structures". |
| Zero discharge all structures | All structures | Zero discharge. |
| Zero discharge within 4 miles; 5/3 beyond | ≤ 4 miles from shore | Zero discharge. |
| | > 4 miles | Discharge limits for "5/3 All Structures". |
| Zero discharge within 4 miles; 1/1 beyond[2] | ≤ 4 miles from shore | Zero discharge. |
| | > 4 miles | Discharge limits for "1/1 All Structures". |

[1] Determined by static sheen test.
[2] Preferred option in today's notice.
SPP: Suspended Particulate Phase.

*5/3 All Structures:* This option includes four requirements: (1) Toxicity limitation set at 30,000 ppm in the suspended particulate phase; (2) a prohibition on the discharge of diesel oil used either for lubricity or spotting purposes; (3) no discharge of free oil based on the static sheen test; and (4) limitations for cadmium and mercury set in the stock barite at 5 mg/kg and 3 mg/kg, respectively. These requirements are to be met by all offshore structures regardless of the depth of the water in which they are located.

The discharge prohibitions on diesel oil and free oil will serve as "indicators" of toxic pollutants. The discharge of diesel oil, either as a component in an oil-based drilling fluid or as an additive to a water-based drilling fluid, would be prohibited under this option. Diesel oil would be regulated at the BAT level because it contains such toxic organic pollutants as benzene, toluene, ethylbenzene, napthalene, and phenanthrene. The method of compliance with this prohibition is to use mineral oil instead of diesel oil for lubricity and spotting purposes or barge to shore for recovery of the oil, reconditioning of the drilling fluid for reuse and land disposal of the drill cuttings. EPA believes that in most cases substitution of mineral oil will be the method of compliance with the diesel oil discharge prohibition. Mineral oil is a less toxic alternative to diesel oil and is available to serve the same operational requirements. Low toxicity mineral oils are also available as substitutes for diesel oil and continue to be developed for use in drilling fluids.

Free oil is proposed to be used as an "indicator" pollutant for control of priority pollutants also, including benzene, toluene, ethylbenzene, and naphthalene.

The toxicity limitation is the same as that proposed in 1985. The purpose of the toxicity limitation for any drilling fluids which are to be discharged is to encourage the use of generic or water-based drilling fluids and the use of low-toxicity drilling fluid additives. The basis for the toxicity (LC50) limitation, as discussed in the 1985 proposal, is the toxicity of the most toxic of the generic fluids.

The Agency has considered the costs of product substitution and finds them to be acceptable for this industry, resulting in no barrier to future entry. (51 FR 29600–09 and 53 FR 37849–50, Draft Beaufort Sea and Beaufort/Chukchi Seas General Permits.) Where the toxicity of the spent drilling fluids and cuttings exceeds the LC50 toxicity limitation, the method of compliance with this option would be to transport the spent fluid system to shore for either reconditioning for reuse or land disposal.

The toxicity limitation would apply to any periodic blow-down of drilling fluid as well as to bulk discharges of drilling fluids and cuttings systems. The term "drilling fluid systems" refers to the major types of materials (muds) used during the drilling of a single well. As an example, the drilling of a particular well may use a spud mud for the first 200 feet, a seawater gel mud to a depth of 1,000 feet, a lightly treated lignosulfonate mud to 5,000 feet, and finally a freshwater lignosulfonate mud system to a bottom hole depth of 15,000 feet. Typically, bulk discharges of spent drilling fluids occur when such systems are changed during the drilling of a well or at the completion of a well.

For the purpose of self monitoring and reporting requirements in NPDES permits, it is intended that only samples of the spent drilling fluid system discharges be analyzed in accordance with the proposed bioassay method. These bulk discharges are the highest volume mud discharges and will contain all the specialty additives included in each mud system. Thus, spent drilling fluid system discharges are the most appropriate discharges for which compliance with the toxicity limitation should be demonstrated. In the above example, four such determinations would be necessary.

For determining the toxicity of the bulk discharge of mud used at maximum well depth, samples may be obtained at any time after 80 percent of actual well footage (not total vertical depth) has been drilled and up to and including the time of discharge. This would allow time for a sample to be collected and analyzed by bioassay and for the operator to evaluate the bioassay results so that the operator will have adequate time to plan for the final disposition of the spent drilling fluid system, e.g., if the bioassay test is failed, the operator could then anticipate and plan for transport of the spent drilling fluid system to shore in order to comply with the effluent limitation. However, the operator is not precluded from discharging a spent mud system prior to receiving analytical results. Nonetheless, the operator would be subject to compliance with the effluent limitations regardless of when self monitoring analyses are performed. The prohibition on discharges of free oil and diesel oil would apply to all discharges of drilling fluid at any time.

Cadmium and mercury would be regulated at a level of 5 and 3 mg/kg, respectively, in the stock barite. This is not an effluent limit to be measured at the point of discharge but a standard pertaining to the barite used in the drilling fluid compositions. These two toxic metals would be regulated to control the metals content of the barite component of any drilling fluid discharges. Compliance with this requirement would involve use of barite from sources that either do not contain these metals or contain the metals at levels below the limitation.

*1/1 All Structures:* This option also includes four requirements: (1) The same toxicity limitation as above; (2) the same discharge prohibition on diesel oil as above; (3) the same prohibition on the discharge of free oil as above; and (4) limitations for cadmium and mercury in the drilling fluids and cuttings at 1 mg/kg each at the point of discharge. The cadmium and mercury limits are based upon the use of "clean" stock barite which has been costed for use by the industry. Previous comments have stated that the availability of barite stocks containing low levels of trace metals could be limited at any given time due to market conditions. However, EPA investigated the availability of "clean barite" needed to meet the 1/1 mg/kg limitations for cadmium and mercury and estimates that sufficient sources of such barite do exist and can be directed to offshore drilling use in those cases where an operator would be able to discharge drilling fluids based on meeting the other requirements of this option. The requirements in this option are to be met by all existing offshore structures drilling new wells regardless of the depth of the water in which they are located or distance from shore.

*Zero Discharge Shallow; 5/3 Deep:* This option distinguishes between offshore structures located in shallow water and those located in deep water. For offshore structures located in shallow water, there is a zero discharge requirement which is the same as that portion of the "Zero Discharge Shallow; BPT Deep" option for BCT described in section XII, and is based on recycle/reuse of the drilling fluid portion of the drilling fluid system and/or transport (mostly by barging) of drill cuttings (with residual drilling fluid) to shore for treatment and/or land disposal. For offshore structures located in deep water, the requirements are the same as the first option.

*Zero Discharge Shallow; 1/1 Deep:* This option also makes a distinction between offshore structures located in shallow water and those in deep water. It is the same as the "Zero Discharge Shallow; 5/3 Deep" option except that the cadmium and mercury requirements are 1 mg/kg each of these limitations apply to the drilling fluid and drill cuttings at the point of discharge.

*4 Mile Zero Discharge; 5/3 Beyond:* Zero discharge is required for wells drilled at a distance of 4 miles or less from shore, the same as discussed for the BCT option identifying 4 miles as a delineation for zero discharge based on minimizing non-water quality environmental impacts. All new wells (on existing structures) drilled at a distance greater than 4 miles would be regulated by the same limitations included in the "5/3 All Structures" option.

*4 Mile Zero Discharge; 1/1 Beyond:* Same as "4 Mile Zero Discharge" discussed above for wells drilled 4 miles or less from shore and for wells drilled at a distance greater than 4 miles the limitations are the same as the "1/1 All" option. This option provides for more additional control on the toxic pollutants cadmium and mercury in the drilling fluids and drill cuttings at the point of discharge.

*Zero Discharge All Structures:* Zero discharge would apply to all offshore structures regardless of the depth of water in which they are located. This option is similar to the "Zero Discharge All" option considered for BCT limitations. The only difference is that the BCT option is considered for control of conventional pollutants, while the BAT option focuses on the control of toxic and nonconventional pollutants.

2. Options Selection

EPA has selected the "4 Mile Zero Discharge; 1/1 Beyond" option as its preferred option for effluent limitations

for drilling fluids and drill cuttings based on the same consideration of non-water quality environmental impacts that are summarized in section XII describing the BCT options selection. These impacts are discussed further in section XIV and section XVIII of today's notice. This option proposes zero discharge based on barging and land disposal for new wells drilled from existing structures at a distance from shore of 4 miles or less. New wells drilled from existing structures at a distance of greater than 4 miles would be allowed to discharge after meeting requirements for toxicity, cadmium and mercury at 1/1/ mg/kg respectively, no static sheen, and no discharge of diesel oil. However, for the Alaska region, new and existing wells would be covered by the "1/1 All Structures" option, because the special climate and safety conditions that exist for parts of the year make barging especially difficult and hazardous, the lack of disposal sites and the long barging distances necessary to get to suitable land disposal sites.

EPA is proposing, for the wells drilled at a distance greater than 4 miles, the 1 mg/kg cadmium and 1 mg/kg mercury limitations at the point of discharge instead of the 5 mg/kg cadmium and 3 mg/kg mercury limitations in the stock barite because (a) EPA believes it more appropriate to develop effluent standards based on point source discharge limitations than on the regulation of only one raw material component of the discharge (barite in this case); and (b) it represents control at the BAT level based on the evaluation of cadmium and mercury discharge monitoring report (DMR) data reporting concentrations of these metals in drilling fluids and drill cuttings that demonstrate the ability of the industry to meet these limits. These data represent compliance information reported from facilities located offshore in the Pacific Ocean and Gulf of Mexico and covered by several levels of concentration limitations depending upon the individual (facility or general) permit requirements. Evaluation of the DMR data showed that even though industry was operating under less stringent metals limits than the 1/1 mg/kg cadmium/mercury limits being proposed today, discharges would have been in compliance with the 1/1 mg/kg requirement for the four cases where the NPDES permits established a 2/1 mg/kg cadmium/mercury requirement, and 67 percent of the time for operators under a 3/1 mg/kg cadmium/mercury requirement, and even 16 percent of the time in the Gulf of Mexico, where there are currently no cadmium/mercury requirements.

However, EPA is still considering, for this option and other options presented in today's proposal, a 3 mg/kg cadmium and 1 mg/kg mercury limitation in the barite based on the continuing evaluation of the availability of barite required to meet the limitations. The influence of underground formation characteristics on the level of cadmium and mercury in drill cutting and recycled drilling fluids will also be considered.

In addition to noncompliance with the cadmium and mercury limitations attributable to the use of barite with high metals content, commenters responding to the 1985 and 1988 proposal notices have stated that the presence of cadmium in the formation itself could cause noncompliance with limitations applied at the drilling waste discharge point. In response to this comment, EPA has analyzed data from the American Petroleum Institute's Fifteen Rig Study. In this study, operators of 14 rigs volunteered to collect matched sets of measurements. Each rig collected a sample of drill cuttings, a sample of used drilling fluids, and a sample of barite that was present at the time the first two samples were taken. Splits or duplicates of these samples were analyzed by labs associated with the Agency. Results of statistical analysis indicate that some cadmium present in the drilling fluids came from a source other than the barite. In particular, physical analyses by the industry lab indicate that 11 out of 14 rigs had higher cadmium concentrations in their drilling fluid than in their barite. Physical analyses by the Agency lab indicate that 13 out of the 13 rigs for which the Agency lab reported results, had higher cadmium concentrations in their drilling fluid than in their barite. These results suggest that cadmium, from a source other than barite, is contaminating the drilling fluid.

This conclusion is based on the assumption that metals are uniformly distributed throughout the barite present at a single rig and throughout the drilling fluids used on that rig. The Agency requests information as to the appropriateness of this assumption and its requests information on what additional sources of cadmium may affect drilling fluids.

The annualized cost for this option and its cost-effectiveness are $29.5 million and $22 per pound-equivalent, respectively. Two of the other distance options evaluated (6 and 8 miles), as well as the shallow/deep option, are not as attractive because they do not appreciably reduce the non-water quality impacts compared to the 4 mile option. The 3 mile option was not fully evaluated due to the lack of data on existing structure locations.

EPA solicits comments on the "4 Mile Zero Discharge; 1/1 Beyond" option and the other options as well. EPA especially invites comment on the appropriateness of the "5/3 All Structures" and "1/1 All Structures" discharge options and also on the "Zero Discharge All Structures" option.

See sections XV, XVI, XVII, and XVIII for detailed discussions of non-water quality environmental impacts, costs, economic, and environmental impacts.

*B. Produced Water*

1. Options Considered

The options considered for produced water under BAT are the same as those discussed previously for BCT. The only difference is that while BCT options are intended to control the conventional pollutants, BAT options focus on the control of toxic and nonconventional pollutants. Oil and grease remains the only regulated pollutant. It is being limited under BAT as an indicator pollutant controlling the discharge of toxic pollutants (see section IX).

2. Options Selection

EPA has selected for BAT proposal and "Filter within 4 miles; BPT Beyond" option as its preferred option. This option requires all existing production structures located at a distance of 4 miles or less from shore to meet discharge limitations based on membrane filtration, and all existing production structures located at a distance greater than 4 miles from shore to meet the current BPT limitations. EPA has determined this option to be economically and technically feasible.

Membrane filtration is being used as the technology basis for the proposed limits on produced water BAT since it is a demonstrated technology, the EPA has acquired sufficient data to develop effluent limits of 13 mg/1 for daily maximum with a composite sample and 7 mg/1 for the maximum monthly average. Although not yet in widespread use in the oil and gas industry, membrane filtration is a commercially demonstrated technology in several other industries and is considered to be applicable to oil and gas effluents, as shown by extensive pilot scale tests and movement toward commercial application of this technology to treat produced water. To obtain additional full-scale data other than oil and grease results, studies are planned to obtain performance information from these

treatment systems with respect to specific toxic and nonconventional pollutants. Such data will be used to further assess the potential for developing limitations based on membrane technology and its availability will be noticed in the **Federal Register** if appropriate. EPA solicits any information available on membrane filtration technology and its performance regarding the treatability of oil and gas produced waters.

Another set of limitations (29 mg/1 for daily maximum with a composite sample and 16 mg/1 for maximum monthly average) was considered based on performance of the granular filtration technology. Granular filtration is being used in the oil and gas industry. However, EPA chose to propose produced water limitations as its preferred option based on membrane filtration due to its better performance and projected lower cost relative to granular filtration systems. EPA solicits information concerning the relative technical efficiency and cost of these alternative treatment systems. Should membrane filtration ultimately prove to be insufficiently demonstrated to serve as the basis for produced water treatment, EPA will base the limitations on alternative technologies giving strong consideration to BPT as the basis for BAT since the costs of alternative technologies are high.

EPA did not select the most stringent option, zero discharge based on reinjection, for three reasons. First, there are questions concerning the applicability of reinjection to all structures. Although reinjection may be technically feasible in general, depending on geological conditions, specific structures would not be able to reinject. Second, the air emissions and fuel use associated with the large pumps necessary to reinject fluids are unacceptably high. Finally, reinjection for all production structures would result in a 4.9 percent (13 million BOE/year) production loss in barrels of oil equivalent (BOE). This loss of production is not merely a cost concern. Loss of production has independent significance in light of the statutory directive that EPA consider energy impacts in establishing effluent limitations and new source performance standards under the Clean Water Act.

EPA did not select the "Filtration All" option as preferred because of the potential adverse effects on oil and gas production (approximately 3 million BOE per year based on membrane filtration).

The other options considered would require filtration for near-shore wells but BPT controls for wells farther offshore; these options use water depth and distance from shore as alternative means of reducing the loss of oil and gas production. EPA selected the 4 mile distance in order to minimize the loss of oil and gas production resulting from controls on produced water and because it is consistent with the 4 mile distance used in the preferred options for control of drilling fluids and drill cuttings. This option also has the lowest associated fuel requirements and air emissions of any of the options considered.

Reinjection does eliminate potential discharge of radionuclides, particularly radium-226 and -228. These radionuclides have been measured at elevated levels (as high as several thousand picoCuries per liter) in produced water discharges on coastal and near-shore areas in the Gulf of Mexico. EPA is concerned about the possible effects of radium in produced water discharges on human health and the environment. Options involving zero discharge based on reinjection will receive further consideration as more data on radionuclides are obtained.

The "Filtration All" option is also being given consideration as the basis for BAT for promulgation, since the potential effect of this option on offshore production is a very small percentage of the total of present value of offshore production at existing structures (1.1 percent assuming membrane filtration is installed).

EPA solicits comment on the viability and appropriateness of the other options for produced water, especially with respect to the "Filtration All Structures", "BPT All Structures" and "Zero Discharge" options.

See sections XV, XVI, XVII, and XVIII of today's notice for further discussion of costs, environmental assessment, and economic and non-water quality environmental impacts for these options.

*C. Deck Drainage*

Deck drainage consists of platform and equipment runoff due to storm events and wastewater as a result of platform and equipment washdown/cleaning practices. Options being considered as a basis for BAT for this waste stream are either to establish the requirement equal to the current BPT limits of no discharge of free oil (with compliance measured by the static sheen test) or to require the same standards as those selected for the produced water waste stream. In many instances the deck drainage waste stream has similar pollutant characteristics as produced water and is commingled, and therefore treated, with the produced water waste stream. Due to the similarity and commingling of waste streams, the same BAT options, in addition to current BPT as an option, presented for the produced water waste stream are considered for the deck drainage waste stream.

The volumes of deck drainage are minimal compared to the volumes of produced water and the deck drainage waste stream is not a continuous flow waste stream. Thus, the capacity of the produced water treatment system would not have to be increased to accommodate the deck drainage volumes so it is expected that no additional costs would be incurred. As described later in section XV, Revised Technologies Costs and Assumptions, and in section XIX, Solicitation of Comments, two sets of costs for produced water treatment were developed and evaluated for economic achievability. Even the higher costs, which include geographic factors based on Alaska construction and operation considerations and platform structural additions at every location for the installation of the filtration units, did not significantly change the economic achievability. In the case of the models used to cost produced water treatment systems, EPA believes the normal safety margins included in costing these systems will accommodate the minimal costs that may be associated with intermittent treatment for deck drainage. Thus, the economic impact analysis for produced water is considered to include the necessary deck drainage volumes for treatment to comply with the options considered. No separate evaluations have been conducted for the economic analyses of the options for deck drainage.

EPA has selected as its preferred option for effluent limitations for deck drainage the produced water discharge option based on filtration for facilities at 4 miles and less from shore and the BPT produced water oil and grease limitations for facilities greater than 4 miles from shore. This is because deck drainage is similar in pollutant characteristics and can be commingled and treated with produced water.

There are, however, certain situations where effluent limitations based on filtration may not be appropriate for deck drainage. For example, deck drainage occurs on drilling platforms where a production well may not exist; therefore, the produced water treatment may not be in place either. Thus, EPA is proposing that the produced water "Filter 4 Mile Within; BPT Deep" option be applicable to deck drainage during the production phase of the oil and gas extraction operation only, and at earlier

stages, the BPT limits on free oil will apply.

*D. Produced Sand*

Produced sand consists of sand and other particulate material from the producing formation and production piping, which comes to the surface along with the crude oil and/or gas and produced water and is separated by the produced water desander (settling/screening device) and treatment system. This waste stream could also include sludges generated by any chemical polymer use in the filtration portion (or other portions) of the produced water treatment system. There are two options being considered for this waste stream: (1) Establish the requirement equal to the current permit limits of no discharge of free oil or (2) require zero discharge by barging and treatment/disposal onshore. The technology basis for the options limiting free oil is a water or solvent wash of produced sands prior to discharge. The method of determining compliance with the free oil prohibition is by the static sheen test discussed earlier.

The prohibition on the discharge of free oil or the zero discharge requirement for produced sand would act to reduce or eliminate the discharge of any toxic pollutants in the free oil to surface waters. Becasue this waste stream is of low volume and because most facilities currently practice either washing or land disposal to meet the free oil limitation, the Agency did not attribute any compliance costs to this proposed option except for nominal compliance monitoring expenses to perform the static sheen test to determine the presence of free oil.

The zero discharge option would also impose nominal impacts because the volume of sand in most locations would be minimal and would be barged to shore infrequently and as part of the barging of other materials for disposal.

The option selected for proposal is zero discharge for all facilities based on the minimal volume of waste zero discharge represents the best technology which is both economically and technically feasible. However, zero discharge for structures 4 miles or less from shore and the free oil limitation options are still being considered as a basis for the final rule if information is made available to show that the volumes of produced sand are significantly higher than EPA raw estimates.

*E. Well Treatment, Completion and Workover Fluids*

Well treatment, completion and workover fluids either stay in the hole, resurface as a concentrated volume (slug), or are dispersed with the produced water. There are three options being considered for these wastes: (1) Establish the requirements equal to the current BPT limit of no discharge of free oil; (2) require zero discharge of any concentrated slug of fluids along with a 100-barrel buffer on either side of the fluids slug; or (3) meet the same requirements as produced water (based on filtration, reinjection, or current produced water BPT).

The prohibition on the discharge of free oil and the zero discharge (reinjection along with produced water) requirement are both intended to reduce or eliminate the discharge of toxic pollutants. The method of compliance with the free oil prohibition would be the static sheen test.

The zero discharge of the fluids slug would require capturing 100-barrel buffers on both sides of the slug, plus the slug, and barging it to shore for land disposal. For those fluids that cannot be segregated from the produced water waste stream, the produced water limitations would apply.

For cases where the fluids resurface as a discrete slug, EPA has selected zero discharge of the slug plus a 100-barrel buffer on either side of it as the preferred option. Where the fluids are diffused with the produced waters, the preferred option for produced waters will apply (e.g., based on filtration at 4 miles and less, and produced water BPT limitations at greater than 4 miles).

*F. Domestic and Sanitary Wastes*

The Agency is not proposing to establish BAT effluent limitations for these waste streams, because there have been no toxic or nonconventional pollutants of concern identified in sanitary or domestic wastes.

## XIV. Selection of Control and Treatment Options for NSPS

The basis for new source performance standards under section 306 of the Act is the "best available demonstrated technology." New facilities have the opportunity to design and implement the best and most efficient processes and waste treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process control and treatment technologies that reduce pollution to the maximum extent feasible.

The control and treatment options investigated as a basis for NSPS to reduce the discharge of pollutants in waste streams generated by the offshore segment of this industry consist of those options evaluated for use in the BCT and BAT levels of control. No additional demonstrated technologies were identified that would be applicable to new sources only. However, some of the options considered but not identified as preferred for BAT, or for that matter NSPS, are still being seriously considered for the basis of NSPS in the final rule, provided that additional information can be obtained. Since all of the options considered are the same as previously described for BCT and BAT, with the exception of the proposed NSPS prohibition on discharge of foam for domestic wastes, no detailed discussion is repeated here.

For drilling fluids and drill cuttings, the preferred option for proposal is the same as BAT, "Zero Discharge Within 4 Miles; 1/1 Beyond", and is based upon the same factors. These factors are the minimization of potential non-water quality environmental impacts due to the large volume of solids requiring land disposal and the air emissions and fuel use associated with transportation of the solids to land. It is estimated that only about four percent of the new well drillings will be on existing structures (platforms); thus, the assignment of costs and impacts for evaluating the limitations are shown under the NSPS selection for drilling wastes. The non-water quality environmental impacts are described in section XVIII, along with the evaluation conducted to minimize the estimated impacts.

Section 306(b)(1)(B) of the Clean Water Act requires EPA, in establishing new source performance standards, to take into account any non-water quality environmental impacts and energy requirements incident to the rules. Non-water quality environmental impacts and energy requirements have played an important role in EPA's selection of its preferred NSPS option for control of drilling fluids and drill cuttings.

The most stringent option considered by the Agency, zero discharge of drilling fluids and drill cuttings for all structures (based on transport of spent drilling wastes to shore for recovery, reconditioning for reuse or land disposal) was determined to be technologically and economically achievable. However, a zero discharge requirement applicable to all structures would cause an enormous amount of solids (estimated at 8.2 million barrels per year) to be barged to shore for land disposal. In developing this proposal, EPA studied the non-water quality environmental impacts caused by the barging of this quantity of drilling waste to land and the availability of appropriate landfill sites for its ultimate

disposal. (See section XVIII of today's notice).

EPA's evaluation of the non-water quality environmental impacts of barging focused on the air emissions that would result from the transport of 8.2 million barrels of drilling fluids and drill cuttings to shore. Air emissions from sources on the OCS are a matter of longstanding concern to the Agency, Congress and states adjoining OCS areas where oil and gas operations take place. Section 801 of the Clean Air Act Amendments of 1990 (codified as new section 328 of the Clean Air Act) reflects this concern. This new provision requires EPA to "establish requirements to control air pollution" from OCS sources located offshore of the states along the Pacific, Arctic and Atlantic coasts and along the Gulf coast off the State of Florida. The air pollution control requirements that are to be established pursuant to new section 328 must "attain and maintain Federal and State ambient air quality standards" and comply with the provisions of title I, part C of the Clean Air Act, which relate to the prevention of significant deterioration. For sources located within 25 miles of the seaward boundary of these states, the requirements "shall be the same as would be applicable if the source were located in the corresponding onshore area."

New section 328 identifies "platform and drill ship exploration, construction, development, production processing and transportation" and "emissions from any vessel servicing or associated with an OCS source" as specific air pollutant sources of concern.

In addition, new section 328 of the Clean Air Act requires the Secretary of the Interior, in consultation with the Administrator of EPA, to "assure coordination of air pollution control regulation for Outer Continental Shelf emissions and emissions in adjacent onshore areas" for portions of the Gulf coast OCS off the states of Texas, Louisiana, Mississippi and Alabama.

The Agency has estimated that the air emissions associated with barging to attain zero discharge of drilling fluids and drill cuttings would be 6,352 short tons of particulates, nitrous oxides, carbon dioxide, hydrocarbons and sulphur oxides per year. This estimate was unexpectedly high in comparison to other options, which ranged from 532 short tons for the "5/3 All" and "1/1 All" options to 2,116 short tons for the "Zero Discharge Shallow; 5/3 Deep" and the "Zero Discharge Shallow; 1/1 Deep" options. (See Table 22.)

In examining energy requirments, EPA estimated the amount of diesel fuel that would be required to operate the barging systems associated with the options under consideration. The amount of fuel that would have to be expended to attain zero discharge was estimated at 818,029 barrels per year. This figure also is significantly higher than the fuel use estimates associated with the other options, which ranged from 79,517 barrels per year for the "5/3 All" and "1/1 All" options to 293,535 barrels per year for the "Zero Discharge Shallow; 5/ 3 Deep" and the "Zero Discharge Shallow: 1/1 Deep" options. (See Table 22.)

Finally, EPA studied the availability of land for drilling waste disposal in connection with its evaluation of the control options for drilling fluids and drill cuttings. The study estimated the available capacity of all existing landfills in the Gulf of Mexico region and California. The Agency concluded that sufficient capacity is, or would be, available to support a zero discharge requirement. However, the 8.2 million barrels of drilling wastes that would be generated annually as a result of the zero discharge requirement represents approximately 57 percent of the capacity of the existing landfills in the Gulf area and California (there are currently no landfills in Alaska that accept these wastes), and approximately 18 percent of the projected available landfill capacity in these areas. EPA is concerned about the use of this segment of existing landfill capacity for the disposal of drilling wastes. These concerns are compounded by the fact that EPA is currently conducting a study under RCRA of wastes associated with oil and gas activities to determine whether additional, more stringent requirements are necessary for the treatment and disposal of such wastes. The outcome of this effort might have a significant effect on the future available capacity and/or cost of land disposal for drilling wastes and drill cuttings.

Thus, while zero discharge is technologically and economically achievable, EPA determined that the non-water quality environmental impacts and energy requirements associated with this option are significant enough to rule out the selection of this option as preferred.

The volume of drilling wastes that would have to be transported to shore for disposal as a result of the "4 Mile Zero Discharge; 1/1 Beyond" option is 1.6 million barrels annually, a reduction of approximately 80 percent as compared to zero discharge. This reduces the impacts on landfill capacity accordingly. The fuel requirements associated with this option are 173,360 barrels per year, also reduction of 80 percent. Annual air emissions are reduced by about 82 percent, from 6,352 short tons to 1,166 short tons compared to the zero discharge option. EPA believes these non-water quality environmental impacts associated with the "4 Mile Zero Discharge; 1/1 Beyond" option are reasonable. The "4 Mile Zero Discharge; 1/1 Beyond" option also has the advantage of eliminating discharges of drilling fluids and drill cuttings from the sensitive marine areas within four miles of shore while subjecting discharges seaward of that area to stringent controls. The other distance options (6 and 8 miles), as well as the shallow/deep options, do not appreciably reduce non-water quality environmental impacts compared to the 4 mile option, and insufficient information is available to evaluate 3 miles.

For NSPS produced water, in addition to the proposed option of "Filtration Within 4 Miles; BPT Beyond" which is the same as the BAT proposal, and the "Filtration All Structures" option which is also being strongly considered, zero discharge at 4 miles or less in conjunction with BPT or filtration beyond 4 miles are being considered for NSPS. The proposed NSPS option is the same as BAT based on the estimated loss of production associated with the other options. For example, the loss for the "Filtration All" options, although small in percent of total production (0.2 percent), is still quite large in barrels of oil equivalent (1.1 million BOE per year). These considerations are discussed in more detail in section XIII.B describing the BAT options selection for produced water. For the reinjection options, the generation of additional air emissions due to the increased use of high pressure pumping is significant, although selecting a 4 miles and less from shore option requiring zero discharge based on reinjection will minimize the air emissions impact to some extent. This technology option would reduce overall discharge of pollutants and eliminate within 4 miles of shore the discharge of radionuclides, specifically radium-226 and radium-228. Preliminary information shows that elevated levels of these radionuclides are present in produced water, with some of the highest measurements coming from oil and gas production areas along the Gulf of Mexico coast. EPA may consider reinjection technology options further based on obtaining additional data, further characterizing the radionuclides in produced water discharges, and identifying geographic areas where there are pollutants of concern in produced water. See sections XV, XVI, XVII, XVIII of today's notice of further

discussion of costs, environmental assessment, and economic and non-water quality environmental impacts for these options.

For well treatment, completion and workover fluids that resurface as a discrete slug, NSPS is proposed as zero discharge of the slug plus a 100-barrel buffer on either side of the slug. In the case where these fluids are diffused with the produced water, the limits of the preferred option for produced water (Filtration Within 4 Miles; BPT Beyond) will apply. NSPS for deck drainage during production is proposed as equal to the preferred option for produced water. During drilling operations, NSPS for deck drainage is proposed to be equal to BPT limits prohibiting discharge of free oil. Zero discharge is proposed as NSPS for produced sand. NSPS for sanitary wastes is being proposed equal to current BPT. NSPS for domestic wastes is proposed as equal to current practice prohibiting discharge of floating solids, plus the additional requirement for no visible discharge of foam.

## XV. Revised Technology Costs and Assumptions

### *A. Drilling Fluids and Cuttings*

In order to evaluate the cost of control technologies for drilling wastes, a database was established that defined:

- Projections of the number of wells that will be drilled over the next 15-year period in each geographic region.
- Characteristics of a "model well" describing average levels for parameters such as well depth, volume of waste associated with drilling activity, use of additives to aid in drilling, and length of time to drill a well.
- Characteristics of driling wastes, specifying pollutant concentration and physical properties of the waste specific to certain drilling scenarios.
- Failure rates of drilling wastes with respect to certain discharge limitations compliance tests (e.g., static sheen, toxicity).
- Disposal costs for transportation and land disposal of drilling wastes.

Table 16 summarizes the current permit requirements that were used as baseline requirements in the cost as well as economic analyses.

TABLE 16.—SUMMARY OF CURRENT REQUIREMENTS FOR DRILLING FLUIDS AND CUTTINGS FOR THE OFFSHORE PERMITS

| Requirement | Gulf of Mexico | Pacific | Alaska |
|---|---|---|---|
| No discharge of oil-based drilling fluids and cuttings (BPT requirement). | Yes | Yes | Yes |
| Metals Limitation | No | Yes (barite) | Yes (barite) |
| —Mercury (mg/kg) | | 1 | 1 |
| —Cadmium (mg/kg) | | 2 | 3 |
| No discharge of oil in detectable amounts: | | | |
| —for Lubricity | Yes (Diesel) | Yes (Diesel) | Yes (Diesel) |
| —as a Pill | No [1] | No [1] | Yes (Mineral) [2] |
| Toxicity limitation | Yes | Yes | Yes [3] |
| Limit (drilling fluids) | 30,000 ppm SPP | 30,000 ppm SPP | |
| No discharge of "free oil"; static sheen test (cuttings from use of water-based drilling fluids). | No | Yes | Yes |

SSP: Suspended Particulate Phase
[1] Diesel pill plus a 50 bbl. buffer of drilling fluid on either side of the pill cannot be discharged; mineral oil can be discharged without a buffer.
[2] Mineral oil pill plus a 50 bbl. buffer of drilling fluid on either side of the pill cannot be discharged. Diesel not allowed.
[3] With a pre-approved drilling fluid system.

Using these data, regulatory options, as defined in section XII, were evaluated to determine costs and pollutant removals associated with compliance with each of the options. In evaluating the cost of regulatory options, it was assumed that all drilling operations would utilize material substitution rather than have to take waste onshore for disposal. This includes substituting mineral oil for diesel and using "clean" barite. For the zero discharge options, however, such material substitution was not utilized.

An analysis of each option was conducted to determine:

- Number of wells affected
- Cost incurred by industry to comply with the regulations
- Volume and percent of drilling waste requiring onshore disposal
- Direct and incidental pollutant removal

Costs are presented on an annual basis only; no capital costs are presented, because no capital costs were identified for any of the drilling fluids and drill cuttings options.

Compliance costs for each option are based on the cost of material substitution (e.g., mineral oil for diesel) or the cost of onshore disposal of drilling waste. No distinction was made between BAT and NSPS wells because it is estimated that all but approximately 4 percent of the wells will be considered new sources. The results of the analyses are presented in Table 17 for drilling fluids and drill cuttings combined.

TABLE 17.—ANNUAL COMPLIANCE COST/POLLUTANT REMOVALS FOR REGULATORY OPTIONS: DRILLING FLUIDS AND DRILL CUTTINGS COMBINED—NSPS AND BAT/BCT

| | 5/3 All | 1/1 All | Zero discharge shallow; 5/3 deep | Zero discharge shallow; 1/1 deep | Zero discharge all | Zero at 4 mile; 5/3 beyond* | Zero at 4 mile; 1/1 beyond* |
|---|---|---|---|---|---|---|---|
| Cost of pollution removal ($1000/yr) | 22,029 | 32,564 | 108,548 | 116,382 | 308,189 | 63,084 | 72,252 |
| Volume of drilling fluid barged (1000/bbl/yr) | 552 | 552 | 2,746 | 2,746 | 8,190 | 1,596 | 1,596 |
| Priority pollutant removal (lb/yr) | 29,000 | 34,840 | 364,494 | 367,000 | 965,000 | 193,000 | 183,500 |
| Nonconventionals removal (lb/yr) | 790,000 | 790,000 | 678,060 | 662,570 | 957,000 | 738,000 | 733,000 |
| Oil removal (1000/lb/yr) | 4,248 | 4,251 | 6,308 | 5,840 | 13,995 | 5,274 | 5,267 |
| Incidental pollutant removal (lb/yr) | 190,000 | 188,000 | 472,200 | 468,900 | 751,000 | 318,000 | 317,000 |

TABLE 17.—ANNUAL COMPLIANCE COST/POLLUTANT REMOVALS FOR REGULATORY OPTIONS: DRILLING FLUIDS AND DRILL CUTTINGS COMBINED—NSPS AND BAT/BCT—Continued

| | 5/3 All | 1/1 All | Zero discharge shallow; 5/3 deep | Zero discharge shallow; 1/1 deep | Zero discharge all | Zero at 4 mile; 5/3 beyond* | Zero at 4 mile; 1/1 beyond* |
|---|---|---|---|---|---|---|---|
| Conventionals—TSS removal ($10^6$ lb/yr) | 210 | 210 | 830 | 830 | 2,208 | 519 | 519 |

*Notes:*
1. Approximately 4 percent of the costs and removals are associated with new wells at existing structures covered by BCT/BAT.
2. All removals shown incremental to BPT.

* Excludes Alaska region from the zero discharge requirement.

In determining pollutant removals, specific pollutants were selected for evaluation based on their consistently significant presence in offshore oil and gas wastes. Removals are considered direct or incidental. The priority pollutants, conventionals, oil, and nonconventionals listed in Table 17 are pollutants directly removed by the technologies being evaluated. For the priority pollutants, pollutant removals were calculated on the sum total of concentrations for benzene, naphthalene, fluorene, phenanthrene, phenol, cadmium, mercury, antimony, arsenic, beryllium, chromium, copper, lead, nickel, selenium, silver, thallium, and zinc. The nonconventionals evaluated consisted of classes of organics including the alkylated homologs for benzene, naphthalene, biphenyl, fluorene, and phenanthrene, the alkylated phenols for ortho-cresol, meta- and para-cresol, C2 phenols, C3 phenols, and C4 phenols, and total dibenzothiophenes. An additional category labeled "incidental removal" was included to measure removals of pollutants be technologies not necessarily intending to remove them. These pollutants are the same as the priority pollutant metals and include cadmium, mercury, antimony, arsenic, beryllium, chromium, lead, nickel, selenium, silver, zinc, and thallium.

*B. Produced Water*

In order to evaluate regulatory options for discharge limitations on produced water associated with oil and gas extraction, a database was developed that defined:

- Industry profile data on the number and type of platforms and produced water discharge rates.
- Projected future production activity.
- Produced water contaminant effluent levels associated with BPT treatment and with BAT/NSPS treatment options.
- Cost to implement the BAT/NSPS treatment technology options.

Using these data, regulatory options were evaluated to define the cost and pollutant removals associated with compliance with the options defined earlier in section XII.

Two sets of treatment technologies were considered as BAT/NSPS model technologies: (1) Filtration and subsequent discharge, and (2) filtration followed by injection (or reinjection). Because calculations of cost/pollutant reductions on a platform-by-platform basis were considered impractical from a data collection standpoint, the industry was characterized as consisting of a platform population divided among "model platforms." These "model platforms" were considered typical of the industry and were differentiated based on the number of well slots on the platform, and in the case of one well platform, there was also a differentiation for those that pipe the produced fluids (or water) to a central offshore or land-based locality for processing and/or treatment.

For each "model platform" it was possible to predict the number of producing wells, the quantity of produced water generated (average and peak flow), and the cost to implement a produced water treatment system. Thus, by dividing the industry among these "model platforms," estimates of costs and pollutant reductions could be derived.

Contaminant removals were determined by comparing the estimated effluent levels after treatment by the BAT/NSPS treatment system (either filtration or reinjection) versus the effluent levels associated with a typical BPT treatment (gas flotation or gravity separation).

The cost to install a BAT/NSPS treatment system for each of the model platforms was estimated based on the maximum produced water flow rate over the life of the project and the cost of a treatment system designed to provide the needed capacity. Data were developed for treatment systems capital and annual costs over a range of flows, and the cost for each model platform was determined by interpolating within these data.

The results of the analysis are presented in Tables 18 for BAT and 19 for NSPS. Data are presented on number of platforms affected, capital, and annual compliance costs, and annual pollutant removals in terms of conventional, metal, and organic pollutants.

TABLE 18.—SUMMARY OF IMPLEMENTATION COSTS AND CONTAMINANT REMOVAL FOR PRODUCED WATERS—BAT

| | No. of platforms | Capital cost ($) | Annual cost ($/yr) | Pollutant reduction (lb/yr) | | |
|---|---|---|---|---|---|---|
| | | | | Conventional | Metals | Organics |
| Filter and discharge shallow; BPT deep | 1,309 | 172,850,302 | 44,248,123 | 11,006,000 | 249,000 | 510,000 |
| Zero discharge shallow; BPT deep | 1,309 | 1,258,707,237 | 76,194,925 | 18,101,000 | 255,000 | 575,000 |
| Filter and discharge all | 2,260 | 423,510,006 | 104,287,634 | 34,605,000 | 831,000 | 1,626,000 |
| Zero discharge shallow; filter deep | 2,260 | 1,517,366,941 | 136,154,436 | 41,700,000 | 837,000 | 1,690,000 |
| Zero discharge | 2,260 | 2,358,304,406 | 160,668,900 | 56,693,000 | 850,000 | 1,829,000 |
| Filter and discharge 4 mile; BPT beyond | 208 | 35,250,039 | 8,384,563 | 3,234,000 | 74,000 | 140,000 |

TABLE 19.—SUMMARY OF IMPLEMENTATION COSTS AND CONTAMINANT REMOVAL FOR PRODUCED WATERS—NSPS (UNCONSTRAINED DEVELOPMENT)

| | No. of platforms | Capital cost ($) | Annual cost ($/yr) | Pollutant reduction (lb/yr) | | |
|---|---|---|---|---|---|---|
| | | | | Conventional | Metals | Organics |
| Filter and discharge shallow; BPT deep | 393 | 104,874,421 | 22,108,417 | 6,599,000 | 142,000 | 312,000 |
| Zero discharge shallow; BPT deep | 393 | 607,540,177 | 35,937,583 | 10,894,000 | 145,000 | 346,000 |
| Filter and discharge all | 851 | 300,853,708 | 61,717,562 | 27,404,000 | 673,000 | 1,326,000 |
| Zero discharge shallow; filter deep | 851 | 803,519,464 | 75,626,728 | 31,698,000 | 677,000 | 1,359,000 |
| Reinject all | 851 | 1,300,307,478 | 89,509,755 | 44,850,000 | 688,000 | 1,465,000 |
| Filter and discharge 4 mile; BPT beyond | 162 | 63,827,101 | 12,696,327 | 6,362,449 | 136,751 | 276,393 |

## XVI. Economic Analysis

### *A. Introduction*

The Agency's economic impact assessment is presented in the "Economic Impact Analysis of Proposed Effluent Limitations Guidelines and Standards of Performance for the Offshore Oil and Gas Industry" (hereinafter, "EIA"). This report details the investment and annualized costs for the industry as a whole and the impacts of these costs on affected projects and on typical companies involved in offshore oil and gas drilling and production. The report also estimates the economic effect of compliance costs on production, Federal and State revenues and discusses the impact on the balance of trade and inflation. (In this report, as in the section following, unless otherwise indicated, all costs are in 1986 dollars.)

EPA has also conducted an analysis of the cost-effectiveness of alternative treatment options. The results of this cost-effectiveness analysis are expressed in terms of the incremental costs per pound-equivalent. Pound-equivalents account for the differences in toxicity among the pollutants removed. The number of pounds of a pollutant removed by each option is multiplied by a toxic weighting factor. The toxic weighting factor is derived using ambient water quality criteria and toxicity values. The toxic weighting factors are then standardized by relating them to a particular pollutant, in this case, copper. Cost-effectiveness is calculated as the ratio of incremental annualized costs of an option to the incremental pounds-equivalent removed by that option. This analysis, "Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards of Performance for the Offshore Oil and Gas Industry" (hereinafter, "Cost-Effectiveness Report"), is included in the record of this rulemaking. Copies of this report and of the Economic Impact Analysis cited above may be obtained from the economic analysis staff. (See the **ADDRESSES** section of today's notice.)

### *B. Costs and Economic Impacts*

#### 1. Basis of Analysis

The costs and economic impacts of today's proposed regulations cover two major waste streams: (1) Drilling fluids and drill cuttings associated with drilling operations; and (2) produced waters associated with production operations. (Incremental treatment requirements for miscellaneous waste streams create little or no additional costs and so the impacts of those costs are not analyzed separately here.)

The economic analysis of drilling operations is based on the average number of exploratory, delineation and development wells that the Agency estimates will be drilled each year through the year 2000. Only a small percentage of those wells are estimated to be BAT wells, i.e., wells drilled on existing platforms. The cost of controlling the pollution from drilling operations is estimated to be the same, on a per well basis, for BAT and NSPS wells.

The economic analysis of production operations is based on the number of offshore platforms producing in 1986 and on the Agency's projections of the number of platforms to be built between 1986 and the year 2000. By the year 2000, new source oil and gas development is expected to be stabilized, i.e., in that year, the number of new platforms beginning production should equal the number of obsolescent platforms being retired.

The basis of the economic analysis has changed in part since the 1985 proposal, in response to new data and to comments received on that proposal and on the 1988 Notice of Data Availability. The changes include:

(1) Data from the Minerals Management Service (NMS), are used instead of Department of Energy (DOE) data to estimate the number of new wells and platforms. MMS data are an improvement over DOE data because MMS data are regionalized and include projections beyond the year 2000.

(2) In the 1985 proposal, the projections of the number and type of offshore facilities were based on an expected average price of $32 per barrel of oil (bbl) ($1,986). The current projections are based on an average of $21 per bbl with sensitivity analyses at $15 and $32 per bbl ($1,986).

(3) In response to comments on the 1988 Notice, the Agency now includes a one-well model platform. One-well platforms comprise about 20 percent of the facilities in the Gulf of Mexico. (Previously, the Agency's smallest model facility was a four-well platform.)

(4) Treatment costs are now regionalized. (Previously, only the economic impact models were regionalized.)

(5) Costs and impacts for BAT and NSPS are now estimated from "current," as defined by the current regional permit requirements. Previously, NSPS and BAT were defined as incremental to BPT, not current. This change only affects the treatment requirements for drilling fluids and drill cuttings; regional permits for produced water do not require controls above BPT.

(6) The estimated number of offshore wells and platforms (based on $21 per bbl) are presented below. Estimates of constrained development are presented to reflect current constraints on leasing and drilling in the Pacific and the lack of Atlantic development. Unconstrained development estimates assume no constraints on Pacific drilling and some Atlantic drilling.

The following discussion of costs and economic impacts assumes $21 per bbl, constrained development, and for produced water, membrane filtration. The EIA and Cost-Effectiveness Reports also include sensitivity analyses of costs and impacts based on $15 and $32 per bbl, unconstrained development, and granular filtration.

Assuming $21 per bbl the Agency estimates:

Wells Drilled, NSPS:

—759 per year, Constrained Development;

—980 per year, Unconstrained Development.

These well counts presented as NSPS are the total wells drilled during the period 1986 to 2000 divided by 15 years to give the annual average number of wells drilled. The Agency does not have data on which to base a precise estimate of the number of wells drilled on existing platforms. However, the Agency estimates that with restricted development about 1 percent of the wells drilled will, in fact, be BAT wells drilled on existing platforms. Typically, these BAT wells will be on the larger platforms that have not completed their drilling program when this regulation goes into effect. The drilling of BAT wells will, therefore, be concentrated in the first years after promulgation of this regulation as the larger existing platforms complete multiple-year drilling programs. As a result, most of the cost for these BAT wells will be incurred in the first years after the regulation goes into effect. The number of BAT wells drilled will be highest in the first year after the regulation and will decline thereafter. Five years after the regulation goes into effect, few or no BAT wells will be drilled.

The Agency's estimates of total platforms are as follows:

Platforms, NSPS:

—766 total, 1986–2000, Constrained Development;

—851 total, 1986–2000, Unconstrained Development;

Platforms, BAT: 2260.

Note that the number of platforms are *total* currently producing and the *total* projected to be installed during the period 1986 to 2000 while the number of wells drilled is presented as *annual* average.

The number of offshore wells drilled annually that are within four miles of shore and, therefore, will be affected by the proposed zero discharge option are as follows:

Wells Drilled, NSPA:

—81 (11 percent of 759), Constrained Development;

—152 (16 percent of 980), Unconstrained Development.

As explained above, the only site of BAT wells would be on the larger platforms, and, under constrained development, few of the larger platforms are within four miles of shore. Under constrained development, the Agency estimates that, at most, only a total number of 100 BAT wells will be drilled within four miles of shore during the period 1986–2000.

The number of platforms within four miles of shore which are assumed to filter prior to discharge to meet the proposed limitations on produced waters are as follows:

Platforms, NSPA:

—142 (19 percent of 766), 1986–2000, Constrained Development;

—162 (19 percent of 851), 1986–2000, Unconstrained Development

Platforms, BAT: 208 (9 percent of 2260).

2. Total Costs and Impacts of Proposed Regulations

The combined annualized cost of the preferred options proposed today for BCT, BAT and NSPS for both major waste streams is $54 to $80 million. (The lower total costs reflect constrained development; the higher cost, unconstrained development of offshore energy resources.) For purposes of estimating costs and impacts, zero discharge for drilling fluids and drill cuttings, is assumed to be achieved by barging. For produced water, zero discharge is assumed to be achieved by reinjection and the limitations greater than BPT but less stringent than zero discharge are assumed to be achieved by membrane filtration prior to discharge. The capital investment for the proposed requirements is limited to produced water control. (No capital investment is associated with the barging of fluids and cuttings. Barging, land transportation and disposal is a service supplied to the oil and gas companies that are drilling offshore wells.) Total capital investment for the preferred BAT option for produced water is $35 million. Total capital investment for the preferred NSPS requirement for produced water is $64 million.

The combined impact of the preferred options for drilling fluids and drill cuttings and for produced water would reduce the working capital of a typical major offshore oil and gas company by 0.2 percent and the working capital of a typical independent company by 1.9 percent. (Working capital is the parameter most sensitive to increased costs.)

The potential loss in the present value of future production of oil and gas as a result of the preferred options is minimal. The preferred option for drilling fluids and drill cuttings has no impact on production. The preferred BAT and NSPS options for control of produced water is projected to result in a potential loss of 2 million barrels of oil equivalent (BOE) due to premature shut downs of wells. (BOE is a standard measure of energy-equivalent.) The shut downs are projected to occur because the regulation increases the cost of option and shortens the economic life of some platforms. This loss represents a small percentage (0.02 percent) of 11.7 billion BOE, the present value of offshore production during the period 1986–2000.

The preferred options potentially could result in an $50 million loss to federal revenues (through tax effects and lower lease bids) and a $3 million loss to state revenues (through lower lease bids). The impact of this potential loss is minimal, representing, for example, less than 0.01 percent of total state revenues in Texas. Furthermore, these losses are only potential: companies may not choose to recoup all the cost increase from the proposed regulation through lower lease bids. If lease bids are too low, companies might not win the lease. Under these circumstances, companies may absorb the cost increase through reductions in profits.

The proposed regulations are not expected to impact energy prices, inflation, employment or international trade. The preferred options may, in fact, lead to temporary positive impacts on the offshore service industry due to the need to retrofit existing facilities with filtration equipment. The Agency finds the costs of the proposed BAT and NSPS regulations to be economically achievable for the oil and gas industry.

3. Economic Methodology

The Agency used a net present value analysis to calculate whether offshore development operations could remain profitable after regulatory costs were incurred. First, costs and revenues were projected over the life of the model project based on the current, or baseline, requirements. (The life of a project varies among the model projects.) Then the regulatory costs were added to those baseline costs to determine if the model platforms remained profitable. EPA used 34 model platforms to represent the diversity in offshore platform size (i.e., the number of well slots per platform), geographic location (Gulf of Mexico, Pacific, Alaska, and Atlantic coasts), and production type (oil only, gas only or both). Distinct technical and economic characteristics for each model were developed. Costs included in the baseline were those associated with exploration, delineation, development production operations, as well as the costs needed to meet current regional permit requirements.

To assess the impact on offshore oil and gas companies operating in the offshore area, the Agency developed two representative company financial profiles: One for major integrated companies and one for independents. Pre- and post-regulation balance sheets

were developed and the effect of regulatory costs on the typical major and on the typical independent companies was then analyzed.

4. Costs and Impacts of Best Conventional Pollutant Control Technology

Section XII presents proposed BCT options. For drilling fluids and drill cuttings, the preferred option requires zero discharge for wells at four miles or less from the shore. For purposes of costing, this requirement is assumed to be achieved by barging of fluids and cuttings for transportation and disposal on land. On a per-well basis, barging costs are the same for BCT, BAT, and NSPS. The preferred options for BCT, BAT and NSPS all require zero discharge for wells drilled within four miles of shore; costing for BCT, BAT, and NSPS all assumed, for purposes of costing, that zero discharge would be achieved by barging. For wells drilled beyond four miles of shore, BAT and NSPS costs include monitoring for and control of toxics; BCT costs do not. As explained above, at most a total of 100 BAT wells are projected to be drilled on the existing platforms that are four or less miles from shore. Thus, for the preferred BCT option, at most, total (not annualized) BCT costs would not exceed $350 million for the period 1986 to 2000. Most of these costs would be incurred in the first years after the regulation goes into effect. On a per-well or per-projected basis, BCT costs equal BAT/NSPS costs. According to the Agency's analysis, BAT/NSPS costs are economically achievable. Consequently, the BCT costs are also economically achievable.

As discussed in section XII above, for produced water, BCT equals BPT. Therefore, for produced water, there are no incremental costs for BCT and no economic impacts.

5. Costs and Impacts of Best Achievable Technology

a. *Drilling Fluids and Drill Cuttings.* The Agency estimates that during the period 1986–2000, at most, only a total of 100 wells drilled offshore will be on existing platforms located within four miles of shore and thus subject to the proposed BAT regulation of zero discharge. For purposes of costing and estimating impacts, wells required to meet zero discharge are assumed to barge fluids and cuttings to shore; wells beyond four miles are to meet the limitations described in section XIII.A.2 above (the 1/1 option). On a per-well-basis, the average cost of barging from a BAT well drilled on an existing platform is expected to be equal to the cost of barging from an NSPS well, or an average of $350 thousand per well drilled (assuming restricted development). This per-well cost includes barging, land transportation, and land disposal of fluids and cuttings from wells within four miles from shore. For wells drilled beyond four miles of shore, the costs of compliance include monitoring, the cost of substituting mineral oil for diesel oil for spotting and lubricity and the cost of "clean" barite to meet the limitations on cadmium and mercury in the drilling fluids. The costs of the preferred option are incremental to current permit requirements.

Most of the wells drilled on existing platforms will be on the larger platforms (i.e., those with more well-slots). These large platforms will not have completed their drilling programs at the time the regulation goes into effect, but they will do so in the first few years of the regulation. Therefore, the economic impact of BAT regulations on drilling fluids and drill cuttings will be concentrated in the first five or so years after the regulation goes into effect. After five years, few, if any, wells will be drilled on existing platforms.

No capital investment will be needed to meet the preferred limitations on drilling fluids and drill cuttings because oil companies that drill offshore typically do not purchase barges, but instead contract for that service. In this analysis, BAT costs are included in the total annualized NSPS. Total (i.e., not annualized) BAT costs of $350 million are based on an estimated total of 100 wells will be drilled in the first five years after this regulation goes into effect.

According to the Agency's analysis, the economic impact of the proposed BAT option for drilling fluids and drill cuttings is the same as the impact of the NSPS, which are discussed below. The costs of the proposed BAT regulation of drilling fluids and drill cuttings are economically achievable.

b. *Produced Waters.* The Agency estimates that 2,260 offshore platforms currently are producing either oil or gas or both. Of these, 208 platforms are within four miles of shore and therefore, under the preferred option, will be subject to limitations beyond BPT for produced waters (as described in sections XII.C.1 and XIII.C.2, above). For purposes of estimating costs and impacts, the Agency assumed the limitations on existing platforms within four miles of shore would be achieved by membrane filtration of produced water prior to discharge. Platforms beyond four miles would be subject to BPT.

Total capital costs of the BAT preferred option are estimated to be $35 million. Annual operating and maintenance costs of $8 million include monitoring at all platforms and filtration of produced waters at those platforms within four miles of shore. The annualized incremental costs of the BAT options considered for produced water range between $13 million and $491 million. The annualized incremental cost of the proposed option is $13 million.

The EIA includes impacts of the options considered on each type of model platform. Selected impacts are presented here: Impacts on the Gulf-12 platform are typical of impacts on the industry; impacts on the Gulf one-well model platforms are presented here because these small platforms are most sensitive to impacts of the regulation.

For existing oil and gas Gulf-12 platforms four miles or less from shore, the BAT preferred (filtration) option increases the corporate cost per BOE 1.6 percent and decreases the net present value of the project 4.7 percent. The platform's production is decreased 11 percent because it would shutdown a year early.

For existing one-well platforms in the Gulf of Mexico that produce oil and gas and have their own production equipment, the BAT preferred option increases the corporate cost per BOE 14 percent and decreases the net present value of the project 27 percent. The platform's production is decreased 22 percent because it would shutdown two years early. (See impacts on Gulf 1B's in the EIA.)

The preferred BAT option would have virtually no impact on the working capital of a typical major company that is involved in offshore energy production and would reduce the working capital of a typical independent company by 0.5 percent. According to the Agency's analysis, the preferred option would have no effect on oil and gas prices, employment, or international trade. The Agency finds the costs of the preferred BAT option for control of produced waters to be economically achievable for the oil and gas industry.

6. Costs and Impacts of New Source Performance Standards

a. *Drilling Fluids and Drill Cuttings.* Of the 759 exploratory, delineation, and development wells projected to be drilled each year 1986–2000 under constrained offshore development, 81 (or 11 percent) will be on new platforms and thus subject to the NSPS proposed option. For purposes of costing and impacts, the Agency assumes wells drilled within four miles of shore will

meet the zero discharge limitation by barging; wells drilled beyond four miles will meet limitations described previously as the "1/1" option.

The total annualized incremental costs of regulating drilling fluids and drill cuttings range between $0.8 million and $211 million. The annualized incremental cost of the preferred option is $29.5 million. (As explained above, for fluids and cuttings, these costs are operating and maintenance costs, including monitoring; there are no capital costs associated with any options considered for these waste streams.)

For new oil and gas wells drilled on Gulf-12 platforms four miles or less from shore, the preferred NSPS option increases the corporate cost per BOE 0.2 percent and decreases the net present value of the project 0.9 percent. For new oil and gas wells drilled in the Gulf on one-well platforms that have their own production equipment, option increases the corporate cost per BOE 0.7 percent and decreases the net present value of the project 11.5 percent. (See impacts on the Gulf 1B's in the EIA.)

None of the options considered for drilling fluids and drill cuttings have an adverse impact on production.

The preferred option would reduce the working capital of a typical major company that is involved in offshore energy production by 0.1 percent and the working capital of a typical independent company by 1.0 percent. According to the Agency's analysis, the preferred option would have no effect on oil and gas prices, employment, or international trade. The Agency finds the costs of the preferred NSPS option for fluids and cuttings are economically achievable.

b. *Produced Water.* Of the 766 platforms projected to be installed offshore between 1986 and the year 2000, assuming constrained offshore development, 142 are estimated to be four or less miles from shore and therefore, under the preferred option, will be subject to limitations beyond BPT for produced water (as described in sections XII.C.1 and XIII.C.2, above). For purposes of estimating costs and impacts, the Agency assumed the limitations on new platforms within four miles of shore would be achieved by membrane filtration of produced water prior to discharge. Platforms beyond four miles would be subject to BPT.

Total capital costs of the NSPS preferred option are estimated to be $41 million ($64 million for the unconstrained scenario). Annual operating and maintenance costs of $8 million ($13 million for the unconstrained scenario) include monitoring at all platforms and filtration of produced waters at those platforms within four miles of shore. The annualized incremental cost of the NSPS options considered for produced water range between $11 million and $158 million. The annualized incremental costs of the preferred option is $11 million ($17 million for the unconstrained scenario).

For new oil and gas Gulf-12 platforms four miles or less from shore, the preferred NSPS membrane filtration option increases the corporate cost per BOE 0.6 percent and decreases the net present value of the project 2.2 percent. The preferred NSPS option for produced water has no adverse impact on production from Gulf-12 platforms. (Production on most model platforms, in fact, is not adversely impacted by NSPS for produced waters.)

For the projected NSPS one-well platforms in the Gulf that produce oil and gas and have their own production equipment, the preferred membrane filtration option increases the corporate cost per BOE by 2.7 percent and decreases the present value of the project by 69 percent. Production on these platforms would decrease 10 percent because they would shut down two years earlier than normal.

The preferred NSPS option for produced water would have virtually no impact on the working capital of a typical major company that is involved in offshore energy production and would reduce the working capital of a typical independent by only 0.4 percent. According to the Agency's analysis, the preferred option would have no effect on oil and gas prices, employment, or international trade. The Agency finds the costs of the proposed NSPS regulation of produced waters to be economically achievable for the oil and gas industry.

*C. Cost-Effectiveness Analysis*

In addition to the foregoing analyses, the Agency has performed a cost-effectiveness analysis for each of the proposed options. According to the Agency's standard procedures for calculating cost-effectiveness, all the options considered for each waste stream have been ranked in order of increasing pounds-equivalent (PE) removed. The pounds-equivalent removed for each option considered were calculated by weighting the number of pounds of each pollutant removed for each option by the relative toxic weighting factor for each pollutant. The use of "pounds-equivalent" gives relatively more weight to removal of more highly toxic pollutants. Thus for a given expenditure, the cost per pound-equivalent would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. Cost effectiveness is calculated as the ratio of the incremental annual costs to the incremental pounds-equivalent removed for each option. So that comparisons of the cost effectiveness among regulated industries may be made, annual costs for all cost-effectiveness analyses are reported in 1981 dollars.

For the selected options (in $1981), the incremental cost effectiveness is $22 per pound-equivalent for drilling fluids and drill cuttings; $60 per pound-equivalent for produced waters, BAT, and $63 per pound-equivalent for produced waters, NSPS. The Cost-Effectiveness Report, which is available in the record of this rulemaking, describes the cost effectiveness calculations in detail and presents the pollutants included in the cost-effectiveness analysis, the toxic weights used for each pollutant, and sensitivity analyses for such variables as unconstrained development, alternative energy values of $15 and $32 per bbl, and use of granular filtration.

These cost-effectiveness values reflect the Agency's standard cost-effectiveness methodology. In the majority of the Agency's effluent guideline regulations developed to date, the discharges have been to fresh waters (directly or indirectly via publicly owned treatment works). In this case the discharges are to marine waters. As described below in section XVII, the Agency has had some difficulty assessing the benefits of this regulation due to the nature of the waters affected by discharges from offshore platforms. For this reason, the Agency is requesting comment concerning the procedures that can be used to assess the value of controlling discharges to these different waters for the purposes of benefit analyses. (See section XIX of today's notice.)

*D. Regulatory Flexibility Analysis*

The Regulatory Flexibility Act of 1980, Public Law 96–354, requires that the Agency prepare an initial Regulatory Flexibility Analysis (RFA) for all proposed regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The purpose of the Act is to ensure that, while achieving the Agency's statutory goals, the Agency's regulations do not impose unnecessary costs on small entities.

The economic impact analysis described above indicates that the expenditures necessary to meet the proposed limitations and guidelines for

the offshore oil and gas industry will be financed by major and independent oil companies. These are not "small businesses" by any standard. Additionally, the analysis has determined that none of the companies directly affected by this regulation are small businesses. Therefore, a formal Regulatory Flexibility Analysis is not required.

*E. Paperwork Reduction Act*

This proposed rule will impose no increase in reporting or recordkeeping burden to respondents as covered under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The proposed rule contains no information collection provisions.

**XVII. Executive Order 12291**

Executive Order 12291 requires the Environmental Protection Agency and other agencies to perform a Regulatory Impact Analysis (RIA) of major regulations. Major rules are those which impose an annual cost on the economy of $100 million or more or meet certain other economic impact criteria. The RIA prepared by EPA for this rule may be obtained at the address listed at the beginning of the preamble. This RIA was submitted to the Office of Management and Budget (OMB) for review, as required by Executive Order 12291.

Three types of benefits were analyzed in this RIA: Quantified and monetized benefits; quantified and non-monetized benefits; non-quantified and non-monetized benefits. The combined monetized benefits of regulating drilling fluids, drill cuttings, and produced water in the offshore subcategory of the oil and gas extraction industry were found to be reasonably commensurate with their costs. The total monetized benefits for the selected options (1986 dollars: Gulf of Mexico only) range from $13.4 to $65.2 million annually. The total annualized BAT and NSPS costs (1986 dollars; Gulf of Mexico only) range from $47.4 to $67.6 million for drilling fluids, drill cuttings, and produced water. (The primary difference in the cost range reflects membrane filtration at the low end and granular filtration at the high end.)

Monetized benefits were based solely on health-related impacts. Benefits associated with regulating drilling fluids and cuttings greatly predominated over those associated with regulating produced water; for drilling fluids and cuttings, lead-related health benefits greatly predominated over carcinogen-related health benefits. The quantified, non-monetized benefits assessment included a review of case studies of environmental impacts of drilling fluids and cuttings and produced water that documented adverse chemical and biological impacts result from discharges of these wastes. In addition, a water quality analysis was prepared that for selected options projected decreases in the number of pollutants exhibiting water quality criteria exceedances as well as the magnitude of these exceedances.

The RIA contains an analysis of the effect of the proposed regulations for major waste streams from offshore oil and gas exploration (i.e., drilling muds and cuttings), and production activities (i.e., produced water) on existing marine water quality. The analysis for these waste streams has two parts.

The first part of the RIA summarizes case studies of local impacts found near oil and gas platforms located in the Gulf of Mexico, in water off California and Alaska. A comprehensive review of available data (over 800 references, plus EPA's Ocean Data Evaluation System (ODES) database) shows documented local impacts for drilling muds and cuttings (18 case studies) and for produced water discharges (seven case studies). Widespread marine impacts were not well documented.

Discharged muds and cuttings are shown to cause contamination of sediments with heavy metals and hydrocarbons known to be present in these discharges up to 4,000 meters from the platforms. Other documented impacts include declined abundance in benthic species (up to 1000 m from the platform), reduced bryozoan coverage (within 2000 m of discharge), altered benthic communities (up to 300 m from platform), bioaccumulation of heavy metals known to be present in drilling muds and cuttings by benthic organisms, complete elimination of seagrass (within 300 m of discharge) inhibited growth of seagrass (up to 3,700 m distance) and decreased coral coverage.

Produced water discharges are shown to cause contamination of sediments with polynuclear aromatic hydrocarbons (PAH) up to 3000 m from the platforms. Other significant impacts include complete elimination of benthic organisms up to 400 m from the platform, depressed abundance of benthic species up to 5000 m, and alteration of benthic communities (mostly toward opportunistic species).

The second part of the RIA uses modeling to project water quality impacts/benefits for existing and new Outer Continental Shelf (OCS) oil and gas platforms in the Gulf of Mexico. The current "baseline" and considered BAT and NSPS options are assessed. EPA's published marine water quality criteria are used to assess water quality impacts. The human health risk/benefits from consumption of fish and shellfish exposed to the OCS oil and gas platform discharges in the Gulf of Mexico area are also assessed. The Gulf of Mexico was selected as a case study area because of its majority of the offshore oil and gas exploration and production activities, as well as its extensive and abundant commercial and recreational fishing activities.

The RIA attempts to monetize the specific health and environmental benefits that may result from the proposed regulations. However, the extent of dilution afforded by the marine environment resulted in modeled concentrations for the selected average industry-wide pollutants so low that under current regulatory controls no direct quantifiable impacts on the Gulf of Mexico fishery can be attributed to the platform-related discharges. Predictions could not be made to quantify direct impacts of current discharges and proposed regulations on: composition and abundance of fin fish and shellfish population; recreational fishing and other recreational activities; commercial fishing; or nonuse benefits. Therefore, the RIA focuses almost exclusively on the benefits associated with human health risk reduction through reduced concentration of platform-related pollutants in selected recreational fish species and commercial shrimp. Both carcinogenic and systemic human toxicants are considered. These quantified and monetized incremental benefits are compared to the annualized incremental cost in the Gulf of Mexico for the BAT and NSPS control options under consideration.

*A. Produced Water*

Water quality impacts are projected for granular filtration on the basis of eight pollutants representing average industry-wide production discharges; for membrane filtration, impacts are projected on the basis of 23 pollutants. The membrane filtration analysis project two pollutants (arsenic and bis(2-ethylhexyl) phthalate) exceeding human health criteria for fish consumption. Granular filtration analysis projects that one pollutant (bis(2-ethylhexyl) phthalate) exceeds human health criteria. None of the pollutants modeled exceeds marine aquatic life criteria at the current discharge (BPT). The preferred BAT and NSPS options will not completely eliminate these human health criteria exceedances but will reduce the magnitude of the impact.

Determination of the cost/benefit analysis for both the membrane and granular filtration technologies has been restricted by the limited amount of published quantifiable human health data for the majority of pollutants of concern. As a result, human health benefits have been underestimated. The cost/benefit analysis for membrane filtration was limited to analysis of three pollutants (arsenic, benzene, and bis(2-ethylhexyl) phthalate), while the granular filtration analysis included only two pollutants (benzene and bis(2-ethylhexyl) phthalate).

Based on these limitations in the analysis, human health benefits are estimated to range between $1,000 and $6,000 per year for the proposed BAT option using membrane filtration in the Gulf of Mexico, compared with a projected incremental annualized cost of $9 million for membrane filtration in the Gulf. These monetized benefits are based on the average risk reduction associated with the consumption of platform-contaminated fish and shrimp for the three carcinogens noted above. The risk reduction projections are derived from flow-weighted industry-wide average pollutant concentrations. Monetized human health benefits due to removals of the two carcinogens associated with the proposed BAT option using granular filtration range between $2,000 and $9,000 per year in the Gulf of Mexico. The risk reduction projections for granular filtration are based on concentrations for individual production groups (oil only, gas only, oil and gas). The annualized costs for the proposed BAT option are $24 million for the Gulf. The estimated annualized human health benefits in the Gulf of Mexico for the proposed NSPS option (based on the same pollutants and methodology) are estimated to range from $300 to $2,000 for membrane filtration and from $200 to $1,000 for granular filtration. These NSPS benefits compare with NSPS annualized costs for the Gulf of $9 million (membrane filtration) and $14 million (granular filtration) (1986 dollars) (Table 20). An additional reduction in human health risk due to subsistence fishing near the oil and gas platforms in the Gulf of Mexico region is also anticipated but could not be quantified in the RIA.

TABLE 20—INCREMENTAL ANNUALIZED BENEFITS AND COSTS FOR PRODUCED WATER BAT/NSPS OPTIONS

[Thousands of 1986 dollars per year; Gulf of Mexico only]

| Regulatory option | Produced water BAT options | | | | Produced water NSPS options | | | |
|---|---|---|---|---|---|---|---|---|
| | Incremental benefits | | Incremental costs | | Incremental benefits | | Incremental costs | |
| | Membrane filter | Granular filter | Membrane filter | Granular filter | Membrane filter | Granular filter | Membrane filter | Granular filter |
| BPT all | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Four mile filter; BPT beyond* | 1–6 | 2–9 | 8,787 | 24,287 | 0.3–2 | 0.2–1 | 9,079 | 13,842 |
| Filter shallow; BPT deep | N/A | 4–22 | 59,378 | N/A | N/A | 3–13 | 26,236 | N/A |
| Filter and discharge all | N/A | 6–31 | 139,609 | 438,067 | N/A | 3–16 | 56,558 | 86,845 |
| Zero discharge shallow; BPT deep | N/A | 5–23 | 247,095 | N/A | N/A | 3–14 | 81,398 | N/A |
| Zero discharge shallow; filter deep | N/A | 6–31 | 327,326 | N/A | N/A | 3–17 | 111,629 | N/A |
| Zero discharge all | N/A | 6–32 | 458,736 | 776,772 | N/A | 3–17 | 145,572 | 186,608 |

Notes:
1. All incremental values relative to current (BPT) treatment level.
2. Incremental benefits reflect monetized health benefits only. Membrane filter benefit projections derived from industry-wide flow-weighted averages for 3 carcinogens are not directly comparable to granular filter projections based on individual production groups for 2 carcinogens.

*Preferred option in today's notice.

N/A: Not Available.

Neither analysis for granular or membrane filtration considers impacts of various additives, especially biocides, due to the lack of specific data on the actual use/discharge of these components by the industry. EPA identified only a limited number of the biocides as actually used by the industry. Many of the biocides registered by EPA's Office of Pesticides and Toxic Substances, or identified as used by the industry, are highly toxic to marine aquatic life, and others are carcinogenic. These pollutants may cause adverse impacts on the marine environment and/or human health through fish consumption if discharged in sufficient quantities. EPA expects to collect additional pollutant data, and data on actual use/discharge of biocides and other toxic additives, prior to final promulgation to more precisely characterize average industry-wide discharges. EPA is also soliciting new information on produced water characteristics, and environmental impacts associated with discharges of these wastes into the marine environment.

The impacts of radioactive pollutants in produced water (e.g., radium-226 and radium-228) are not evaluated for either filtration technology although they have been identified in produced waters in the Gulf of Mexico region. These radioactive pollutants are known human carcinogens and are known to bioaccumulate in fish and shellfish. These pollutants have a potential to cause human health impacts through fish consumption. Recent data from a coastal Louisiana study show these pollutants to accumulate in the sediments, as well as caged oysters.

However, data are lacking on the fate and impacts of these pollutants in the offshore environment which precludes a complete assessment of potential human health risks and projected benefits associated with controlling the discharge of these pollutants at this time. EPA is concerned about these impacts, however, and expects to collect additional data on discharges of radioactive pollutants by the offshore subcategory, and on the removal efficiency of the existing control technologies prior to final promulgation. This new information will be used to project potential environmental impacts and regulatory benefits for the final RIA. EPA is also soliciting information on discharge levels of these pollutants, their fate in the marine environment, as well as data on the known environmental impacts in the offshore environment.

*B. Drilling Fluids and Drill Cuttings*

Water quality impacts/benefits are projected for eight pollutants representing average industry-wide drilling discharges. The analysis indicates that two pollutants (lead and mercury) exceed marine aquatic life

criteria, and two pollutants (arsenic and mercury) exceed human health criteria for fish consumption under current discharge conditions. The preferred BAT/NSPS option will eliminate these violations from the more environmentally sensitive shallow water areas, as well as reduce the number of pollutants with projected exceedances to one (mercury) for marine aquatic life criteria and one (arsenic) for human health criteria for fish consumption.

The estimated human health benefits for the preferred BAT/NSPS option based on the combined quantified average risk reduction associated with consumption of platform contaminated fish and shrimp by lead and arsenic are in the range of $13.4 million to $65.2 million, versus a projected incremental annualized cost of $29.5 million (1986 dollars). (Table 21) An additional reduction in human health risk due to the subsistence fishing near the platforms in the Gulf of Mexico region is also anticipated but cannot be quantified by the preliminary RIA.

TABLE 21—INCREMENTAL ANNUALIZED BENEFITS AND COSTS FOR DRILLING FLUIDS AND CUTTINGS BAT/NSPS OPTIONS

[thousands of 1986 dollars per year; Gulf of Mexico only]

| Regulatory option | Incremental benefit | Incremental cost |
|---|---|---|
| 5/3 All [1] | N/C | 787 |
| 1/1 All | 13,431–65,184–65,381 | 8,466 |
| Zero discharge 4 miles; 5/3 beyond | 12,396–60,381 | 22,493 |
| Zero discharge 4 miles; 1/1 beyond [2] | 13,341–65,184 | 29,500 |
| Zero discharge shallow; 5/3 deep | 12,584–60,856 | 81,119 |
| Zero discharge shallow; 1/1 deep | 13,431–65,185 | 86,279 |
| Zero discharge all | 13,432–65,188 | 211,859 |

NOTES
1. All incremental values relative to current treatment level.
2. Incremental benefits reflect monetized benefits only.
3. Current treatment assumed to be equivalent to "5/3 All" option for analytic purposes.
[1] Current treatment assumed to be equivalent to "5/3 All" option for analytic purposes. Incremental costs incurred are due to monitoring requirements.
[2] Preferred option in today's notice.
N/C: Not Calculated.

The water quality analysis and cost/benefit analysis for drilling fluids and cuttings underestimates the benefits derived from the proposed regulation by considering impacts of only eight pollutants to represent average industry-wide drilling discharges. Pollutants detected only in limited number of samples, are not considered to be industry-wide pollutants, and are therefore not considered in the preliminary RIA. Some of these non-considered pollutants are toxic to the marine life and/or human health and may cause local chronic or sub-chronic marine life or human health impacts around the platforms if discharged in sufficient quantities. EPA expects to collect additional pollutant data prior to final promulgation to more precisely characterize average industry-wide discharges. These pollutants will be included in water quality and cost/benefit analysis for the final promulgation. EPA is also soliciting new information on drilling waste characteristics, and environmental impacts associated with discharges of these waste streams into the marine environment.

## XVIII. Non-Water Quality Environmental Impacts and Other Factors

### *A. Non-Water Quality Environmental Impacts*

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, sections 304(b) and 306 of the Act require the Agency to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, the Agency has evaluated the effect of the options being considered for the proposed regulations on air pollution, solid waste generation and management, and energy consumption.

The following is a description of the non-water quality environmental impacts associated with the options considered for today's proposed regulations and a summary of the results of the evaluations identifying the estimated levels and impacts for each of the considered options.

#### 1. Energy Requirements and Air Emissions

Some of the proposed options are estimated to result in the generation of significant amounts of air emissions and the use of significant amounts of additional energy to comply with the additional treatment and control requirements for drilling fluids and drill cuttings and produced water.

Energy requirements and resulting air emissions for the control options considered by EPA are presented in Table 22 for drilling wastes and in Table 23 for the production wastes. Estimates are incremented to BPT. Thus, for example, the "5/3 All" estimates should approximate the energy requirements and air emissions associated with the requirements of existing permits. Presently, there are no national standards that directly regulate emissions from offshore oil and gas facilities. However, pursuant to the Clean Air Act Amendments of 1990, specific requirements are to be issued within a year controlling air emissions from OCS sources located offshore of the states along the Pacific, Arctic, and Atlantic coasts and along the Gulf coast off the state of Florida. The majority of offshore oil and gas activities, which are in the Gulf of Mexico offshore of Louisiana, Texas, etc., are not included in the coverage of these upcoming requirements. Sources of air pollution from offshore activities include leaks, oil-water separators, dissolved air flotation units, painting apparatus, and storage tanks, but more significantly diesel or gas engines for generating power, either on the structures or for the purpose of transportation to and from the structures.

TABLE 22—NON-WATER QUALITY ENVIRONMENTAL IMPACTS: UNCONSTRAINED DEVELOPMENT

| Options | Volume of barged waste (bbl/yr) | Air emissions (short tons/yr) | Fuel requirements (BOE/yr) |
|---|---|---|---|
| Drilling Fluids and Cuttings | | | |
| 5/3 all structures | 552,000 | 532 | 79,517 |
| 1/1 all structrues | 552.000 | 532 | 79,517 |
| Four mile zero discharge; 5/3 beyond [1] | 1,596,000 | 1,166 | 173,360 |
| Four mile zero discharge; 1/1 beyond [1] | 1,596,000 | 1,166 | 173,360 |
| Zero discharge shallow; 5/3 deep | 2,746,000 | 2,116 | 293,535 |
| Zero discharge shallow; 1/1 deep | 2,746,000 | 2,116 | 293,535 |

TABLE 22—NON-WATER QUALITY ENVIRONMENTAL IMPACTS: UNCONSTRAINED DEVELOPMENT—Continued

| Options | Volume of barged waste (bbl/yr) | Air emissions (short tons/yr) | Fuel requirements (BOE/yr) |
|---|---|---|---|
| Zero discharge; all structures | 8,190,000 | 6,352 | 818,029 |

BOE: Barrel of Oil Equivalent.
[1] Excludes Alaska region from the zero discharge requirement.

For drilling fluids and drill cuttings, the only technology under consideration that has significant energy consumption impact is the use of barges to transport waste solids to shore and land transportation of land disposal of these wastes. Table 22 summarizes the fuel requirements and resulting air emissions for this option.

Air emissions are calculated for sulfur dioxide ($SO_2$), carbon dioxide ($CO_2$), hydrocarbons (HC), and nitrogen oxides ($NO_x$). These calculations are incremental to BPT and assume all oil-based drilling fluids and drill cuttings have either been substituted for or are being disposed of by shipment to land. The methodology used for the fuel consumption and emission calculations are described in the development documents.

Materials barged for the "5/3 All" and the "1/1 All" options are those that would normally require barging (i.e., do not comply with the required effluent limits). As can be seen by the table, a zero discharge requirement, whether applicable to all of the structures or to those structures located in shallow water depth, significantly increases the amount of barged material and resulting fuel consumption and air emissions.

The non-water quality environmental impacts related to the produced water options are shown in Table 23. The opertions requireing zero discharge for produced water greatly increase air emissions and fueld requirements as compared to those of the filtration and discharge options. This is due primarily to the energy required of reinjection equality in order to pumpt fluids into formations.

TABLE 23—NON-WATER QUALITY ENVIRONMENTAL IMPACTS: UNCONSTRAINED DEVELOPMENT

[Produced Water]

| Option | Fuel requirements (BOE/year) | | Total emissions (short tons/year) | |
|---|---|---|---|---|
| | BAT | NSPS | BAT | NSPS |
| Filter and discharge; 4 miles; BPT deep | 5,490 | 10,920 | 9 | 18 |
| Filter shallow; BPT deep | 19,190 | 11,440 | 32 | 19 |
| Filter and discharge; all | 58,980 | 46,650 | 97 | 77 |
| Zero discharge shallow; BPT deep | 709,510 | 422,540 | 1,178 | 702 |
| Zero discharge shallow; filter deep | 750,000 | 457,750 | 1,244 | 760 |
| Zero discharge; all | 2,179,580 | 1,718,310 | 3,619 | 2,853 |

BOE: barrel of oil equivalent.

Air emissions calculated for produced waters include particulates in addition to $NO_x$, $CO_2$, and $SO_2$. These are pollutants associated with gas turbine operation. Energy requirements for reinjection were based on an injection pressures of 1,800 psi and the energy derived from a natural gas turbine. An 80 percent motor efficiency and a 20 percent energy conversion efficiency were assumed. The same basis was used for the power requirements for the filtration option calculations, except pressurization to 50 psi was assumed.

2. Solid Waste Generation

The Agency evaluated the impacts of solid waste generation and disposal for the options considered in this rulemaking. The Agency concluded that there is adequate onshore capacity for the disposal of the amounts of drilling wastes (drilling fluids and cuttings) estimated to be generated by the preferred regulatory option (4 Mile; 1/1 deep). The following is a summary of the Agency's findings in this regard.

The regulatory options described in today's notice will not cause the generation of additional solids as a result of the treatment technology. However, some of the options—particularly those requiring zero discharge for drilling fluids and cuttings—would require disposal of the solids associated with waste materials. In particular, used drilling fluids and cuttings contain relatively high levels of solids, and considerable volumes are generated which would be disposed onshore under several of the regulatory options presented in today's notice.

For example, under the option requiring zero discharge of drilling wastes from all new offshore wells, EPA estimates that approximately 8.2 million barrels per year of drilling fluids and drill cuttings would be transported to shore for disposal. As indicated in Table 22, this zero discharge option represents the maximum amount of barged wastes required by any of the options considered in this rulemaking. This volume of barged wastes may be compared to the Agency's estimates of 361 million barrels per year of drilling wastes generated from the drilling of onshore wells, including the "onshore" and "coastal" subcategories. See "Report to Congress: Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy," U.S. EPA, Office of Solid Waste, EPA/530-SW-88-003, December 1987 (hereinafter "Report to Congress"). The maximum barged volume of approximately 8.2 million barrels per year represents about 2.3 percent of the volume of all drilling wastes that are generated and disposed onshore. Likewise, Table 20 indicates that the Agency's preferred regulatory option (4 Mile; 1/1 deep) would require the transport of approximately 1.6 million barrels per year of drilling waste to shore for disposal. This represents less than 0.5 percent of the volume of all the

drilling wastes that are generated and disposed onshore.

Those drilling wastes that are generated offshore and transported to shore for disposal under the preferred option would be deposited in land disposal units similar to those used to manage a portion of onshore-generated drilling wastes. These land disposal units would generally be located relatively near the coast where the wastes are brought to shore. While there are currently no federal requirements for the onshore disposal of drilling wastes under the RCRA (see EPA's "Regulatory Determination for Oil and Gas Geothermal Exploration, Development and Production Wastes" at 53 FR 25446), there are existing State program requirements in the Gulf Coast and California Coast areas where the wastes would be brought to shore. EPA is developing a tailored program for the management of exploration and production wastes under RCRA Subtitle D.

As discussed in Section XIV of today's notice, the Agency did study that availability of land disposal capacity for drilling wastes that would be transported to shore for disposal under the regulatory options presented in today's notice ("Onshore Disposal of Offshore Drilling Waste—Capacity and Cost of Onshore Disposal Facilities," ERC Environmental and Energy Services Co. for U.S. EPA, January 1991). That study concluded that there is at least 45 million barrels per year of available or projected land disposal capacity for drilling wastes beyond current requirements in the Gulf and California coastal areas (including those volumes of onshore-generated drilling wastes and those offshore-generated drilling wastes which are currently brought to shore for land disposal). The 1.6 million barrels per year of drilling wastes that would be disposed onshore under today's preferred option represents approximately 3.5 percent of the estimated available land disposal capacity in these coastal areas, which the Agency believes to be a reasonable use of the available capacity.

3. Underground Injection of Produced Water

In the Report to Congress, EPA analyzed the impact of the disposal of produced water in injection wells. The study found that injection wells used for the disposal of produced water have the potential to degrade fresh groundwater in the vicinity if they are inadequately designed, constructed, or operated. Highly mobile chloride ions can migrate into freshwater aquifers through corrosion holes in injection tubing, casing, and cement. The federal Underground Injection Control (UIC) program (administered by EPA and states pursuant to the Safe Drinking Water Act, sections 1421–1425) requries mechnical integrity testing of all Class II injection wells every 5 years. All states meet this requirement, although some states have requirements for more frequent testing.

Many states have primacy for the UIC program. Both the criteria used for passing or failing an integrity test for a Class II well and the testing procedure itself can vary. There is considerable variation in the actual construction of Class II wells in operation nationwide, both because many wells in operation today were constructed prior to the enactment of current programs and because current state programs vary significantly. State requirements for new injection wells can be quite extensive. However, state requirements for construction of injection wells prior to the enactment of the UIC program have evolved over time, and construction ranges from injection wells in which all groundwater zones are fully protected with casing and cementing to shallow injection wells with one casing string and little or no cement. Furthermore, the offshore areas which may be considered for reinjection at distances greater than 4 miles may not have freshwater aquifers in proximity to the injection formations.

*B. Other Factors*

The industry has argued that injuries and fatalities due to hauling additional volumes of drilling wastes to shore would increase. Based upon available information, it is likely that the number of accidents would increase if the volume of waste transported to shore increased. However, it is difficult to determine quantitatively the increase in accidents and fatalities.

## XIX. Solicitation of Comments

The Agency invites and encourages comments on any aspect of these proposed regulations. The preceding parts of today's notice list specific areas where comments are solicited. Many of these areas and several additional areas open for comment are summarized below. In order for the Agency to evaluate views expressed by commenters, the comments should contain specific data, references, and information to support their views.

*A. Industry Profile*

The Agency believes that the estimated total capital costs and operation and maintenance costs for BAT produced water are valid even though the profiling effort does not include those structures currently producing in state offshore waters.[1] Peak and annual average water production rates are calculated for each model project, based on initial production rates, initial water cut, annual decline rates and the estimated economic lifetime of the model project. For each model project, peak water production rates were used in the development of capital costs, while average annual water production volumes were used to calculate operating and maintenance costs. The Minerals Management Service (MMS) reported the water production volumes for offshore federal waters in the year 1987 and state waters records reported water production volumes for state offshore waters for the year 1986. The Agency's estimate of average water production volumes in offshore federal water areas only exceeded the summation of the MMS and state records volumes reported by 60 percent. Since the Agency's water production volume did not exceed actual volumes, the capital costs and the operating and maintenance costs that were developed accounted for those structures in state waters that the Agency was unable to profile. However, because these costs are distributed over fewer structures, the impacts may be somewhat over-estimated.

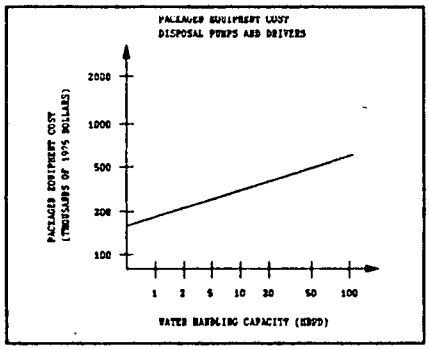
EPA welcomes comment, information and data concerning the number of structures currently in production in state offshore waters and their associated water production using the Agency's definition of "offshore."

*B. Produced Water Treatment Costs*

The Agency believes that today's proposal is based on produced water treatment costs that are substantially improved from those used in the 1985 proposal. The capital costs that were used for the 1985 proposal and have been used for today's proposal were costs supplied to the Agency by industry. These costs were contained in an October 1975 report entitled, "Potential Impact of EPA Guidelines for Produced Water Discharges from the Offshore and Coastal Oil and Gas Extraction Industry." This report was prepared by Brown and Root for the Sheen Technical Subcommittee of the Offshore Operators Committee. In this report, costs of equipment were plotted

[1] Drilling and production efforts in state waters are included in the evaluation of NSPS costs and impacts for drilling fluids, drill cuttings and produced water.

in graphs such as the example shown in Figure 1.




In 1982, a second report was prepared for EPA by Hydrotechnic Corporation entitled, "Cost Estimates for Systems to Treat Produced Water Discharges in the Offshore Gas and Oil Industry to Meet BAT and NSPS." The costs in this report were derived from the 1975 Brown and Root report as follows: for a given piece of equipment at a given capacity, the costs were read off of the charts contained in the report. The costs from the charts were adjusted to 1981 costs by applying an inflation factor to them.

Up until late October, 1989, the costs being used were the escalated 1981 costs from the Hydrotechnic report which were escalated once again to achieve 1986 costs. Comments from environmental groups such as the Natural Resources Defense Council indicated that the costs used by the Agency in the 1985 **Federal Register** were too high thereby making some of the more stringent options economically infeasible. However, no adjustments in costs were made in response to such comments.

Since late October 1989, the submitted data have been extensively corrected throughout the offshore oil and gas project. The equipment costs used in the 1985 proposal were high to begin with and have continually been inflated over the years. Some re-costing of equipment has been performed that has resulted in reduced capital costs and lowered operating and maintenance costs. An example of equipment re-costing is the pump and its associated piping for the disposal system. For a disposal system that has the capacity to handle 200 barrels of water per day. The following costs from the 1975 Brown and Root Report were used:

| | |
|---|---|
| Pump | $946,000 |
| Associated Piping | 1,960,000 |
| Total | $2,906,000 |

EPA consulted the Department of Energy, Energy Information Administration for updated equipment costs. The Energy Information Administration produces an annual report, entitled "Costs and Indices for Domestic Oil and Gas Field Equipment and Production Operations," which is a result of extensive information gathering from equipment manufacturers and suppliers. The same 200 barrels of water per day disposal system costed to be $2.9 million from the 1975 Brown and Root report was re-costed using the Energy Information Administration basis to be:

Pump and Associated Piping: $240,000.

This annual report updates costs on pumps and disposal systems for different produced water handling capacities. This re-costing effort resulted in reductions of up to 91 percent in the capital costs of these disposal systems.

Once the equipment was re-costed and the engineering errors were corrected, there was a dramatic reduction in the total capital costs of the produced water options. For example, the option of a zero discharge requirement for all structures had capital costs reduced by 61 percent and the operating and maintenance costs were reduced by 54 percent.

The Agency is interested in comment on the cost corrections explained above and also the costs associated with installing and operating membrane filtration systems. In particular, EPA requests information and data as to the various advantages and disadvantages of membrane systems relative to granular (or other) filtration systems and other produced water treatment methods, especially BPT. For example, do membrane or other systems have advantages in terms of platform space requirements, fitting into the configuration of other production and treatment components, maintenance requirements, or energy use.

*C. Drilling Fluids and Drill Cuttings Treatment Costs*

1. Discharge Volumes

For the 1988 Notice of Data Availability, the Agency used discharge volumes for drilling fluids and drill cuttings that were submitted in response to the 1985 proposal. These discharge volumes were contained in a February, 1986 report entitled "Water-based Drilling Fluids and Cuttings Disposal Option Survey," by Walk, Haydel and Associates. During the comment period on the 1988 notice, an updated report for discharge volumes entitled, "Water-based Drilling Fluids and Cuttings Disposal Study Update," (Walk, Haydel and Associates, November, 1988) was submitted to the Agency.

This study update contained results from the measurement of the discharge volumes of drilling fluids and cuttings from 15 wells in Mobile Bay. A comparison of the data from the updated study was made in relation to the data contained in the 1986 report.

The 1986 report contained discharge volumes of 1,430 barrels of cuttings and 5,349 barrels of drilling fluid (with an additional 1,400 barrels of fluid allocated to the active mud system) for a 10,000 foot well located in the Gulf of Mexico. These data were based on theoretical calculations used by most operators in estimating the volumes of drilling wastes reported in the Agency's Discharge Monitoring Reports.

After review of the 1988 study, the Agency believes for the reasons explained below that the data from the 1986 Walk, Haydel and Associates report provide better information for estimating typical discharge volumes of drilling fluids and cuttings from those reported in the 1988 study for U.S. offshore wells.

2. Well Depths and Formation Characteristics

For the purpose of costing options for drilling fluids and cuttings, the average well depth in the Gulf of Mexico was assumed by EPA to be 10,000 feet. In the updated study, all of the well depths were over 12,000 feet and over half of the wells went to depths of 20,000 feet. These 20,000-foot wells in the Mobile Bay area were most likely tapping the Norphlet formation which is a high temperature, high pressure and high sulphur environment. Chevron, USA, Inc. made a request of the Minerals Management Service to allow a delay in field delineation while developing a metallurgy technology compatible with the environment. Mobile Oil Corporation had to replace liners in Norphlet wells because of corrosion. The Norphlet formation has proven to be a difficult formation to produce from and therefore may be an equally difficult formation to drill. These wells are atypical of the majority of wells drilled and, therefore, the data from such wells do not realistically reflect the population of wells drilled in others formations.

3. Calculation of Discharge Volume Ratios

In the 1986 Walk Haydel report, the calculated discharge volume of drilling fluids and cuttings from an 18,000 foot well was 13,267 barrels. The actual volume from a 16,300 foot well (which industry considers to be similar to an 18,000 foot well) was measured to be 37,200 barrels. Industry then determined the ratio of the actual barrels discharged to the calculated barrels discharged to be 37,200/13,267=2.804. The "actual" volume of a 10,000 foot well was then determined by multiplying the calculated volume (1986) of 6,770 barrels by 2.804:

$$6{,}779 \times 2.804 = 19{,}008 \text{ barrels}$$

This type of calculation assumes a direct linear correlation between well depth and discharge volumes of drilling fluids and cuttings. In 1985, the American Petroleum Institute surveyed 1 percent of the wells drilled onshore that year. It should be noted that the amount of drilling wastes from a given well are more likely to vary according to the depth of the well and the formation being drilled than whether the well is onshore or offshore. A regression analysis was run to fit the data obtained and the regression equations were used to extrapolate from the sample population to all onshore wells drilled in 1985. The 1986 report fit four regression models to the data, however, the model with the best fit was:

$$\text{volume of waste} = a(\text{footage}) + b(\text{footage}^2) + c$$

This non-linear relationship can be attributed to several factors: Drilling rate; mud system change overs (each time a mud type is changed, the entire mud circulation system is changed as well); and mud type (larger quantities of mud are generated if low-density muds are diluted with water to maintain the solids concentration below a specified limit).

4. Valuation of Receiving Waters

As introduced in section XVI.C and discussed in section XVII of today's notice, the Agency is requesting comment on its approach to valuing marine waters. The monetized benefit values in the RIA primarily focus on human health effects. The RIA does not include monetized estimates of benefit parameters such as recreational uses or the intrinsic value of the resource. The Agency requests comment on the data and methodologies used in developing the benefit estimates presented in the Regulatory Impact Analysis.

*D. Miscellaneous Discharges*

EPA solicits additional information regarding the pollutant characteristics, sources, and treatment of deck drainage, produced sand, and well treatment, completion, and workover fluids. While EPA believes that its proposed treatment/control options for these sources are appropriate, the options are based on limited information. Additional data on pollutant loadings and quantity is solicited, as well as operational information on well treatment, workover and completion fluids including types of fluids, methods of injection and recovery, operational practices.

*E. Industry Profile Within Three Miles*

As discussed in section V.B, EPA evaluated regulatory options according to, among other criteria, distance from shore. The distances examined include 4, 6, and 8 miles from shore. EPA is also considering regulatory options based on 3 miles from shore. However, industry profile information is limited inside of 3 miles. EPA solicits information regarding numbers and types (i.e., gas only, oil only, gas and oil), and levels of production and waste discharges of oil and gas extraction producing facilities and projections or plans for new well drillings at 3 miles or less from shore.

*F. Membrane Filtration Treatment Technology for Produced Waters*

As discussed in section X.B, EPA is assessing the performance of membrane filtration on produced waters. EPA will be collecting sample data on tests performed at systems operating on offshore structures following this proposal. Analysis of these samples will include measurements of oil and grease exclusive of non-hydrocarbon organic materials. The Agency has recently received a petition from the OOC requesting review and revision of the oil and grease limitations for produced water based on the current analytical procedure not being appropriate. EPA requests additional comment or data on this subject. EPA is also soliciting any additional information on the performance of membrane filtration applications at any locations in the oil and gas industry and its applicability to treating oily waters.

*G. Static Sheen Analytical Method*

As discussed in section VII, the Agency is not changing the 1985 proposal which proposed the Static Sheen Test for determination of the presence of free oil. The method for this analysis was also proposed in that **Federal Register** notice. As further stated in section VII, there have been other analytical methods developed, that are in use, for the Static Sheen Test. In particular, the analyses developed by Region IX, and X, and another known as the "minimal volume method" are currently in use. These methods vary according to the volume of sample, the type of receiving medium (tap water, or sea water), mixing time, observation time, and determination criteria for the presence of free oil.

The Agency is soliciting comments on the 1985 proposed method and the other methods described with respect to their relative accuracy in identifying the presence of free oil.

*H. Radioactivity of Produced Water*

As also discussed in section VII, the Agency has conducted a literature and data gathering search regarding the presence and levels of radium in produced waters. Several studies on effluent or ambient levels of radium in areas surrounding offshore production sites are cited in section VII, although it was concluded that data bases are scattered and, for the most part, preliminary. EPA is soliciting comment and additional data concerning radioactivity of produced water, and its effect on ambient levels in the surrounding environment. Depending upon evaluation of additional data and comments submitted as a result of today's proposal, technologies such as ion exchange and types of membrane or other filtration suitable for removal of radioactivity may be considered as a technology basis for the treatment of produced water at promulgation.

*I. Alaskan Waters*

In section XII, EPA explained why it believes a zero discharge of drilling fluids and cuttings, based on barging of wastes, is not appropriate for offshore drilling operations in Alaskan waters. However, EPA is aware of an experimental operation to reinject drilling wastes. EPA solicits comments and information on the feasibility of requiring zero discharge based on reinjection, rather than barging of wastes to land for onshore disposal, for Alaskan waters.

*J. Treatment/Control Options for Drilling Wastes*

In section XIII, EPA lists and describes the BAT and NSPS options being considered for treatment and control of drilling wastes. EPA solicits comments on the preferred option (4 Mile Zero Discharge; 1/1 Beyond Option) and on the other options as well. EPA especially invites comment on

the "5/3 All Structures" and the "1/1 All Structures" discharge options and on the "Zero Discharge All Structures" option.

*K. Cadmium Formation Contribution to Drilling Wastes*

In section XIII EPA describes an analysis of data from an API study on composition of drilling wastes. The analysis of these data estimates that 11 to 13 sites had higher concentrations of cadmium in their drilling fluids than in their barite. Certain assumptions are necessary in order to assign the increases in cadmium levels in the drilling fluids to sources other than the barite or to the formation being drilled. The assumption that cadmium is uniformly distributed throughout the barite and the drilling fluids must be made, the other components of the drilling fluid system do not contribute to this increase in cadmium levels, and that these sites are representative of the locations at future drilling will occur.

*L. Treatment/Control Options for Produced Water*

In section XIII EPA describes the BAT options being considered for treatment and control of produced waters. The types of control involve various combinations of treatment and discharge and/or zero discharge. The treatment and discharge technologies considered in the options described involve either BPT, filtration, or reinjection. Each option also varies according to requriements which may differ with respect to depth or distance from shore. EPA solicits comments on the viability and appropriateness of these options, especially with respect to the "Filtration All Structures," "BPT All Structures," and the "Zero Discharge" options. In addition, EPA solicits comment on the impact of produced water radioactivity on the viability and appropriateness of the proposed treatment options. EPA intends to issue a Notice of Data Availability and will take all available information into account in developing final regulatory controls on produced water.

*M. Environmental Impact Analysis*

Section XVII describes the environmental impact/benefit analyses performed by EPA on the proposed regulatory options for drilling wastes and produced waters. EPA believes that the water quality and cost/benefit analyses performed on both of these waste sources underestimates the benefits derived from the proposed regulations because only eight pollutants are used to represent average industry-wide discharges. These eight pollutants, according to EPA data, are those that are consistently present in significant levels. Some of the pollutants excluded from consideration were found in insignificant quantities or numbers of facilities. Yet, some of these pollutants are highly toxic. This analysis also does not consider impacts of various produced water additives, especially biocides, due to the lack of specific data on the use of these components. Thus, EPA solicits additional information on produced water and drilling waste characteristics, especially with respect to toxic pollutants, biocides, and use of other toxic additives. EPA also solicits information on the environmental impacts associated with these discharges.

## XX. Variances and Modifications

*A. Stormwater Variance*

A concern not previously addressed is with respect to noncompliance with the deck drainage regulations because of storms. Rainwater comes in contact with the decks of the platforms and any open treatment or storage devices. Short-term, high volume loadings can temporarily interfere with treatment and control processes. One way to handle this is to require a certain size holding tank capable of containing stormwater associated with a certain size storm event until it can be routed to the treatment system, and allowing a variance for any overflows that may occur. Another method would be to allow a variance during the initial period (the "first flush") of the storm events and for a designated period after certain sized storm events.

EPA solicits comment on the appropriate approach to storm exemptions, especially regarding the appropriate size of storm events which would trigger a variance allowance, or the appropriate capacity of stormwater holding tanks.

EPA also solicits comment on Best Management Practices (BMPs) applicable to deck drainage. Such BMPs could, for example, require a regular washdown schedule where the drainage is sent through the major wastewater treatment system, thereby being subject to controls on produced water.

## XXI. OMB Review

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA responses to those comments are available for public inspection at the EPA Public Information Reference Unit listed in the **ADDRESSES** section of today's notice.

## List of Subjects in 40 CFR Part 435

Oil and gas extraction, Waste treatment and disposal, Water pollution control.

Dated: February 28, 1991.

**F. Henry Habicht,**

*Acting Administrator.*

## Appendices

### Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—Clean Water Act.

Agency—U.S. Environmental Protection Agency.

API—American Petroleum Institute.

ASTM—American Society for Testing and Materials.

BAT—Best available technology economically achievable, under section 304(b)(2)(B) of the Act.

BCT—Best conventional pollutant control technology, under section 304(b)(4) of the Act.

BMP—Best Management practices.

BOD—Biochemical oxygen demand.

BPT—Best practicable control technology currently available, under section 304(b)(1) of the Act.

Bypass—An act of intentional noncompliance during which waste treatment facilities are circumvented because of an emergency situation.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 and Water Quality Act of 1987.

LC50—The concentration of a test material that is lethal to 50 percent of the test organisms in a bioassay.

NPDES Permit—National Pollutant Discharge Elimination System permit issued under section 402 of the Act.

NRDC—Natural Resources Defense Council.

NSPS—New source performance standards under section 306 of the Act.

OCS—Outer Continental Shelf.

OOC—Offshore Operators Committee.

PESA—Petroleum Equipment Suppliers Association.

Priority Pollutants—The 65 pollutants and classes of pollutants declared toxic under section 307(a) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976. Amendments to Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SPP—Suspended particulate phase.

Spot—The introduction of oil to a drilling fluid system for the purpose of freeing a stuck drill bit or string.

Upset—An unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee.

### Appendix B—Major Documents Supporting the Proposed Regulation

1. ERC Environmental and Energy Services Co. for EPA, "An Evaluation of Technical Exceptions for Brine Reinjection for the Offshore Oil and Gas Industry", January 1991.

2. Offshore Operators Committee, "Gulf of Mexico Spotting Fluid Survey", prepared by Exxon Production Research Company and Chevron, USA, Inc., April 4, 1987.

3. Offshore Operators Committee, "Final Report for Research Program on Organic Chemical Characterization of Diesel and Mineral Oils Used as Drilling Mud Additives—Phase II", prepared by Battelle New England Marine Research Laboratory, December 24, 1986.

4. EPA/API Diesel Pill Monitoring Program, presented at the 1988 International Conference on Drilling Wastes, Calgary, Alberta, Canada, April 5–8, 1988.

5. Science Applications International Corporation of EPA, "Summary of Data Relating to Minor Discharges", February 1991.

6. KRE, P.C. for EPA, "Offshore and Coastal Oil and Gas Extraction Industry Study of Onshore Disposal Facilities for Drilling Fluids and Drill Cuttings Located in the Proximity of the Gulf of Mexico", March 25, 1987.

7. KRE, P.C. for EPA, "Drilling Fluids and Drill Cuttings Disposal, Offshore Oil and Gas Extraction Industry", November 22, 1986.

8. ERC Environmental and Energy Services Co. for EPA, "Onshore Disposal of Offshore Drilling Waste—Capacity and Cost of Onshore Disposal Facilities", February 1991.

9. ERC Environmental and Energy Services Co. for EPA, "Review of Static Sheen Testing Procedures", January 1990.

10. American Petroleum Institute, "A National Survey on Naturally Occurring Radioactive Materials (NORM) in Petroleum Producing and Gas Processing Facilities", July 1989.

11. EPA, "Development Document for 1991 Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category", February 1991.

12. Walk, Haydel and Associates, "Water-based Drilling Fluids and Cuttings Disposal Study Update", January 1989.

13. Technical Resources, Inc., "The NPDES Drilling Fluids Toxicity Test Variability Study", February 1991.

14. EPA, "Economic Impact Analysis of Proposed Effluent Limitations Guidelines and Standards of Performance for the Offshore Oil and Gas Industry", February 1991.

15. EPA, "Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards of Performance for the Offshore Oil and Gas Industry", February 1991.

16. EPA, "Regulatory Impact Analysis of the Effluent Guidelines Regulation for the Offshore Subcategory of the Oil and Gas Extraction Industry", February 19, 1991.

**Appendix C.—Regulatory Boundaries**

Structures discharging to the following areas shall be considered "shallow." Unless otherwise stated below, the outer boundary for each designated area is the 200-mile boundary of the Fishery Conservation Zone.

*(A) Gulf of Mexico—Water Depth 20 Meters or Less*

Extending from the inner boundary of the territorial seas of Eastern Texas, Louisiana, Mississippi, Alabama, and Eastern Florida.

*(B) Atlantic Coast—Water Depth 20 Meters or Less*

Extending from the inner boundary of the territorial seas offshore of the contiguous states between and including Maine and Florida.

*(C) California Coast—Water Depth 50 Meters or Less*

Central and Northern California: Extending offshore of California and bounded on the north by approximately 42° N. latitude and bounded on the south by the U.S.-Mexico boundary.

*(D) Alaska*

1. Gulf of Alaska—water depth 50 meters or less: It is bounded approximately on the west by 131° 55′ W. longitude, thence east along 58° N. latitude to 147° V. longitude, thence south.

2. Cook Inlet/Shelikof Strait—water depth 50 meters or less: Lies east of 156° W. longitude and north of 57° N. latitude to the inner boundary of the territorial seas near Kelgin Island.

3. Bristol Bay/Aleutian Range—water depth 50 meters or less: (a) North Aleutian Basin: Lies in the eastern Bering Sea northwest of the Alaskan Peninsula and south of 59° N. latitude. It is bounded on the west by 165° W. longitude and on the east by the inner boundary of the territorial seas.

(b) St. George Basin—water depth 50 meters or less: Lies in the eastern Bearing Sea northwest of the Aleutian Islands chain and is bounded on the north by 59° N. latitude and on the west by 174° W. longitude from 59° N. latitude to 56° N. latitude, thence east to 171° W. longitude, thence south. It is bounded on the east by 165° W. longitude.

4. Norton Basin—water depth 20 meters or less: Lies south and southwest of the Seward Peninsula. It is bounded on the south by 63° N. latitude, on the west by the U.S.-Russia Convention Line of 1867, on the north by 65° 34′ N. latitude, and on the east by the inner boundary of the territorial seas.

5. Beaufort Sea—water depth 10 meters or less: Lies offshore of Alaska in the Beaufort Sea and the Arctic Ocean. It is bounded on the west by the Mineral Management Service Chukchi Sea planning area, extends eastward to the limit of U.S. jurisdiction, and on the south by the inner boundary of the territorial seas.

To determine water depth at the facility location, reference that most recent nautical charts or bathymetric maps with the smallest scale (highest resolution) available from the National Oceanic and Atmospheric Administration for the area in question. Water depth is the mean lower low water depth indicated on the appropriate map for the location of the facility or discharge. Water depth at the facility is based upon the proposed location of the facility's well slot structure or produced water discharge point.

For the reasons set out in the preamble, title 40, part 435 of the Code of Federal Regulations is proposed to be amended as set forth below:

## PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

1. The authority citation for part 435 is revised to read as follows:

Authority: Secs. 301, 304, 306, 307, and 501, Public Law 92–500, 86 Stat. 816, Public Law 95–217, 91 Stat. 156, Public Law 100–4, 101 Stat. 7 (33 U.S.C. 1311, 1314, 1316, 1317, and 1361).

2. 40 CFR part 435, subpart A is proposed to be revised to read as follows:

**Subpart A—Offshore Subcategory**

Sec.
435.10 Applicability; description of the offshore subcategory.
435.11 Specialized definitions.
435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
435.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
435.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
435.15 Standards of performance for new sources (NSPS).

## Subpart A—Offshore Subcategory

**§ 435.10 Applicability; description of the offshore subcategory.**

The provisions of this subpart are applicable to those facilities engaged in field exploration, drilling, well production, and well treatment in the oil and gas extraction industry which are located in waters that are seaward of the inner boundary of the territorial seas ("offshore") as defined in section 502(g) of the Clean Water Act. This includes offshore facilities that transport wastes to onshore locations for treatment or disposal.

**§ 435.11 Specialized definitions.**

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR part 401 shall apply to this subpart.

(b) The term *drilling fluid* shall refer to the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure. A water-base drilling fluid is the conventional drilling mud in which water is the continuous phase and the suspending medium for solids, whether or not oil is present. An oil-base drilling

fluid has diesel, crude, or some other oil as its continuous phase with water as the dispersed phase.

(c) The term *drill cuttings* shall refer to the particles generated by drilling into subsurface geologic formations and carried to the surface with the drilling fluid.

(d) The term *deck drainage* shall refer to any waste resulting from deck washings, spillage, rainwater, and runoff from gutters and drains including drip pans and work areas within facilities subject to this subpart.

(e) The term *produced water* shall refer to the water (brine) brought up from the hycarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

(f) The term *produced sand* shall refer to slurried particles used in hydraulic fracturing, the accumulated formation sands and scales particles generated during production. Produced sand also includes desander discharge from the produced water waste stream and blowdown of the water phase from the produced water treating system.

(g) The term *well treatment fluids* shall refer to any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled.

(h) The term *sanitary waste* shall refer to human body waste discharged from toilets and urinals located within facilities subject to this subpart.

(i) The term *domestic waste* shall refer to materials discharged from sinks, showers, laundries, safety showers, eye-wash stations, hand-wash stations, fish cleaning stations, and galleys located within facilities subject to this subpart.

The term *M9IM* shall mean those offshore facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons.

(k) The term *M10* shall mean those offshore facilities continuously manned by ten (10) or more persons.

(l) The term *no discharge of free oil* shall mean that waste streams may not be discharged when they would cause a film or sheen upon or a discoloration of the surfact of the receiving water, as determined by the Static Sheen Test.

(m) The term *Static Sheen Test* shall refer to the standard test procedure that has been developed for this industrial subcategory for the purpose of demonstrating compliance with the requirement of no discharge of free oil.

(n) The term *diesel oil* shall refer to the grade of distillate fuel oil, as specified in the American Society for Testing and Materials Standard Specification D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids.

(o) The term *96-hour LC50* shall mean the concentration of test material that is lethal to 50% of the test organisms in a bioassay after 96 hours of constant exposure.

(p) The term *exploration facility* shall mean any fixed or mobile structure subject to this subpart that is engaged in the drilling of wells to determine the nature of potential hydrocarbon reservoirs.

(q) The term *development facility* shall mean any fixed or mobile structure subject to this subpart that is engaged in the drilling of productive wells.

(r) The term *production facility* shall mean any platform or fixed structure subject to this subpart that is either engaged in well completion or used for active recovery of hydrocarbons from producing formations.

(s) The term *new source* means any exploratory, development or production facility or activity that meets the definition of "new source" under 40 CFR 122.2 and meets the criteria for determination of new sources under 40 CFR 122.29(b) applied consistent with the following definitions:

(1) The term *water area* as used in the term "site" in 40 CFR 122.29 and 122.2 shall mean the water area and ocean floor beneath any exploratory, development, or production facility where such facility is conducting its exploratory, development or production activities.

(2) The term *significant site preparation work* as used in 40 CFR 122.29 shall mean the process of surveying, clearing and preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.

(t) The term *gas well* shall refer to any well that produces more than 15,000 cubic feet of natural gas for each barrel of produced petroleum liquids.

(u) The term *oil development and production facilities* shall mean those facilities subject to this subpart that are engaged in the development of or production from oil wells or oil and gas wells.

(v) The term *maximum for any one day* as applied to BPT and BCT effluent limitations for oil and grease in produced water shall mean the maximum concentration allowed as measured by the average of four grab samples collected over a 24-hour period that are analyzed separately.

(w) The term *maximum* as applied to BAT effluent limitations for drilling fluids and to NSPS for produced water and drilling fluids shall mean the maximum concentration allowed as measured in any single sample of the discharged waste stream.

(x) The term *minimum* as applied to BAT effluent limitations and NSPS for drilling fluids shall mean the minimum 96-hour LC50 value allowed as measured in any single sample of the discharged waste stream.

(y) The term *well completion fluids* means: Salt solutions, weighted brines, polymers, and various additives used to prevent damage to the well bore during operation which prepare the drilled well for hydrocarbon production.

(z) The term *workover fluids* means: Salt solutions, weighted brines, polymers, or other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures.

**§ 435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

| Pollutant parameter waste source | BPT effluent limitations oil and grease mg/l | | |
|---|---|---|---|
| | Maximum for any 1 day | Average of values for 30 consecutive days shall not exceed | Residual chlorine minimum for any 1 day |
| Produced water | 72 | 48 | NA |
| Deck drainage | (1) | (1) | NA |
| Drilling fluids | (1) | (1) | NA |
| Drill cuttings | (1) | (1) | NA |
| Well treatment fluids | (1) | (1) | NA |
| Sanitary: | | | |
| M10 | NA | NA | 2 1 |
| M9IM 3 | NA | NA | NA |
| Domestic | NA | NA | NA |

1 No discharge of free oil.
2 Minimum of 1 mg/l and maintained as close to this concentration as possible.
3 There shall be no floating solids as a result of the discharge of these wastes.
NA=Not applicable.

**§ 435.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

| Waste source | BAT effluent limitations | |
|---|---|---|
| | Pollutant parameter | BAT effluent limitation |
| Produced water: | | |
| (A) For facilities located 4 miles offshore or less. | Oil and grease | The maximum for any one day shall not exceed 13 mg/l; the average of daily values for 30 consecutive days shall not exceed 7 mg/l. |
| (B) For facilities located more than 4 miles offshore. | Oil and grease | The maximum for any one day shall not exceed 72 mg/l; the average of daily values for 30 consecutive days shall not exceed 48 mg/l. |
| Drilling fluids and cuttings: | | |
| (A) For facilities located 4 miles offshore or less. | | No discharge.[1] |
| (B) For facilities located more than 4 miles offshore. | Toxicity | Minimum 96-hour LC50 of the SPP shall be 3% by volume. |
| | Free oil | No discharge.[2] |
| | Diesel oil | No discharge in detectable amounts. |
| | Mercury | 1 mg/kg dry weight maximum in the whole drilling fluid. |
| | Cadmium | 1 mg/kg dry weight maximum in the whole drilling fluid. |
| Well treatment, completion and workover fluids. | | Zero discharge of fluids slug plus 100-barrel buffer on either side. |
| Deck drainage during production: | | |
| (A) For facilities located 4 miles offshore or less. | Oil and grease | The maximum for any one day shall not exceed 13 mg/l; the average of daily values for 30 consecutive days shall not exceed 7 mg/l. |
| (B) For facilities located more than 4 miles offshore. | Oil and grease | The maximum for any one day shall not exceed 72 mg/l; the average of daily values for 30 consecutive days shall not exceed 48 mg/l. |
| Deck drainage during drilling. | Free oil | No discharge.[1] |
| Produced sand | | Zero discharge. |
| Sanitary MI0 | None | |
| Sanitary M9IM | None | |
| Domestic waste | None | |

[1] All Alaskan facilities are subject to the drilling fluids and cuttings discharge limitations for facilities located more than 4 miles offshore.
[2] Based on Static Sheen Test.

**§ 435.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

| Waste source | BCT effluent limitations | |
|---|---|---|
| | Pollutant parameter | BCT effluent limitation |
| Produced water (all structures) | Oil & grease | The maximum for any one day shall not exceed 72 mg/l; the average of daily values for 30 consecutive days shall not exceed 48 mg/l. |
| Drilling fluids and cuttings: | | |
| (A) For facilities located 4 miles offshore or less | | No discharge [1]. |
| (B) For facilities located more than 4 miles offshore. | Free oil | No discharge [2]. |
| Well treatment, completion and workover fluids | Free oil | No discharge [2]. |
| Deck drainage | Free oil | No discharge [2]. |
| Produced sand | Free oil | No discharge [2]. |
| Sanitary M10 | Residual chlorine | Minimum of 1 mg/l and maintained as close to this as possible. |
| Sanitary M9IM | Floating solids | No dishcarge. |
| Domestic waste | Floating solids | No discharge. |

[1] All Alaskan facilities are subject to the drilling fluids and drill cuttings discharge limitations for facilities located more than 4 miles offshore.
[2] Based on the Static Sheen Test.

**§ 435.15 Standards of performance for new sources (NSPS).**

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

| Waste source | NSPS effluent limitations | |
|---|---|---|
| | Pollutant parameter | NSPS effluent limitation |
| Produced water: | | |
| (A) For facilities located 4 miles offshore or less | Oil & grease | The maximum for any one day shall not exceed 13 mg/l; the average of daily values for 30 consecutive days shall not exceed 7 mg/1. |
| (B) For facilities located more than 4 miles offshore. | Oil & grease | The maximum for any one day shall not exceed 72 mg/l; the average of daily values for 30 consecutive days shall not exceed 48 mg/l. |
| Drilling fluids and cuttings: | | |
| (A) For facilities located 4 miles offshore or less | | No discharge [1]. |
| (B) For facilities located more than 4 miles offshore. | Toxicity | Minimum 96-hour LC50 of the SPP shall be 3% by volume. |
| | Free oil | No discharge [2]. |
| | Diesel oil | No discharge in detectable amounts. |
| | Mercury | 1 mg/kg dry weight maximum in the whole drilling fluid. |
| | Cadmium | 1 mg/kg dry weight maximum in the whole drilling fluid |
| Well treatment, completion and workover fluids | | Zero discharge of fluids slug plus 100-barrel buffer on either side |
| Deck drainage during production: | | |
| (A) For facilities located 4 miles offshore or less | Oil & grease | The maximum for any one day shall not exceed 13 mg/l; the average of daily values for 30 consecutive days shall not exceed 7 mg/l. |
| (B) For facilities located more than 4 miles offshore. | Oil & grease | The maximum for any one day shall not exceed 72 mg/l; the average of daily values for 30 consecutive days shall not exceed 48 mg/1. |
| Deck drainage during drilling | Free oil | No discharge [2]. |
| Produced sand | | Zero discharge |
| Sanitary M10 | Residual chlorine | Minimum of 1 mg/l and maintained as close to this as possible. |
| Sanitary M9IM | Floating solids | No discharge. |
| Domestic Waste | Floating solids | No discharge. |
| | Foam | No discharge. |

[1] All Alaskan facilities are subject to the drilling fluids and cuttings discharge limitations for facilities located more than 4 miles offshore.
[2] Based on Static Sheen Test.

[FR Doc. 91-5553 Filed 3-12-91; 8:45 am]
BILLING CODE 6560-50-M

federal register

Wednesday
March 13, 1991

# Part III

# Department of Education

## School Dropout Demonstration Assistance Program; Notice

## DEPARTMENT OF EDUCATION

[CFDA No. 84.201]

### School Dropout Demonstration Assistance Program

**ACTION:** Correction; notice inviting applications for new awards for fiscal year (FY) 1991.

**SUMMARY:** This notice corrects an error made in the application notice published in the **Federal Register** on February 4, 1991 (56 FR 4364). The notice published on February 4, 1991 is an application notice that contained all of the forms needed to apply for a grant under the School Dropout Demonstration Assistance Program. However, two of the forms were incorrectly printed as part of the narrative and are reprinted in this issue of the **Federal Register.** Applicants are to include these forms titled "School Dropout Demonstration Assistance Program—Absolute Priorities", and "School Dropout Demonstration Assistance Program—Data Sheet", together with the application forms published on February 4, 1991 when applying for an award under this competition.

**FOR FURTHER INFORMATION CONTACT:** John R. Fiegel, School Dropout Demonstration Assistance Program, U.S. Department of Education, 400 Maryland Avenue, SW., room 2049, Washington, DC 20202-6439. Telephone (202) 401-1342. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 3241.

Dated: March 7, 1991.

**John T. MacDonald,**

*Assistant Secretary for Elementary and Secondary Education.*

BILLING CODE 4000-01-M

## SCHOOL DROPOUT DEMONSTRATION ASSISTANCE PROGRAM

### Absolute priorities

Indicate whether your application meets the statutory priority by marking the following box:

☐ Statutory priority. Application shows the replication of successful programs conducted in other LEAs or the expansion of successful programs within an LEA, and reflects very high numbers or very high percentages of school dropouts in the schools of the applicant.

!!!IMPORTANT NOTE: An application that fails to meet the statutory priority will not be considered!!!

In addition to the statutory priority, indicate which priorities your application addresses by marking the appropriate boxes:

☐ Restructuring and reform. Application meets all of the requirements of this priority.

☐ Targeted programs for at-risk youth. Application meets all of the requirements of this priority.

☐ Field-initiated projects. Application does not meet the requirements of either the restructuring priority or the targeted priority, but proposes a project which otherwise meets the requirements of the authorizing statute.

If an applicant does not mark either the restructuring and reform box or the targeted programs for at risk youth box, the application will be considered as a field-initiated project.

### Special considerations/invitational priority

Identify any special consideration(s) or invitational priority under which you are submitting an application by marking the appropriate box(es).

☐ Application contains provisions that emphasize early intervention designed to identify at-risk students in elementary or early secondary schools.

☐ Application contains provisions for significant parental involvement in the design and conduct of the project.

☐ An application contains provisions to address the persistently high dropout rate among Hispanic Americans.

SCHOOL DROPOUT DEMONSTRATION ASSISTANCE PROGRAM

Data Sheet

Please mark the appropriate box.

☐ Total enrollment of 100,000 or more elementary and secondary school students.

☐ Total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students.

☐ Total enrollment of less than 20,000 elementary and secondary school students. Check here if enrollment is less than 2,000 ____.

*Please check the box below if the applicant is a community-based organization.

☐

**Please check below if the applicant is an educational partnership. Then list the members of the partnership and circle the type of organization.

☐

(A)_____
local educational agency

(B)_____
business concern or business organization, or, if not available, a community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

*Evidence of the applicant's nonprofit status should be attached.

**Evidence of the applicant's nonprofit status should be attached if the educational partnership includes a nonprofit private organization.

## SCHOOL DROPOUT DEMONSTRATION ASSISTANCE PROGRAM

### Data Sheet

Please provide the information set forth below on the number and percentage of children who were enrolled in the schools of the applicant for the five academic years prior to the date of this application who have not completed their elementary and secondary education and who are classified as dropout students.

| School year | # dropout students | Total enrollment | % dropouts |
|---|---|---|---|
| 1989-90 | | | |
| 1988-89 | | | |
| 1987-88 | | | |
| 1986-87 | | | |
| 1985-86 | | | |

Applicant's definition of a dropout:

[FR Doc. 91-5878 Filed 3-12-91; 8:45 am]
BILLING CODE 4000-01-C

federal register

Wednesday
March 13, 1991

# Part IV

# Department of Labor

## Pension and Welfare Benefits Administration

29 CFR Part 2550

**Participant Directed Individual Account Plans; Notice of Proposed Rulemaking and Withdrawal of Proposed Rule**

**DEPARTMENT OF LABOR**

**Pension and Welfare Benefits Administration**

**29 CFR Part 2550**

**Participant Directed Individual Account Plans**

**AGENCY:** Pension and Welfare Benefits Administration, DOL.

**ACTION:** Notice of proposed rulemaking and withdrawal of proposed rule.

**SUMMARY:** The document contains a revised proposed regulation under section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA, or the Act). At this time the Department of Labor (the Department) is also withdrawing the notice of proposed rulemaking under section 404(c) that it published in 1987. That section provides that, where a participant or beneficiary of an employee pension benefit plan exercises control over assets in an individual account maintained for him under the plan, the participant or beneficiary is not considered a fiduciary by reason of his exercise of control and other plan fiduciaries are relieved of liability under part 4 of title I of ERISA for the results of the participant's or beneficiary's exercise of control. Section 404(c) specifically contemplates the issuance of regulations. The regulation describes the circumstances in which section 404(c) applies to a transaction involving a participant's or beneficiary's exercise of control over his individual account.

In general, in order for a participant to exercise control over the assets in his account, the participant or beneficiary must have the opportunity, under the plan, to: (1) Choose from a broad range of investment alternatives, which consist of at least three diversified investment categories, each of which has materially different risk and return characteristics; (2) give investment instruction with a frequency which is appropriate in light of the market volatility of the investment alternatives, but not less frequently than once within any three month period; and (3) diversify investments generally and within investment categories. If adopted, the regulation will affect participants and beneficiaries as well as plan fiduciaries.

**DATES:** Written comments on the proposed regulation must be received by the Department of Labor (the Department) on or before May 13, 1991. The proposed regulation, if adopted, would apply to transactions occurring 180 days after the date of publication of the regulation in final form.

**ADDRESSES:** Written comments (preferably at least three copies) should be submitted to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., room N5669, U.S. Department of Labor, Washington, DC 20210 and marked "Attention: section 404(c) regulation". All submissions will be available for inspection in the Public Documents Room, Pension and Welfare Benefits Administration, room N5507, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Deborah S. Hobbs, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210, telephone (202) 523-7901; or Daniel J. Maguire, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210, telephone (202) 523-9592. These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** On September 3, 1987, the Department of Labor published a notice in the **Federal Register** (52 FR 33508) containing a proposed regulation (the "1987 proposal") that would describe the circumstances in which section 404(c) of ERISA [1] would apply to a transaction involving a participant's or beneficiary's exercise of control over his account and the effect of such application. The Department received more than 230 letters of comment regarding that proposal. A public hearing on the proposal was held in Washington, DC on February 10 and 11, 1988, at which time 23 speakers testified.

After consideration of the issues raised by the written comments and oral testimony, the Department has, as discussed below, made substantial changes to the regulation. In view of the significance of the changes made to the 1987 proposal, the Department has decided that interested members of the public should be afforded the opportunity to comment on the changes prior to the adoption of a final regulation. Accordingly, the Department is withdrawing the 1987 proposal and is proposing a revised section 404(c) regulation.

The following discussion summarizes the 1987 proposal and the major issues raised by commentators and explains the Department's reasons for the modifications reflected in the proposed regulation that is published with this notice.

[1] 29 U.S.C. 1104(c).

**DISCUSSION OF THE PROPOSED REGULATION**

**I. The Statute**

Section 404(c) of ERISA provides that where a participant or beneficiary of an employee pension benefit plan that provides for individual accounts exercises control over assets in his account, then (1) the participant or beneficiary shall not be deemed to be a fiduciary by reason of his exercise of control; and (2) no person who is otherwise a fiduciary shall be liable under the fiduciary responsibility provisions of ERISA for any loss, or by reason of any breach, which results from such participant's or beneficiary's exercise of control.

The relief from the fiduciary responsibility provisions of ERISA that is provided by section 404(c) applies only to individual transactions that meet the criteria established that section, i.e., the transaction must be executed pursuant to the kind of plan described in section 404(c) and the participant must actually have exercised control with respect to the transaction. Thus, a determination whether section 404(c) (1) and (2) apply can only be made on a case by case basis. It is the Department's view that section 404(c) is similar to a statutory exception to the general fiduciary provisions of ERISA and, accordingly, the person asserting applicability of the exception will have the burden of proving that the conditions of section 404(c) and any regulation thereunder have been met.[2]

**II. Consequences of Noncompliance with the Regulation**

Several commentators expressed uncertainty or concern regarding the effect, direct or indirect, of this regulation on the duties and responsibilities of fiduciaries with respect to plans which are not "ERISA 404(c) plans" as described in the regulation. These commentators expressed the view that the regulation should have no express or implied bearing on any present or future legal standards which may apply to such

[2] See *Donovan* v. *Cunningham*, 716 F.2d 1455, 1465, 1467-68 (5th Cir. 1983) in which it was held that a fiduciary of an employee stock ownership plan had the burden of proof to show that the conditions to the availability of the statutory exemption found in section 408(e) of ERISA were met. As support, the court cited *SEC* v. *Ralston Purina Co.*, 346 U.S. 119, 126 (1953): "As the Supreme Court has observed in a different context, it seems 'fair and reasonable' to place the burden of proof upon a party who seeks to bring his conduct within a statutory exception to a broad remedial scheme. *SEC* v. *Ralston Purina Co.*, 346 U.S. 119, 126, 73 S.Ct. 981, 97 L.Ed. 1494 (1953)." *Id.* at 1467-68, n.27.

nonconforming plans or on the prudence of maintaining such plans.

In publishing the 1987 proposal, the Department did not intend to imply that the regulatory standards applicable to ERISA 404(c) plans were also applicable to plans which were not intended to be ERISA 404(c) plans or to provide the relief from the ERISA fiduciary responsibilities provided by section 404(c). The proposal contained in this notice is limited to describing the requirements for an ERISA 404(c) plan, and the type and degree of independent control on the part of the participant of such a plan necessary to provide the transactional relief from the fiduciary responsibility provisions of ERISA described in section 404(c). By publishing a regulation interpreting ERISA section 404(c), the Department is not promulgating a standard for all ERISA-covered plans concerning the types of plan investments a fiduciary must make in order to maintain a prudent investment portfolio. A plan which does not meet the requirements for an ERISA 404(c) plan may, nonetheless, have a prudent and well diversified investment portfolio.

It was also suggested that the Department adopt the regulation as a "safe harbor" under ERISA section 404(c), thereby providing a fiduciary of a plan which failed to comport with the requirements of this regulation the opportunity to argue that the particular plan and any particular participant-directed transaction executed pursuant to such plan falls within the statutory definition, and, as such, should be afforded the exception to fiduciary liablity described in ERISA section 404(c). After due consideration, the Department rejects this suggestion. The Department believes that it can best satisfy its statutory responsibility under ERISA section 404(c) by describing the basic framework necessary for a participant's exercise of control, thereby providing guidance and clarification as to the application of ERISA section 404(c), within which plan sponsors are afforded flexibility in the design of ERISA section 404(c) plans. Finally, as previously explained, a non-complying plan does not necessarily violate ERISA; non-compliance merely results in the plan not being accorded the statutory relief described in section 404(c).

## III. ERISA Section 404(c) Plans

*In General.* The 1987 proposal defined an "ERISA section 404(c) plan" as an individual account plan described in section 3(34) of ERISA that permits a participant to make an independent choice, from a broad range of investment alternatives, regarding the manner in which any portion of the assets in his individual account is invested.[3] This definition permitted a plan to provide for participant control in many different ways and in varying degrees. For example, under the definiton, a plan could meet the requirements for treatment as an ERISA section 404(c) plan notwithstanding that it only allows certain participants to exercise control over their individual account balances and notwithstanding that it only permits participants to exercise control over a specified portion of their account balances.[4] However, if a plan does not permit a participant to exercise control over all of the assets in his account, the provisions of sections (404(c)(1) and 404(c)(2) would not, in any circumstances, apply to transactions involving assets with respect to which the participant is not permitted to exercise control. To the extent the participant is not permitted to exercise control, plan fiduciaries are subject to all of the fiduciary duties and obligations set forth in part 4 of title I of ERISA.[5]

The Department received no substantive comments on the general conceptual framework of the definition of an ERISA 404(c) plan as described above, and, thus, in this regard the proposed regulation has not been changed. The Department did receive comments concerning several of the specific requirements of the definition contained in the 1987 proposal (paragraph (b)) and these are discussed below.

### 1. Opportunity to Exercise Control

Paragraph (b)(1) of the 1987 proposal provided that, to be an ERISA 404(c) plan, a plan must (among other things) provide an opportunity for a participant or beneficiary to exercise control over the assets in his individual account in the manner described at paragraph (b)(2) of the proposal. In turn, paragraph (b)(2) set forth the rules with respect to a participant's opportunity to exercise control. First, the terms of the plan must provide that participants have a reasonable opportunity to submit investment instructions to an identified plan fiduciary who is obligated to comply with such instructions. Second, a plan may impose reasonable restrictions on the frequency with which participants may give investment instructions. Third, certain other reasonable limitations may be imposed on the participant's ability to exercise control. Each of these concepts is discussed below.

#### A. The Identified Plan Fiduciary

*The 1987 Proposal and Comments.* Paragraph (b)(2)(i) of the proposal provided that a plan must provide participants with an opportunity to give investment instructions "to an identified plan fiduciary who is obligated to comply with such instructions." The Department believed this requirement was necessary primarily for two reasons. First, participants should be able to identify the individual to whom they are to give their investment instructions. Second, that individual to whom instructions are to be given should receive and execute such directions as a fiduciary under ERISA, *i.e.*, all directions must be reasonably executed insofar as they do not fall within one of the exemptions described in paragraph (e)(2)(ii) of the 1987 proposal, which outlined four situations in which fiduciaries must ignore participant instructions or be subject to liability for the consequences.

Several commentators suggested that the identified plan fiduciary should be permitted under the regulation to designate an agent for the receipt and implementation of investment instructions from participants and beneficiaries. The commentators suggested that this would be particularly useful in the case of a plan which makes available a family of mutual funds as investment alternatives. In such circumstances, the entity serving as the transfer agent with respect to the family of funds could be designated by the identified plan fiduciary as his agent. Participants would thereafter be able to contact the transfer agent directly with their investment instructions.

*The Proposed Regulation.* In the Department's view, the 1987 proposal

[3] Section 404(c) refers to a pension plan that "provides for individual accounts." The 1987 proposal, however, limited coverage of section 404(c) to "individual account plans" described in section 3(34) of ERISA because the Conference Report accompanying ERISA, H.R. Rep. No. 1280, 93d Cong., 2d Sess., 305 (1974) (hereafter, the Conference Report) refers to individual account plans that provide for participant control and because section 404(c) contemplates separate individual accounting so that each participant will bear the sole risk of loss attributable to his investment decision.

[4] This discussion deals only with the effect of such classifications on a plan's status as an ERISA section 404(c) plan; in certain circumstances such classifications may violate other provisions of law, including conditions to qualification of a pension plan under section 401(a) of the Internal Revenue Code (the Code).

[5] ERISA also imposes certain requirements which are not affected by a participant's exercise of control over the assets in his individual account; those requirements, of course, continue to apply to plan fiduciaries even though a plan is an ERISA section 404(c) plan. For example, the bonding requirements of section 412 of ERISA would apply to all persons (other than the participant) who handle plan funds under an ERISA section 404(c) plan.

would not have foreclosed the identified plan fiduciary from designating an agent to receive and execute participant directions and, indeed, the Department believes that such an arrangement may, in certain circumstances, serve to increase the degree of control exercised by participants and beneficiaries over the assets in their account. It should be recognized that such an arrangement may, however, result in the designated agent himself becoming a plan fiduciary if, under the facts and circumstances, he exercises discretionary authority or control as defined in section 3(21) of ERISA in deciding which directions to execute. In any event, the identified plan fiduciary who designates an agent will remain a fiduciary with regard to the execution of the participant directions for which he is responsible through his agent, and, thus, must prudently monitor the agent's performance of his duties.

B. Frequency of Opportunity to Give Investment Instructions

*The 1987 Proposal and Comments.* Section (b)(2)(ii)(A) of the proposal provided that an ERISA 404(c) plan may impose "reasonable restrictions on the frequency with which the participant or beneficiary may give investment instructions." In the preamble to the proposal, the Department expressed the view that the reasonableness of such a restriction with respect to an investment should be judged in relation to the volatility which may be expected for an investment of that kind. This concept was illustrated with two examples: (1) Where the investment options available to the participant are diversified pooled funds and the underlying assets of each fund consist of a large diversified group of securities which are actively traded and for which there is a recognized market such that the market value of an interest in any of these funds should not fluctuate greatly over short periods of time, an opportunity to give instructions once every calendar quarter should be sufficient; (2) in comparison, if one of the options offered is an option to invest in the highly volatile market of commodities futures, the plan may need to provide participants the opportunity to give investment instructions at any time during which such futures are traded in order to assure reasonable opportunity to exercise control over the assets in his account.

Numerous commentators expressed concern that the proposal was vague, and that it seemed to require more opportunities to give investment instructions than necessary. Many of these commentators also offered the opinion that the standard contained in the 1987 proposal exceeds the usual practice among existing participant-directed individual account plans, and that by requiring plans to increase the frequency of transfer opportunities, plans would incur a significant increase in administrative expenses.

*The Proposed Regulation.* The Department continues to believe that the frequency of opportunity to give investment instructions (i.e., to transfer account assets to or from an investment) is properly judged in relation to the volatility which may be expected with regard to the type of investment at issue. In order to assure that participants truly exercise control over the investment of their plan accounts, they must have the ability to transfer their account assets from one investment to another at intervals reasonably commensurate with the volatility of the initial investment in order to minimize the risk of loss. What is reasonable in turn depends on the nature of the investment alternatives which are made available to the participants by the plan.

In an effort to provide more certainty, however, the proposed regulation provides a more specific framework with respect to this issue while retaining the basic concept concerning the relationship between frequency of transfer opportunity and the volatility of the related investment option. This revised framework assigns a specific minimum frequency to at least three investment categories made available by a plan, to its participants and beneficiaries, which are intended to satisfy the broad range of investment alternatives requirement of paragraph (b)(3) of this proposed regulation. Thus paragraph (b)(2)(ii)(C) of the proposal provides generally that, with respect to each investment alternative made available by a plan, the opportunity to exercise control will not exist unless participants and beneficiaries are afforded the opportunity to give investment instructions with a frequency which is appropriate in light of the volatility to which the investment may reasonably be expected to be subject. However, subparagraph (*1*) of paragraph (b)(2)(ii)(C) requires that, regardless of the frequency warranted by an investment's volatility, with regard to at least three of the investment categories designed to satisfy the terms of paragraph (b)(3)(i)(B), relating to a broad range of investment alternatives, an ERISA 404(c) plan must at a minimum provide a participant an opportunity to give investment instructions at least once within any three month period. For example, if an ERISA 404(c) plan offered participants the opportunity to investment in long term certificates of deposit, as one of only three investment alternatives available under the plan designed to satisfy paragraph (b)(3)(i)(B), the inability to transfer assets out of such investment at least once within any three month interval would mean that the terms of paragraph (b)(2)(ii)(C)(*1*) are not met. If, on the other hand, the same investment opportunity of long term certificates of deposits were offered simply as an additional investment alternative and the plan makes available at least three other investment categories for purposes of satisfying the terms of paragraph (b)(3)(i)(B), and permits investment instruction no less frequently than once within any three month period with respect to each such category, the three month minimum prescribed at paragraph (b)(2)(ii)(C)(*1*) would not apply. Such an investment would, however, continue to be subject to the general rule contained in paragraph (b)(2)(ii)(C) which requires that the reasonableness of frequency of opportunity to give investment instructions be determined relative to the anticipated market volatility of the investment.

The proposed regulation provides an additional standard, paragraph (b)(2)(ii)(C)(*2*). This paragraph requires that an ERISA 404(c) plan must provide the opportunity to transfer account assets to or from the least volatile category of those with respect to which a participant or beneficiary is permitted to give investment instruction no less frequently than once within any three month period pursuant to (b)(2)(ii)(C)(*1*), with the same frequency with which participants and beneficiaries are permitted to make such transfers with respect to the most volatile investment made available under the plan. This requirement is necessary because the ability to transfer assets to or from a highly volatile investment has meaning only where there is in fact another investment vehicle available which can just as readily transfer out or accept assets.

Finally, paragraph (b)(2)(ii)(C) has been amended to clarify that in order for a restriction to be deemed reasonable, it must be applied on a uniform and consistent basis to all directing participants and beneficiaries of that plan.

C. Other Limitations on the Exercise of Control

*The 1987 Proposal and Comments.* Paragraph (b)(2)(ii) of the proposal provided that a plan did not fail to provide an opportunity to exercise control by charging a participant's

account for the reasonable expenses of carrying out his instructions, or by authorizing plan fiduciaries to decline to implement participant instructions which would generate income that would be taxable to the plan. A number of commentators urged that other limitations on the exercise of control by participants and beneficiaries should be permitted. Specifically, these commentators suggested that an ERISA 404(c) plan should be allowed to authorize its fiduciaries to decline to implement investment instructions which were described at paragraph (e)(2)(ii) of the proposal, which would result in a prohibited transaction, or which could result in a loss in excess of the directing participant's account balance.

*The Proposed Regulation.*—The preamble to the 1987 proposal explained that the allowable limitations on the exercise of control which were described at paragraph (b)(2)(ii) of the proposal were not intended to constitute an exhaustive list of such limitations.[6] The Department continues to hold to this view. In response to the expressions of uncertainty as to this matter, however, the proposed regulation expressly states at paragraph (b)(2)(ii)(B) that a plan does not fail to provide an opportunity to exercise control where, by its terms, it permits a fiduciary to decline to implement participant instructions which are described at paragraph (e)(2)(ii) of the regulation, which would result in a prohibited transaction, or which could result in a loss in excess of the directing participant's account balance.

*2. Broad Range of Investments*

*The 1987 Proposal and Comments.* Paragraph (b)(1)(ii) of the 1987 proposed regulation provided that, to be an ERISA 404(c) plan, a plan must make available to its participants a broad range of investment alternatives into which a participant may direct the investment of his account assets. This requirement was based on the statement of Congress in the Conference Report accompanying the enactment of ERISA that the regulations promulgated pursuant to section 404(c) "generally will require that for there to be independent control by participants, a broad range of investments must be available to the individual participants and beneficiaries." [7] To that end, paragraph (b)(3) of the 1987 proposal described what would constitute a "broad range of investments." First, a plan must make available to its participants and beneficiaries the opportunity to materially affect the potential return on the assets in his account and the risk to which such assets are subject. Second, the options must be sufficient to permit the participant to pursue a variety of different investment objectives which at a minimum must include: (1) capital preservation and generation of income; (2) capital appreciation; and (3) liquidity with a high degree of assurance of repayment. Third, the available investments must be sufficient to enable participants to diversify their investments to minimize the risk of large losses.

The Department received numerous comments on this part of the 1987 proposal, offering a variety of suggestions. Some commentators urged the Department to be more specific in describing the three investment categories which appeared at paragraph (b)(3)(i)(B) of the proposal. Within this group of commentators, some expressed the view that the terminology used at paragraph (b)(3)(i)(B) was unclear; others in this group suggested that the Department should specify investment instruments, such as common stocks, long term bonds, or guaranteed investment contracts of banks or insurance companies, in describing the required investment categories.

Another group of commentators offered the view that the regulation should be less specific in defining the investment opportunities which are necessary to constitute a broad range of investments. These commentators generally urged that the regulation not prescribe specific investment categories but rather only require that the investments provided by a plan cover a substantial part of the risk/return spectrum, thereby, providing a participant the opportunity to materially affect the potential risk and return on amounts invested and to diversify his investments. The commentators also argued that such an approach would afford plan sponsors the flexibility necessary to develop new programs or adapt existing plans to changing employee needs.

*The Proposed Regulation.* The Department continues to believe that a plan offers a broad range of investments only where participants and beneficiaries are provided with the opportunity to materially affect the risk and return of their accounts and to diversify investments so as to minimize the risk of large losses. Thus, this requirement is retained in paragraph (b)(3)(i)(A) of the proposed regulation. The Department also continues to believe that available investment options must be sufficient to permit the participant to pursue a variety of investment objectives. As discussed above, the 1987 proposal defined three categories of investments which were intended to satisfy this requirement. However, after careful consideration of the public comment on this aspect of the regulation, the Department has determined that, given the general requirement contained in paragraph (b)(3)(i)(A), requiring defined investment alternatives to be made available to participants and beneficiaries for purposes of a section 404(c) plan may unnecessarily limit the ability of plan sponsors to accommodate changes in employee needs and changes in investment products and markets. Accordingly, while paragraph (b)(3)(i)(B) retains the general requirement that participants and beneficiaries have the opportunity to choose from at least three diversified groups of investments which have materially different risk and return characteristics, the proposed regulation does not describe specific categories of investments which must be made available by a section 404(c) plan. Instead, in (b)(3)(i)(B)(*2*) the proposal requires that the three categories of investments in the aggregate enable the participant, by choosing among them, to achieve a portfolio with aggregate risk and return characteristics at any point within the range normally appropriate for the participant. This will allow each participant to construct a portfolio with risk and return characteristics appropriate to his financial and personal circumstances. In addition, (b)(3)(i)(B)(*3*) requires that each of the investment categories when combined with investments in either of the other categories tends to minimize the risk of a participant's portfolio at any given level of expected return. The purpose of this requirement is to give a participant the ability to allocate his account among the three categories of investments, so as to minimize the risk presented by his portfolio at any given expected rate of return, while allowing maximum flexibility in plan design.

A. Diversification.

Paragraph (b)(3)(i) of the 1987 proposal required ERISA 404(c) plans to

[6] A plan may impose other reasonable limitations. However, such restrictions could so restrict a participant's opportunity to exercise control as to cause the plan to fail to meet the general requirement that an ERISA section 404(c) plan must provide for a broad range of investment alternatives. Thus, such restrictions should be taken into account in determining whether a particular plan meets the requirements for treatment as an ERISA section 404(c) plan and in determining the scope of the responsibilities of plan fiduciaries.

[7] Conference Report at 305–306.

provide participants and beneficiaries with a reasonable opportunity to (1) choose from a diversified group of investments within each of three categories and (2) diversify the investments of that portion of his individual account with respect to which he is permitted to exercise control so as to minimize the risk of large losses, taking into account the nature of the plan and the size of participants' accounts. The 1987 proposal further explained in paragraph (b)(3)(ii) that where pooled investment funds are available as investment options to participants or beneficiaries, the underlying investments of the pooled investments funds shall be considered in determining whether the plan satisfies the requirements of paragraph (b)(3)(i)(B) and paragraph (b)(3)(i)(C) (relating to diversification of investments). The Department received no substantive comments in this area, and thus, retains these diversification requirements proposed in 1987. Hence, under the proposal, where a plan makes available the opportunity to invest in a "look-through investment vehicle",[8] the underlying assets of the vehicle will be considered in determining whether the plan satisfies the diversification requirements of paragraphs (b)(3)(i)(B) and (b)(3)(i)(C).[9] With regard to the diversification requirement contained in paragraph (b)(3)(i)(C), the Department recognizes that a participant may need a substantial amount of investment capital to achieve such diversification if investment options are limited to direct investment in individual instruments (such as common stocks, bonds, etc.). However, broad diversification may be achieved with a much smaller amount of capital where assets are held in the form of an individed interest in a pool of broadly diversified investment instruments. Therefore, paragraph (b)(3)(i)(C) of the proposed regulation clarifies the 1987 proposal to stress that where a plan provides the opportunity to invest solely in individual investment instruments, such an opportunity will not meet the "broad range" requirement of paragraph (b)(3)(i) unless the account balance of each plan participant and beneficiary is large enough to permit broad diversification through that form of investment. Where the account balance of any participant is not sufficiently large, a plan can meet the requirements of paragraph (b)(3)(i) only by making available the opportunity to invest in look-through investment vehicles.[10] Of course, a plan which permits a participant to invest his account assets in any available investment implicitly makes available all look-through investment vehicles and therefore would meet the requirements of paragraph (b)(3)(i) regardless of the account balances of the participants.

B. Sufficient Investment Information

Paragraph (b)(3)(iii) of the 1987 proposal provided that an investment option would not be deemed to be part of a broad range of investment alternatives unless sufficient information as to that investment is available to the participant to permit informed investment decisions by that participant. It is the Department's contention that participants cannot exercise meaningful control over their investments unless they have access to information on the basis of which informed investment decisions can be made.

As originally proposed, this provision did not require plans to limit the available investment alternatives to those which met these information requirements, but rather required only that participants under an ERISA 404(c) plan be able to choose from a broad range of investments with respect to which such information is available. Thus, under the 1987 proposal, a plan could offer investment alternatives for which no information is available and still meet the broad range of investment alternatives requirement if it also offered a sufficient number of investment alternatives about which information is available. Numerous commentators expressed concern that this provision was unclear.

The proposed regulation retains the requirement of the 1987 proposal with additional clarification. The proposed regulation would not create an absolute obligation on the part of ERISA 404(c) plans' fiduciaries to furnish the required information to the participants and beneficiaries. Rather, broad public availability generally will be sufficient. The proposed regulation, however, clarifies that where the investment alternatives are limited to designated group of investments, an investment will not be considered in determining whether a plan meets the requirements of paragraph (b)(3)(i) unless, at a minimum, an identified plan fiduciary (such as the plan administrator) is available to direct participants as to a means by which such information can be obtained (e.g., by providing an appropriate address or telephone number through which a participant may directly request and obtain the desired information).

The Department notes that, under the proposed regulation, the requirement that sufficient information must be available to permit informed investment decisions applies not only to the initial participant investment decision but also to subsequent decisions with regard to that investment. Thus, for example, in order for an investment option to meet this requirement, information regarding the current value of the investment would need to be readily available on a regular basis as well as information regarding the financial condition of the issuer. With regard to look-through investment vehicles, the relevant information is that which concerns the vehicle and its characteristics, not the underlying assets of the vehicle. A participant must also be given sufficient information to make informed decisions with regard to all incidents of ownership of that investment in order for an investment to be taken into account for purposes of the broad range requirement. In the case of a security, such information would include information sufficient to permit the participant to make informed decisions in exercising any voting rights attendant to such ownership. The example at paragraph (g)(1) illustrates that this standard would be met where the investment options available under the plan include a broad range of publicly-offered securities for which market quotations are readily available and where the plan administrator forwards

[8] As will be further explained below, the concept of a "pooled investment fund" has been expanded to include investments which do not permit the investors to share in the gains or losses of the underlying assets of the investment vehicle. Thus, the investment vehicles defined in paragraph (f)(1) are referred to in the reproposed regulation as "look-through investment vehicles" because of the treatment provided these vehicles under paragraph (b)(3)(ii) which permits the consideration of the underlying investments of these vehicles in determining whether the diversification requirements of paragraph (b)(3)(i) are met. Such designation is relevant to this regulation only and should not be read to imply that the underlying assets of such entities include plan assets. (See 29 CFR § 2510.3-101 for plan assets rules regarding investment vehicles).

[9] Even if a plan offers a diverse group of investments in each of the categories of investments, it may not meet the general diversification standard of the proposed regulation. For example, a plan may fail to provide a participant an opportunity to diversify his account if all of the available options related to one industry.

[10] In this regard, a plan which is designed to be an ERISA 404(c) plan for all plan participants may fail to meet the "broad range of investment alternatives" requirement because the investment alternatives offered by the plan would not permit those participants with small account balances to diversify their investments. In such circumstances, the plan would be considered an ERISA 404(c) plan solely with regard to the transactions directed by those participants whose account balances are large enough to permit broad diversification through the investment alternatives offered by that plan, and only to the extent all other requirements of this regulation were met.

copies of proxies, periodic reports and similar materials to the participants who have invested in such securities.

C. Definition of Pooled Investment Fund

*The 1987 Proposal and Comments.* Paragraph (f)(1) of the 1987 proposal defined "pooled investment fund" as: (1) an investment company described in section 3(a) of the Investment Company Act of 1940; (2) a common or collective trust fund or a pooled investment fund maintained by a bank; (3) a pooled separate account of an insurance company qualified to do business in a State; or (4) any entity whose assets include plan assets by reason of a plan's investment in the entity. A number of commentators urged that this definition be broadened to include guaranteed investment contracts issued by insurance companies. One commentator urged that similar investment arrangements provided by banks also be included. Other commentators expressed uncertainty as to application of the definition to a variety of specific investment vehicles, such as group trusts, individually constructed portfolios established as a sub-fund within a trust, bank-maintained trust funds which pool the assets of participants of a single plan, and individual portfolios of a series investment company as described at section 18(f) of the Investment Company Act of 1940 and 17 CFR § 270.18f-2.

*The Proposed Regulation.* Paragraph (f)(1) of the proposed regulation retains essentially the definition which appeared in the 1987 proposal, modified to specifically include bank deposits, bank and insurance company guaranteed investment contracts, as well as series investment companies as defined in section 18(f) of the Investment Company Act of 1940 and 17 CFR § 270.18f-2 and the segregated portfolios of such companies. The original proposal was drafted so that any investment vehicle within the definition would be the type of vehicle for which its underlying assets could properly be considered in determining whether the diversification requirement of section 404(a)(1)(C) is met. In this regard, the Conference Report [11] indicates that a determination of diversification with regard to a plan investment in a mutual fund, a bank investment vehicle or insurance company contracts would be achieved through an examination of the underlying assets and investments of the bank or insurance company. Thus, the Department believes that it is consistent with the underlying rationale of the definition in the 1987 proposal to specifically include series investment companies and their segregated portfolios as well as bank deposits, and bank and insurance company guaranteed investment contracts. However, because guaranteed investment contracts by definition do not permit investors to participate in the investment experience of the underlying assets supporting such contracts, the Department has redesignated the "pooled investment fund" to "look-through investment vehicle".

The remainder of the definition of pooled investment fund which appeared in the 1987 proposal is unchanged. In general, a determination of whether any particular investment entity comes within the definitional framework of the term "look-through investment vehicle" is a factual determination and, thus, must be made on a case by case basis. However, in response to numerous requests for clarification, the Department notes that group trusts as defined in IRS Rev. Rul. 81-100 will, at a minimum, meet paragraph (f)(1)(iv) of the definition, "i.e., any entity whose assets include plan assets by reason of a plan's investment in the entity" [12] and, as such, would be considered a "look-through investment vehicle" for purposes of the proposal.

*3. The Special Rule for Designated Look-Through Investment Vehicles and Designated Investment Managers.*

*The 1987 Proposal and Comments.* The 1987 proposed regulation included a special rule which would apply to plans which made available one or more designated pooled investment funds or one or more designated investment managers as investment alternatives. That regulation provided that a plan whose investment alternatives include any specified pooled investment fund or the right to appoint a designated investment manager is an ERISA section 404(c) plan only if (in addition to the plan's compliance with the requirements of paragraph (b)): (1) An independent plan fiduciary is required to designate the pooled investment funds or investment manager(s) offered as investment options, and (2) in the case of designated funds, the fiduciary designates at least four funds, each of which is managed in furtherance of a different investment objective (preservation of capital, capital appreciation, liquidity, and balanced funds).

A number of commentators expressed the opinion that the requirement of an independent fiduciary is unnecessary, since *any* fiduciary (independent or not) who selects a pooled investment fund or an investment manager must bear responsibility under section 404(c) of ERISA to do so prudently and solely in the interest of participants and beneficiaries. Indeed, a number of financial institutions commented that it would be contrary to existing business practice for them to delegate to another entity the responsibility for selecting pooled funds for the plans which they themselves sponsor, since such financial judgments involve exactly the expertise which it is their business to provide.

A large number of commentators expressed concern over the four fund portion of the special rule. Many comments addressed the terminology which appeared in this provision, and expressed uncertainty as to the meaning of those terms. Other commentators noted that as a result of the special rule, a plan could not offer a combination of pooled and non-pooled investments in satisfying the "broad range of investments" requirements, but would

[11] Conference Report at 305.

[12] This concept is described and clarified in the Department's regulation at 29 CFR 2510.3-101. 51 FR 41262 (November 13, 1986).

be limited to either a group of pooled funds or a group of non-pooled investments. Commentators also objected to the fact that a plan which satisfied the broad range requirements by offering a diversified array of non-pooled investments could not also offer a pooled investment fund under the plan without triggering the special rule and thereby losing its status as an ERISA 404(c) plan. A substantial number of commentators expressed the opinion that the number of funds required under the terms of the special rule was excessive. These commentators suggested that the four fund requirement would result in the imposition of significant and unnecessary additional costs upon plans and their sponsors. Many commentators questioned the need for that part of the special rule which required that plans subject to the rule must offer a fund the objective of which is a balance between capital appreciation and the generation of income. It was suggested that a participant could achieve the same result by apportioning account assets between the required capital appreciation fund and the generation of income fund. For the foregoing reasons, many commentators urged the Department to eliminate the special rule.

*The Proposed Regulation.* After carefully reviewing the public comment on this matter, the Department has determined to retain in the proposed regulation the requirement that, in the case where an ERISA 404(c) plan limits a participant's investment options by designating one or more look-through investment vehicles, an independent fiduciary is required to designate each look-through investment vehicle offered to the participant. In such plans which offer participants designated look-through vehicles to the exclusion of other investments, participants are able to choose from vehicles that have different investment objectives, but once they invest in a vehicle they do not have control over individual investment decisions made by the vehicle's manager. Moreover, in many cases, the participant has no choice with respect to the investment managers who do make individual investment decisions. For these reasons, the Department continues to believe that it is important that any regulation under section 404(c) of ERISA clearly reflect plan fiduciaries' ongoing duty to consider the suitability of the designated vehicles in these circumstances in order to protect the interests of participants.[13]

Similarly, the Department has retained the 1987 proposal's requirement that a plan whose investment alternatives include the selection of one or more designated investment managers is an ERISA 404(c) plan only if an independent fiduciary is required to designate the investment managers from which the participant may select. The Department continues to believe that any such plan should be subject to this rule in order to assure that a plan fiduciary assumes a continuing obligation to assess the suitability of the designated investment manager(s).

The Department is persuaded, however, that in the case of plans sponsored by certain financial institutions which have appropriate professional expertise in investment management, the designating fiduciary need not be independent. In enacting ERISA, Congress recognized the need to accommodate such plans by fashioning special rules. For example, section 408(b)(4) of ERISA permits a bank to invest the assets of an in-house plan in deposits of that bank and section 408(b)(5) permits an insurance company to issue contracts to a plan covering its own employees. The stated Congressional policy underlying these exemptions is that it would be "contrary to normal business practice" for a bank or insurer to purchase the products of another company for its own in-house plans. Moreover, the Department has recognized in certain administrative exemptions that it would be contrary to normal business practice for a company whose business is financial management to seek financial management services from a competitor, *e.g.*, Prohibited Transaction Exemptions 77–3 and 82–63. Hence, the Department has modified the independent fiduciary requirement for in-house plans of financial institutions in the following fashion. Paragraph (c)(2) of the proposed regulation states that an entity, as described in section 3(38) of ERISA,[14] may designate itself or an affiliate as an investment manager option under the plan or designate an affiliated look-through investment vehicle as an investment option pursuant to paragraph (c)(1) under certain limited circumstances. First, the ERISA 404(c) plan for which the manager or vehicle is being designated must be a plan sponsored by the section 3(38) entity or an affiliate whose participants and beneficiaries are solely its own employees, former employees, retirees, or beneficiaries thereof, or those of an affiliate. Second, at the time of the designation and any subsequent redesignation or change in the terms of such designation, the amount of assets of all plan(s) sponsored by such entity and its affiliates which are under the management of the designated manager are less than 50 percent of the total assets under such designated manager's management. Finally, such selection must meet the prudence requirement as described in section 404(a) of ERISA. Under such conditions, the Department believes the interests of the participants and beneficiaries of such in-house plans will be adequately protected.[15]

With regard to that portion of the special rule in the 1987 proposal that required an ERISA 404(c) plan to offer four pooled investment funds if its investment alternatives include one or more *designated* pooled investment funds, the Department has concluded that the inflexibility of the special rule and the potential for added plan expenses outweigh the benefits of any increased participant control which might be gained by requiring four pooled fund options. The proposed regulation therefore does not contain this portion of the special rule. However, as discussed previously in the context of paragraph (b)(3)(i)(C), the proposed regulation does continue to require the provision of look-through investment vehicles where the amount of investment capital available in the accounts of participants of the ERISA 404(c) plan is of such limited size that investment in look-through investment vehicles is the only prudent means to assure proper diversification within the broad range of investment opportunities.

*4. The Relatively "Safe" Investment*

*The 1987 Proposal and Comments.* Paragraph (b)(1)(iii) of the 1987 proposal

[13] The ongoing fiduciary duty to consider the suitability of a designated look-through investment vehicle encompasses. The continuing determination that the vehicle remains a prudent investment option.

[14] Section 3(38) of ERISA defines

(38) The term "investment manager" to mean "any fiduciary (other than a trustee or named fiduciary), as defined in section 402(a)(2)—

(A) who has the power to manage, acquire, or dispose of any asset of a plan;

(B) who is (i) registered as an investment adviser under the Investment Advisers Act of 1940; (ii) is a bank, as defined in the Act; or (iii) is an insurance company qualified to perform services described in subparagraph (A) under the laws of more than one State; and

(C) has acknowledged in writing that he is a fiduciary with respect to the plan."

[15] Pursuant to the circumstances described above, paragraph (c)(2) of the proposal permits such designations to occur under a plan without that plan losing its ERISA 404(c) status. Paragraph (c)(2) does not provide relief from any section 406 violation which may occur based on a fiduciary's limitation of investment options to include designation of itself or its investment vehicle. *See* footnote 21 *infra*.

provided that, to be an ERISA 404(c) plan, a plan must make available to participants an opportunity to invest their account assets in either (1) "An interest-bearing deposit in a bank or similar financial institution, which deposit has a high degree of liquidity and is fully insured against loss by the United States or an agency of the United States," or (2) "A pooled investment fund the assets of which consist solely of cash and securities issued or guaranteed by the United States or one of its agencies and the principal investment objectives of which include a high level of current income consistent with the preservation of capital and a high degree of liquidity." Paragraph (d)(4) of the proposal provided that an ERISA 404(c) plan could establish reasonable procedures by which amounts contributed to a plan participant's account as to which the participant gave no investment instructions could be invested by a plan fiduciary in an investment described in paragraph (b)(1)(iii), in which case that investment would be deemed to have occurred as a result of the participant's exercise of control.

The Department proposed this "safe/default" fund for two reasons. First, the Department believed that some means should be provided by which fiduciaries of ERISA 404(c) plans could be relieved of responsibility for all contributions to participant accounts, even where a participant failed to submit investment instructions. It was recognized that maintaining non-directed contributions "in suspense" pending the participant's eventual instructions could raise administrative, as well as possible fiduciary, problems. Moreover, if fiduciaries were to have exposure to liability even where a plan complied with all Department regulations, there might be a disincentive to establish participant-directed plans. Therefore, the Department proposed a mechanism by which fiduciaries would be relieved of liability for investment decisions even though, in one sense, the decisions had not been made by participants. If fiduciaries were to invest plan assets without bearing any legal responsibility, however, it seemed appropriate to limit this privilege to only the safest of investments. Second, the Department believed that participants should have an opportunity to invest their account balances in a manner that presents little to no risk of loss. In other words, participants should not be obligated to subject their account balances to any risk except by choice.

Many commentators represented that it is not the existing practice of plans which provide participant-directed individual accounts to offer either of the types of investments described at paragraph (b)(1)(iii) of the 1987 proposal.[16] A large number of commentators urged that if the final regulation were to retain the concepts embodied in paragraphs (b)(1)(iii) and (d)(4), then additional investments which are relatively safe, such as money market funds and insurance company guaranteed investment contracts, should be included in the list of approved investments at paragraph (b)(1)(iii). Other commentators urged that the regulation should not identify specific investment vehicles, but instead should describe only the characteristics of the required investment. These commentators expressed the view that the provisions of paragraphs (b)(1)(iii) and (d)(4) improperly involved the Department in the particulars of plan design. A related comment was that paragraph (b)(1)(iii) is entirely unnecessary, since paragraph (b)(3)(i)(B) independently requires that all ERISA 404(c) plans must offer an investment alternative which reasonably assures the preservation of capital. Indeed, it was represented that sponsors of participant-directed individual account plans would rather retain fiduciary responsibility for contributions to which participants have not submitted instructions than avail themselves of the procedures described at paragraphs (b)(1)(iii) and (d)(4) of the 1987 proposal.

*The Proposed Regulation.* Both the comments and the statistical evidence submitted into the record indicate that very few participant-directed plans currently offer either of the options described in paragraph (b)(1)(iii) of the 1987 proposal and that, for those plans which do, a *de minimis* amount of plan assets is directed into such options. Thus, the Department has concluded that the provisions which appeared at sections (b)(1)(iii) and (d)(4) of the 1987 proposal will not be retained in the proposed regulation. By so eliminating the requirements of these two paragraphs, the Department has removed the mechanism by which a fiduciary may direct plan money in a participant's account in the absence of participant direction and be relieved of fiduciary responsibility for that investment decision under the terms of ERISA section 404(c). Thus, under the proposed regulation, plan fiduciaries will not relieved of responsibility for investment decisions under the terms of ERISA section 404(c) except where those decisions have affirmatively been made by participants or beneficiaries who have exercised independent control. In this regard, the Department notes that, as in any other type of ERISA-covered plan, plan fiduciaries of ERISA 404(c) plans have a duty to provide for the investment of idle plan assets; lack of participant direction will not absolve a fiduciary of an ERISA 404(c) plan from such fiduciary duty. Plan provisions providing for investments in the absence of participant direction may be followed only if the fiduciary determines that following such provisions would not violate his fiduciary duties, including his duties under sections 404 and 406 of ERISA.

## IV. The Independent Exercise of Control

*The 1987 Proposal and Comments.* In view of the transactional nature of the relief provided by section 404(c), the 1987 proposal stated clearly that a determination whether a participant has in fact exercised control must necessarily be made on a case by case basis, taking into account the relevant facts and circumstances.

The 1987 proposal also stated that sections 404(c)(1) and 404(c)(2) apply only where the participant's exercise of control has been independent. This is consistent with the Conference Report discussion of section 404(c).[17] In this regard, the 1987 proposal described certain factors that indicate the absence of independent control. These are: (1) improper influence by a plan fiduciary or plan sponosr with respect to the transaction; (2) concealment from the participant by a plan fiduciary of material nonpublic facts regarding the transaction that are known by the plan fiduciary; and (3) the legal incompetence of the participant where the plan fiduciary accepting his instructions knows him to be incompetent.[18]

[16] A 1987 survey by Bankers Trust Company found that only 18% of existing participant-directed plans presently offer a government securities fund of any kind. The study also indicated that in plans which do offer a government fund, only 13% of total contributions is directed there. Thus, less than 2% of all contributions to participant—directed plans appear to be held in government funds of the kind described at section (b)(1)(iii). No plans surveyed for the Bankers Trust study offered as an investment option a passbook savings account as contemplated by proposed paragraph (b)(1)(iii). See *Corporate Defined Contribution Plans, A Changing Environment*, Bankers Trust, 1987.

[17] Conference Report at 305.

[18] With respect to the third factor, the Department did not intend to impose an affirmative duty on the implementing fiduciary to evaluate the participant's competence. However, the Department is of the opinion that the implementing fiduciary should not be able to invoke section 404(c) to avoid liability for losses resulting from the imprudent instructions of a participant where the fiduciary has actual knowledge of the incompetence.

The 1987 proposal also stated that where a participant exercises control over the assets in his account to engage in a sale or an exchange of property or a loan with a plan fiduciary (other than a plan sponsor, or an affiliate as discussed below) or an affiliate of such fiduciary, such exercise of control will not be "independent" (regardless of whether it meets the other requirements of the regulation) unless the terms of the transaction are fair and reasonable to the participant at the time of the transaction. A transaction will be deemed to be fair and reasonable to the participant if the participant pays no more than, or receives no less than, adequate consideration as defined in section 3(18) of the Act in connection with the transaction. These standards were adopted from established principles relating to the circumstances under which consent of a beneficiary of a trust will relieve a trustee from liability for breach of his fiduciary duties.[19]

Other than the provision in paragraph (d)(4) concerning the absence of affirmative instructions (discussed earlier), the Department received substantive comment on only one area of this paragraph, *i.e.*, disclosure of material information. A number of commentators expressed concern regarding the implication in paragraph (d)(2) of the proposal that plan fiduciaries would be required to reveal material non-public information concerning transactions which participants have directed a fiduciary to undertake. These commentators suggested that this provision would conflict with rules of the Securities and Exchange Commission which generally prohibit the purchase or sale of securities by a person possessing material inside information with respect to such securities. Other commentators raised similar concerns regarding rules of the Federal Reserve and the Comptroller of the Currency which require that banks under their jurisdictions observe "Chinese Wall" procedures designed to insure that material inside information obtained by banks in the course of their commercial lending operations is not communicated to the bank's fiduciary investment officers.

*The Proposed Regulation.* In general, the provisions which appeared in paragraphs (d)(1) and (d)(2) of the 1987 proposal have been retained in the proposed regulation. However, the Department agrees that paragraph (d)(2)(ii) of the 1987 proposal, if implemented, might present the potential in certain circumstances for the conflict described by the commentators. The proposed regulation, therefore, amends the provision set forth at paragraph (d)(2)(ii) of the 1987 proposal so that a plan fiduciary must reveal material non-public information unless such disclosure to the directing participant without disclosure to the general public would violate securities or banking laws. The proposed regulation does not require the plan fiduciary to disclose information to the general public.

## V. Effect of Independent Exercise of Control

*In general.* As provided in section 404(c)(1), the 1987 proposal stated that a participant is not considered to be a fiduciary solely because he exercises control over assets in his individual account. The two primary effects of this provision are: (1) Because a participant is not a fiduciary, he would not violate the prohibited transaction provisions of Title I of ERISA if he exercises control over assets in his account to engage in a transaction with a party in interest; and (2) other fiduciaries generally would have no co-fiduciary liability under section 405 of the Act with respect to participant investment decisions under ERISA section 404(c) plans.

With regard to other plan fiduciaries, section 404(c) provides that plan fiduciaries are relieved of liability for losses, or with respect to breaches of the requirements of Title I, which "result" from a participant's exercise of control over individual account assets.[20] Thus, given the transactional nature of the relief provided by section 404(c), it is necessary to determine in any particular case whether alleged losses or violations resulted from a participant's investment decision.

The 1987 proposal stated that a fiduciary is relieved of responsibility only for the direct and necessary consequences of a participant's exercise of control.[21] Accordingly, if a participant gives investment instructions to a plan fiduciary, and, due to the imprudence of the fiduciary in carrying out the instructions, the participant suffers a loss, then the fiduciary is liable for such loss because it resulted from a breach of his duties as a fiduciary rather than from the participant's exercise of control.

Similarly, the preamble to the 1987 proposal stated that if a participant gives investment instructions that may be carried out in more than one way, and the fiduciary chooses a method of carrying out the instructions that results in a breach of his obligations as a fiduciary, then he is liable for any resulting losses because such losses would not be a necessary consequence of the participant's exercise of control. Thus, if a participant directs a fiduciary

[19] Restatement (Second) of Trusts section 216 (1959) provides:

Section 216. Consent of Beneficiary:

(1) Except as stated in Subsections (2) and (3), a beneficiary cannot hold the trustee liable for omission of the trustee as a breach of trust if the beneficiary prior to or at the time of the act or omission consent to it.

(2) The consent of the beneficiary does not preclude him from holding the trustee liable for a breach of trust, if—

(a) the beneficiary was under an incapacity at the time of such consent or of such act or omission; or

(b) the beneficiary, when he gave his consent, did not know of his rights and of the material facts which the trustee did not reasonably believe that the beneficiary knew; or

(c) the consent of the beneficiary was induced by improper conduct of the trustee.

(3) Where the trustee has an adverse interest in the transaction, the consent of the beneficiary does not preclude him from holding the trustee liable for a breach of trust not only under the circumstances stated in Subsection (2), but also if the transaction to which the beneficiary consent involved a bargain which was not fair and reasonable.

*See also* III Scott, Trusts section 216 (3rd ed. 1967); Bogert, Trusts section 941 (2d ed. 1960).

[20] In following any particular participant's instruction under a section 404(c) plan, the 1987 proposal stated that a fiduciary is relieved of liability only with respect to the individual participant whose instruction he is following; that fiduciary is not, however, relieved of any fiduciary obligation he may owe to any other plan participant. Therefore, for example, if a participant in an ERISA section 404(c) plan directs the investment of a portion of his individual account in a bank-managed collective trust fund pursuant to an arrangement with the bank manager of the fund under which the manager will loan a portion of the fund's assets to the participant's cousin who is a service provider to the plan, the fund manager may be relieved of liability to the directing participant by reason of section 404(c), but would not be relieved of liability with respect to any other plans or plan participants that have interests in the collective trust fund.

[21] In this regard, the Department notes that the act of limiting or designating investment options which are intended to constitute the investment universe of an ERISA 404(c) plan is a fiduciary function which, whether achieved through fiduciary designation or express plan language, is not a direct or necessary result of any participant direction of such plan. Thus, for example, in the case of look-through investment vehicles, which pursuant to paragraph (c) of the proposed regulation must be designated by a plan fiduciary, the plan fiduciary has a fiduciary obligation to prudently select such vehicles, as well as a residual fiduciary obligation to periodically evaluate the performance of such vehicles to determine, based on that evaluation, whether the vehicles should continue to be available as participant investment options. Similar fiduciary obligations would exist in the case of a limited investment universe consisting of investment options which are not look-through investment vehicles but are specifically designated by plan fiduciaries. In those situations where the ERISA 404(c) plan by its own provisions limits the investment universe by designating specific investment options which are not look-through investment vehicles, the plan fiduciary must comply with the requirements of ERISA section 404(a)(1)(D)

to acquire certain securities, but does not specify the manner in which the acquisition is to be effected, and the fiduciary causes a party in interest to execute the transaction, the fiduciary would be liable with respect to the resulting prohibited transaction (unless an exemption is otherwise available) notwithstanding the participant's exercise of control.

The 1987 proposal also specifically stated that the individual investment decisions of an investment manager are not direct and necessary results of the participant's designation of the investment manager or of investment in a pooled investment fund managed by the investment manager. However, the 1987 proposal also provided that this rule should not be construed to impose co-fiduciary liability on a fiduciary who would otherwise be relieved of liability under section 404(c). Thus, if a participant chooses an investment manager who imprudently invests plan assets, the investment manager will not be relieved of liability because his imprudence is not a direct and necessary result of the participant's exercise of control. However, other plan fiduciaries would be relieved of liability under section 405, even if, for example, they had knowledge of the investment manager's imprudent decisions. The preamble to the proposal explained that a fiduciary that designates an investment manager or pooled fund in the manner contemplated by paragraph (c) of the regulation, would, however, be required to take any known imprudence of the manager into account in determining whether to continue the designation of that manager.[22]

Because there were no significant comments on the general conceptual framework of paragraph (e) of the 1987 proposal, described above, it has been retained.

*1. Limitation on Liability of Plan Fiduciaries The 1987 Proposal and Comments.* The 1987 proposal contained four exceptions to the general rule regarding the relief provided to a fiduciary. Under these exceptions, a plan fiduciary would not be relieved of liability with respect to a participant's instructions which: (a) would not be in accordance with the documents and instruments governing the plan; (b) would cause a fiduciary to maintain the indicia of ownership of any assets of the plan outside of the jurisdiction of the district courts of the United States (other than as permitted by section 404(b) of the Act); (c) would jeopardize the plan's tax qualified status under the Code; or (d) would result in a direct or indirect acquisition, sale, or lease of property (including employer securities or employer real property) between a participant and a plan sponsor or an affiliate of the sponsor or a direct or indirect loan to a plan sponsor or any affiliate of the sponsor. In addition, a plan fiduciary would not be relieved of liability with respect to any sale, acquisition or lease of employer securities or employer real property whether or not the transaction involves the employer.

Two of the exceptions drew significant comment.

A. Participant Loans

As noted above, paragraph (e)(2)(ii)(D)(*2*) of the 1987 proposal provided that the relief from fiduciary liability provided under ERISA section 404(c) will not extend to transactions in which assets of a participant's account are loaned to the plan sponsor or any affiliate of the plan sponsor. Paragraph (f)(4) of the proposal defined an "affiliate" of a person as including an employee of that person. Therefore, no relief from fiduciary liability was available under the 1987 proposal for loans of a participant's account assets to that participant. Some commentators submitted comments which suggested that they misinterpreted the proposal to say that a plan which permits the loan of a participant's account assets to the participant cannot be an ERISA 404(c) plan. Other commentators recognized that ERISA 404(c) plans would be free under the 1987 proposal to permit such loans, subject to the usual fiduciary responsibility provisions of ERISA title I, part 4 (particularly section 408(b)(1) and the regulations issued thereunder). However, these commentators argued that the regulation should relieve fiduciaries of liability in connection with such loans, because such transactions constituted the independent exercise of control by participants.

*The Proposed Regulation.* After carefully reviewing the public comment on this subject, the Department continues to believe that although an ERISA 404(c) plan may offer a participant loan program, the transactional relief from fiduciary liability provided under ERISA section 404(c) should not extend to the loan of assets of a participant's account to the participant. Rather, it is the Department's belief that the interests of ERISA 404(c) plan participants and beneficiaries in accumulating savings for retirement will be better served if ERISA 404(c) plan fiduciaries retain responsibility for compliance with the terms of section 408(b)(1) of ERISA as opposed to permitting participants to freely lend account assets to themselves without restriction. The provisions of paragraph (e)(2)(ii)(D)(*2*) have therefore been retained in the proposed regulation.

B. Employer Securities

Paragraph (e)(2)(ii)(D)(*3*) of the 1987 proposal stated that the relief from the fiduciary responsibility provisions provided by section 404(c) of ERISA would not extend to any participant instruction which, if implemented, would result in the acquisition or sale of any employer security. In the preamble to the 1987 proposal, it was explained that the Department had not yet determined whether it is appropriate to extend the coverage of section 404(c) to participant-directed investments in employer securities. It was noted in the preamble that the Conference Report on section 404(c) expresses concern regarding participant-directed investments which may inure to the benefit of a plan sponsor and indicates that the Department should impose stringent standards with respect to such investments.[23] Because the Department did not believe that it had sufficient information to determine whether it is appropriate to apply section 404(c) to such investments, it did not provide in the 1987 proposal that section 404(c) would extend to such investments. However, the Department specifically invited comments addressing this issue.

[22] The Department notes that this provision relating to individual investment decisions of an investment manager related only to the scope of the relief provided by section 404(c)(2); it is not intended to create fiduciary duties which would not otherwise exist. Thus, even though the individual decisions of the investment manager of an investment company registered under the Investment Company Act of 1940 would not be considered to "result" from a participant's decision to invest in the investment company, the manager would have no liability under ERISA for any losses because mutual fund investment advisers are excluded from the statutory definition of "fiduciary" in ERISA (see sections 3(21)(B) and 401(b)(1) of ERISA).

[23] The relevant passage of the Conference Report states:

"The conferees expect that the (section 404(c)) regulations will provide for stringent standards with respect to determining whether there is an independent exercise of control where the investments may inure to the direct or indirect benefit of the plan sponsor since in this case participants might be subject to pressure with respect to investment decisions. (Because of the difficulty of ensuring that there is independence of choice in an employer established individual retirement account, it is expected that the regulations will generally provide that sufficient individual control will not exist with respect to the acquisition of employer securities by participants and beneficiaries under this type of plan)."

Conference Report at 305.

A large number of commentators responded to this provision, urging that section 404(c) relief from fiduciary liability be extended to participant-directed investments in employer securities. It was pointed out that Congress has provided for participant investment in employer securities in a number of other contexts. A variety of suggestions were submitted as to measures which would assure that participants are not subjected to undue influence with respect to such investments. Commentators variously urged the Department to limit section 404(c) relief for transactions involving employer securities to situations where: Such securities are publicly traded; participants have an opportunity to move into other investments; the percentage of any participant's account which can be invested in employer securities is limited; the percentage of the total outstanding number of any class of securities issued by the plan sponsor which may be held by the plan at any time is limited; solicitation and exhortation of participants by plan sponsors to invest in employer securities is prohibited; the incidents of ownership such as proxy voting, are required to be directed by participants; and where the plans offering investment in employer securities use a fiduciary independent of the plan sponsor to implement the purchase or sale of employer securities, as well as the other incidents of ownership.

*The Proposed Regulation.* After careful consideration of the comments and suggestions submitted on this subject, the Department has decided to propose conditions under which section 404(c) coverage would be extended to participant-directed investments in employer securities. In this regard, paragraph (e)(2)(ii)(D)(*4*) of the proposed regulation, which otherwise excludes any acquisition or sale of employer securities from the limited liability afforded by section 404(c) relief, provides an exception for employer securities where: (I) Such security is a qualifying employer security (as defined in ERISA section 407(d)(5)); (II) such security is stock; (III) such securities are publicly traded on a national exchange or other generally recognized market; (IV) such securities are traded with sufficient frequency and in sufficient volume to assure that participant directions to buy or sell the securities may be acted upon promptly; (V) information provided to shareholders of such securities is provided to participants with accounts holding such securities; (VI) voting and similar rights with respect to such securities are passed through to participants with accounts holding such securities; and (VII) activities related to the purchase, sale, and the exercise of voting and similar rights with respect to such securities are the responsibility of an independent fiduciary who carries out such activities on a confidential basis. For purposes of condition (VII), the proposed regulation provides that a fiduciary is not independent if the fiduciary is affiliated with any sponsor of the plan.

By proposing to extend relief under section 404(c) under these conditions, the Department seeks to limit the potential for overreaching as well as to insure that participants have a reasonable ability to exercise control with respect to such investments by incorporating protections suggested by the commentators, as well as standards in the Act itself. For example, limiting relief to qualifying employer securities is consistent with the prohibition of section 406(a)(1)(E) of ERISA. In further limiting relief to purchases or sales of employer stock, the Department notes that commentators generally appeared to focus on relief for purchases and sales of stock rather than marketable obligations of the employer. Requiring that employer securities be publicly traded on a national exchange or other generally recognized market with sufficient frequency and volume to assure prompt execution of buy and sell orders together with the requirements of paragraph (b)(2) of the regulation, serve to ensure that participants can dispose of such securities in a public market which is not subject to the influence of the employer. These conditions also serve to ensure that participants have ready access to price quotations for the securities, as well as the ability to direct trades which will be promptly executed.

As the beneficial owners of shares of stock, participants have economic interests similar to those of legal owners of the shares; therefore, it is appropriate, in the Department's view, to require that they be provided with the same information. This is consistent with the requirements generally applicable to participant directed investments in publicly-offered securities. Finally, the condition that activities related to the purchase, sale or exercise of rights with regard to employer securities be the responsibility of an "independent fiduciary" who carries out instructions on a confidential basis was suggested by a number of commentators as a means of mitigating the potential for undue influence by the sponsor. The Department believes the involvement of an independent fiduciary is a critical element in ensuring the meaningful exercise of independent control by participants with respect to investments in employer securities. In this regard, the proposal provides that the "independent fiduciary" cannot be affiliated with any sponsor of the plan.

It is the view of the Department that the foregoing conditions, a number of which were suggested in public comment, are necessary, in conjunction with the requirements of paragraph (d)(2) relating to the exercise of independent control, to ensure that participant-directed investments involving employer securities are free from improper influence and pressure by the plan sponsor and otherwise comport with the requirements of Title I of ERISA.

*2. Tax on Prohibited Transactions*

*The 1987 Proposal and Comments.* Paragraph (e)(3) of the 1987 proposal explained that the relief provided by section 404(c) of ERISA applies only to the provisions of part 4 of Title I of ERISA. There is no provision in the Internal Revenue Code corresponding to section 404(c) of Title I, thus, there is no statutory exemption from the excise taxes imposed by the Code on prohibited transactions involving a 404(c) plan. Moreover, the authority to grant administrative exemptions for 404(c) transactions remains with the Treasury Department pursuant to the Reorganization Plan No. 4 of 1978. Thus, nothing in section 404(c) or the regulation would relieve a disqualified person from the taxes imposed with respect to prohibited transactions by section 4975 of the Internal Revenue Code even though the transaction was a direct and necessary result of a participant's instructions. Eight commentators expressed the opinion that disqualified persons should be relieved of those taxes. To this end, the Department was urged to seek companion relief from the Treasury Department.

*The Proposed Regulation.* The terms of paragraph (e)(3) of the 1987 proposal have been retained in the proposed regulation. Section 404(c) of ERISA expressly states that where a plan participant exercises control over his account assets in the manner contemplated by that section, no fiduciary with respect to that plan will be liable "under this part," i.e., under Part 4 of Title I of ERISA. No similar relief is granted with respect to any other provision of law, including the Internal Revenue Code. Moreover, as explained in the preamble to the 1987 proposal, the Department has no

authority to provide exemptive relief for a disqualified person's liability for the excise taxes imposed by section 4975 of the Code with respect to a transaction that results from a participant's exercise of control. Accordingly, the Department is unable to address the concerns expressed by the commentators.

## VI. Reporting and Disclose

As with the 1987 proposal, this proposal does not address the reporting and disclosure provisions of ERISA with respect to their applicability to ERISA section 404(c) plans. The Department does again, however invite comments discussing the application of the existing reporting and disclosure requirements of ERISA to such plans and whether it would be appropriate for the Department to develop an alternative method of compliance under section 110 of ERISA for ERISA section 404(c) plans.

## VII. Effective Date

*The 1987 Proposal and Comments.*

Section (h) of the 1987 proposal provided that the final regulation would be effective with respect to transactions occurring in plan years beginning 90 days or more after publication of the regulation. Many commentators expressed the view that the proposed notice period between publication and the effective date of a final regulation is too short to allow most existing participant-directed plans to complete the plan modifications required to achieve conformity with the terms of the regulation.

*The Proposed Regulation*

Although the department believes that the proposed regulation is more consistent with current plan design, the effective date set forth in the regulation has been modified to assure that all plan sponsors desirous of offering an ERISA section 404(c) plan will have six months in which to make adjustments necessary to achieve conformity with the regulation. Thus, the regulation would be effective with respect to transactions occurring 180 days after the date of publication of a final regulation.

## VIII. Regulatory Impact of Proposed Regulation

After carefully considering the public comments submitted to the Department of Labor regarding the economic and other effects of the 1987 section 404(c) proposal, the Department believes that, as a result of the flexibility afforded plan sponsors in designing section 404(c) plans provided by the modifications contained in this proposed regulation, adoption of the proposed regulation as a final regulation would have little, if any, impact, economic or otherwise, on the establishment or maintenance of participant directed individual account plans. However, in order to fully analyze the effects of the proposed regulation, the Department invites interested parties to include, as part of their comments on the proposed regulation, the following information and data:

1. *Investment options.* How many and what type of investments are offered by participant-directed individual account plans? How many plans have specific combinations of investment options (e.g., an equity fund and a fixed income fund)? How many plans offer interest-sensitive competing investments as options (e.g., a GIC or BIC and a money market fund)? Under what conditions may participants direct their investments from one such competing fund to another? Do the types of investments offered vary by number of participants or other characteristics of plans? What, if any, effect will the proposed regulation have on investment options, or rates of return thereon, currently made available to participants in participant-directed individual account plans? To what extent, if any, will such changes benefit or adversely effect participants, specific segments of the economy (e.g., banking, insurance, mutual fund industries), and the economy as a whole?

2. *Frequency of investment direction.* How often are participants permitted to move from one investment alternative to another? How often do participants move from one investment alternative to another, taking into consideration any limitations on the frequency of investment instruction (e.g., 40 percent of participants move their investment as often as is permitted under the plan, 60 percent move less frequently than is permitted under the plan)? What restrictions, if any, are generally placed on a participant's ability to move from one investment alternative to another? What are the incremental costs and burdens to increasing the frequency of participant direction from two to three times a year and from three times a year to quarterly? Are the costs attendant to participant transfers borne by the plan sponsor, the plan generally, or the individual participant, depending on the frequency with which the individual directs his account? Do restrictions on participant transfers vary by types of investments, number of investment options, and/or number of participants?

3. *Investments selected by participants.* What is the total value of plan assets in participant directed individual account plans? What percentage of assets are invested in the various types of investment options offered by a plan? Does this vary by plan size or other characteristics of the plans? What effect do investment preferences of plan participants have on the investments offered by plans or on restrictions governing the frequency of participant direction of investments?

4. *Administrative costs.* What, if any, increase in administrative costs will result from requiring a minimum of three diversified categories of investment alternatives, each of which has different risk and return characteristics? To what are these costs attributable? Will the administrative costs differ by plan size or other characteristics, if so, how? To what extent are any increases in administrative costs attributable to plan changes required to accommodate the regulation outweighed by the benefits attributable to limiting the liability of plan fiduciaries? What cost savings are attributable to limiting the liability of plan fiduciaries under the proposed regulation?

## Technical Revisions

Pursuant to recent amendments to the rules for publication of the Office of the Federal Register, this proposal contains a proposed amendment of the authority citation for part 2550 of chapter XXV of Title 29 of the Code of Federal Regulations.

## Executive Order 12291 Statement

The Department has determined that this proposed regulatory action would not constitute a "major rule" as that term is used in Executive Order 12291 because the action does not result in: an annual effect on the economy of $100 million; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

*Regulatory Flexibility Act Statement*

The Department has determined that this regulation would not have a significant economic impact on small entities. While small plan sponsors that want to take advantage of the relief provided by this regulation may need to amend their plans in order to meet the requirements necessary to obtain relief under the regulation, no small entity is required to amend its plan under the regulation. Thus, unless a small entity voluntarily decides to modify its plan,

this regulation would not impose any increased burden on small entities that sponsor pension plans that conform with ERISA generally. Although it would not be appropriate to provide simplified requirements for small entities under the regulation, it should be noted that in response to public comments the burden associated with plan amendments necessary to obtain relief has been reduced for all plan sponsors regardless of size.

*Paperwork Reduction Act Statement*

This proposed regulation is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h), since it does not involve the collection of information from the public.

**Statutory Authority**

The proposed regulation set forth herein is issued pursuant to sections 404(c) (Pub. L. 93–406, 88 Stat. 877, 29 U.S.C. 1104) and 505 (Pub. L. 93–406, 88 Stat. 894, 29 U.S.C. 1135) of the Act and under Secretary of Labor's Order No. 1–87.

**Withdrawal of Proposed Regulation**

The Notice of Proposed Rulemaking published on September 3, 1987 (52 FR 33508) is hereby withdrawn.

**List of Subjects in 29 CFR Part 2550**

Employee benefit plans, Employee Retirement Income Security Act, Employee stock ownership plans, Exemptions, Fiduciaries, Investments, Investments foreign, Party in interest, Pensions, Pensions and Welfare Benefit Programs Office, Prohibited transactions, Real estate, Securities, Surety bonds, Trusts and Trustees.

In view of the foregoing the Department proposes to amend part 2550 of chapter XXV of title 29 of the Code of Federal Regulations as follows:

## PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

1. By revising the authority citation for Part 2550 to read as set forth below and the authority citations following all the sections in part 2550 are removed.

Authority: 29 U.S.C. 1135.

§ 2550. 401b–1 also issued under sec. 102, Reorganization Plan No. 4 of 1978 (43 FR 47713, Oct. 17, 1978), effective December 31, 1978 (44 FR 1065, Jan. 3, 1979), 3 CFR, 1978 Comp., p. 332.

§ 2550.404c–1 also issued under 29 U.S.C. 1104.

§ 2550.407c–3 also issued under 29 U.S.C. 1107.

§ 2550.412–1 also issued under 29 U.S.C. 1112.

§ 2550.414b–1 also issued under 29 U.S.C. 1114.

Secretary of Labor's Order No. 1–87.

2. By adding a new § 2550.404c–1 to read as follows:

**§ 2550.404c–1 ERISA Section 404(c) Plans.**

(a) *In general.* Section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) provides that if a pension plan that provides for individual accounts permits a participant or beneficiary to exercise control over the assets in his account and that participant or beneficiary in fact exercises control over assets in his account, then the participant or beneficiary shall not be deemed to be a fiduciary by reason of his exercise or control and no person who is otherwise a fiduciary shall be liable for any loss, or by reason of any breach, which results from such exercise of control. This section describes the kinds of plans that are "ERISA section 404(c) plans," the circumstances in which a participant is considered to have exercised independent control over the assets in his account as contemplated by section 404(c), and the consequences of a participant's exercise of control.

(b) *ERISA section 404(c) plans*—(1) *In general.* An "ERISA section 404(c) plan" is an individual account plan described in section 3(34) of the Act that:

(i) Provides an opportunity for a participant or beneficiary to exercise control over the assets in his individual account (see paragraph (b)(2) of this section); and

(ii) Provides a participant or beneficiary an opportunity to choose, from a broad range of investments, the manner in which some or all of the assets in his account are invested (see paragraph (b)(3) of this section).

(2) *Opportunity to exercise control.* (1) A plan provides a participant or beneficiary the opportunity to exercise control over assets in his account if, under the terms of the plan, the participant or beneficiary has a reasonable opportunity to give written investment instructions (or oral instructions followed by a written confirmation of such instructions returned to the participant) to an identified plan fiduciary who is obligated to comply with such instructions.

(ii) A plan does not fail to provide an opportunity for a participant or beneficiary to exercise control over his individual account merely because it—

(A) *Imposes charges for reasonable expenses.* A plan may charge the participant or beneficiary's account for the reasonable expenses of carrying out his instructions, provided reasonable procedures are established under the plan to inform participants that such charges are made and to inform each participant periodically of the actual expenses incurred with respect to his individual account;

(B) *Permits a fiduciary to decline to implement certain instructions.* A plan may permit a fiduciary to decline to implement participant instructions—

(*1*) which are described at paragraph (e)(2)(ii) of this section,

(*2*) which would result in a prohibited transaction described in ERISA section 406 or section 4975 of the Internal Revenue Code,

(*3*) which could result in a loss in excess of that participant's account balance, or

(*4*) which would generate income that would be taxable to the plan; or

(C) *Imposes reasonable restrictions on frequency of investment instructions.* A plan may impose reasonable restrictions on the frequency with which the participant or beneficiary may give investment instructions. In no event, however, is such a restriction reasonable unless it is applied on a uniform and consistent basis to all directing participants and beneficiaries of that plan and, with respect to each investment alternative made available by the plan, it permits the participant or beneficiary to give investment instructions with a frequency which is appropriate in light of the market volatility to which the investment may reasonably be expected to be subject, provided that with respect to the investment categories made available pursuant to the requirements of paragraph (b)(3)(i)(B) of this section—

(*1*) At least three of such investment categories permit the participant or beneficiary to give investment instructions no less frequently than once within any three month period; and

(*2*) The least volatile investment category meeting the requirements of paragraph (b)(2)(ii)(C)(*1*) of this section permits the participant or beneficiary to give investment instructions no less frequently than he is permitted to give such instructions with respect to the most volatile investment alternative made available by the plan.

(iii) Paragraph (d) of this section describes the circumstances under which a participant or beneficiary will be considered to have exercised independent control with respect to a particular transaction.

(3) *Broad Range of Investment Alternatives.* (i) A plan offers a broad range of investment alternatives only if the available investment alternatives are sufficient to provide the participant

or beneficiary with a reasonable opportunity to:

(A) Materially affect the potential return on amounts in his individual account with respect to which he is permitted to exercise control and the degree of risk to which such amounts are subject;

(B) Choose from at least three diversified categories of investments:

(*1*) Each of which has materially different risk and return characteristics;

(*2*) Which in the aggregate enable the participant by choosing among them to achieve a portfolio with aggregate risk and return characteristics at any point within the range normally appropriate for the participant; and

(*3*) Each of which when combined with investments in either of the other categories tends to minimize the risk of a participant's portfolio at any given level of expected return;

(C) Diversify the investment of that portion of his individual account with respect to which he is permitted to exercise control so as to minimize the risk of large losses, taking into account the nature of the plan and the size of participant's accounts. In determining whether a plan provides the participant or beneficiary with a reasonable opportunity to diversify his investments, the nature of the investment options offered by the plan and the size of participants' accounts must be taken into account. Where the account of any participant is of such limited size that investment in look-through investment vehicles is the only prudent means to assure appropriate diversification, a plan may satisfy the requirements of this paragraph only by offering look-through investment vehicles.

(ii) *Diversification and Look-Through Investment Vehicles.* Where look-through investment vehicles are available as investment options to participants or beneficiaries, the underlying investments of the look-through investment vehicles shall be considered in determining whether the plan satisfies the requirements of paragraphs (b)(3)(i)(B) and (b)(3)(i)(C) of this section.

(iii) *Investment information.* In determining whether a plan provides a broad range of investment alternatives, only those investment alternatives are to be taken into account as to which sufficient information is available to the participant or beneficiary to permit informed investment decisions. Where the investment alternatives made available to participants and beneficiaries are limited to designated investments, information will not be considered to be available unless an identified plan fiduciary is available to provide participants and beneficiaries with directions as to how such information may be obtained.

(c) *Special Rule for Designated Look-Through Investment Vehicles and Investment Managers—(1) In general.* A plan under which the investment alternatives available to a participant or beneficiary include investment in one or more designated look-through investment vehicles or the right to appoint one or more designated investment managers is an ERISA section 404(c) plan only if it meets the requirements of paragraph (b) of this section, and if, under the plan, an independent fiduciary is required to designate the look-through investment vehicle(s) or investment manager(s) which the participant or beneficiary may choose.

(2) *Independent fiduciary.* (i) For purposes of paragraph (c) of this section, a fiduciary is an independent fiduciary if he is not affiliated with any designated look-through investment vehicle or any investment manager with respect to such a vehicle or with any designated investment manager.

(ii) Notwithstanding the foregoing provision, an entity, as described at ERISA section 3(38), may designate itself or an affiliate as an investment manager or designate a look-through investment vehicle managed by itself or an affiliate to be made available to the participants and beneficiaries of an ERISA section 404(c) plan if:

(A) The participants and beneficiaries of the plan are solely its own employees, former employees, and retirees (or beneficiaries thereof) or those of an affiliate;

(B) At the time of designation and any subsequent redesignation or change in the terms of such designation, the amount of assets of all plan(s) sponsored by such entity and its affiliates which are under management of the designated manager are less than 50 percent of the total assets under such designated manager's management; and

(C) Such selection meets the prudence requirement as described in section 404(a) of ERISA.

(d) *Exercise of Control*—(1) *In general.* Sections 404(c)(1) and 404(c)(2) of the Act and paragraphs (a) and (e) of this section apply only with respect to a transaction where a participant or beneficiary has exercised independent control in fact with respect to the investment of assets in his individual account under an ERISA section 404(c) plan.

(2) *Independent Control.* Whether a participant or beneficiary has exercised independent control in fact with respect to a transaction depends on the facts and circumstances of the particular case. However, a participant's or beneficiary's exercise of control is not independent in fact if:

(i) The participant or beneficiary is subjected to improper influence by a plan fiduiary or the plan sponsor with respect to the transaction;

(ii) A plan fiduciary has concealed material non-public facts regarding the transaction from the participant or beneficiary unless the disclosure of such information by the plan fiduciary to the participant or beneficiary would violate securities or banking laws; or

(iii) The participant or beneficiary is legally incompetent and the responsible plan fiduciary accepts the instructions of the participant or beneficiary knowing him to be legally incompetent.

(3) *Transactions involving a fiduciary.* In the case of a sale, exchange or leasing of property (other than a transaction described in paragraph (e)(2)(ii)(D) of this section) between an ERISA section 404(c) plan and a plan fiduciary or an affiliate of such a fiduciary, or a loan to a plan fiduciary or an affiliate of such a fiduciary, the participant or beneficiary will not be deemed to have exercised independent control unless the transaction is fair and reasonable to him. For purposes of paragraph (d) (3) of this section, a transaction will be deemed to be fair and reasonable to a participant or beneficiary if he pays no more than, or receives no less than, adequate consideration (as defined in section 3(18) of the Act) in connection with the transaction.

(4) *No obligation to advise.* A fiduciary has no obligation under part 4 of Title I of the Act to provide advice to a participant or beneficiary with respect to an investment made pursuant to the participant's or beneficiary's independent exercise of control under an ERISA section 404(c) plan.

(e) *Effect of independent exercise of control*—(1) *Participant or beneficiary not a fiduciary.* If a participant or beneficiary of an ERISA section 404(c) plan exercises independent control over assets in his individual account in the manner described in paragraph (d) of this section, then such participant or beneficiary is not a fiduciary of the plan by reason of such exercise of control.

(2) *Limitation on liability of plan fiduciaries.* (i) If a participant or beneficiary of an ERISA section 404(c) plan exercises independent control over assets in his individual account in the manner described in paragraph (d) of this section, then no other person who is a fiduciary with respect to such plan shall be liable to such participant or beneficiary for any loss, or with respect

to any breach of part 4 of Title I of the Act, that is the direct and necessary result of that participant's or beneficiary's exercise of control.

(ii) Paragraph (e)(2)(i) of this section does not apply with respect to any instruction which, if implemented—

(A) Would not be in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of Title I of ERISA;

(B) Would cause a fiduciary to maintain the indicia of ownership of any assets of the plan outside the jurisdiction of the district courts of the United States other than as permitted by section 404(b) of the Act and 29 CFR 2550.404b–1;

(C) Would jeopardize the plan's tax qualified status under the Internal Revenue Code; or

(D) Would result in a direct or indirect; (*1*) Sale, exchange, or lease of property between a plan sponsor or any affiliate of the sponsor and the plan except for the purchase or sale of any qualifying employer security (as defined in section 407(d)(5) of the Act) which meets the conditions of section 408(e) of ERISA and paragraph (e)(2)(ii)(*D*)(*4*) of this section;

(*2*) Loan to a plan sponsor or any affiliate of the sponsor;

(*3*) Acquisition or sale of any employer real property (as defined in section 407(d)(2) of the Act); or

(*4*) Acquisition or sale of any employer security except to the extent that: (*i*) Such securities are qualifying employer securities (as defined in section 407(d) (5) of the Act);

(*ii*) Such securities are stock;

(*iii*) Such securities are publicly-traded on a national exchange or other generally recognized market;

(*iv*) Such securities are traded with sufficient frequency and in sufficient volume to assure that participant directions to buy or sell the security may be acted upon promptly and efficiently;

(*v*) Information provided to shareholders of such securities is provided to participants with accounts holding such securities;

(*vi*) Voting and similar rights with respect to such securities are passed through to participants with accounts holding such securities; and

(*vii*) Activities relating to the purchase, sale, and exercise of voting and similar rights with respect to such securities are the responsibility of an independent fiduciary who carries out such activities on a confidential basis. For purposes of paragraph (e)(2)(ii)(D)(*4*)(*vii*) of this section, a fiduciary is not independent if the fiduciary is affiliated with any sponsor of the plan.

(iii) The individual investment decisions of an investment manager who is designated directly by a participant or who manages a look-through investment vehicle which a participant has invested are not direct and necessary results of the designation of the investment manager or of investment in the look-through investment vehicle. However, paragraph (e)(2)(iii) of this section shall not be construed to result in liability under section 405 of ERISA with respect to a fiduciary (other than the investment manager) who would otherwise be relieved of liability by reason of section 404(c)(2) of the Act and paragraph (e) of this section.

(3) *Prohibited Transactions.* The relief provided by section 404(c) of the Act and this section applies only to the provisions of part 4 of title I of the Act. Therefore, nothing in this section relieves a disqualified person from the taxes imposed by sections 4975(a) and (b) of the Internal Revenue Code with respect to the transactions prohibited by section 4975(c)(1) of the Code.

(f) *Definitions.* For purposes of this section:

(1) "Look-through investment vehicle" means:

(i) An investment company described in section 3(a) of the Investment Company Act of 1940, or a series investment company described in section 18(f) of the 1940 Act or any of the segregated portfolios of such company;

(*ii*) A common or collective trust fund or a pooled investment fund maintained by a bank, a bank deposit, or a guaranteed investment contract of a bank;

(iii) A pooled separate account or a guaranteed investment contract of an insurance company qualified to do business in a State; or

(iv) Any entity whose assets include plan assets by reason of a plan's investment in the entity;

(2) "Adequate consideration" has the meaning given it in section 3(18) of the Act and in any regulations under this title;

(3) "Investment manager" includes any person described in section 3(38) of the Act and any person who exercises discretionary authority or control over the assets of a plan or a look-through investment vehicle or who provides investment advice with respect to such assets for a fee;

(4) An "affiliate" of a person includes the following:

(i) Any person directly or indirectly controlling, controlled by, or under common control with the person;

(ii) Any officer, director, partner, employee, an employee of an affiliated employer, relative (as defined in section 3(15) of ERISA), brother, sister, or spouse of a brother or sister, of the person; and

(iii) Any corporation or partnership of which the person is an officer, director or partner.

For purposes of paragraph (f)(4) of this section, the term "control" means, with respect to a person other than an individual, the power to exercise a controlling influence over the management or policies of such person.

(g) *Examples.* The provisions of this section are illustrated by the following examples. Examples (2) through (8) assume that the participant has exercised independent control with respect to his individual account under an ERISA section 404(c) plan described in paragraph (b) of this section and has not directed a transaction described in paragraph (e)(2)(ii) of this section.

(1) Plan A is an individual account plan described in section 3(34) of the Act under which a plan participant may direct the plan administrator to invest any portion of his individual account in any asset which it is administratively feasible for the plan to hold and the acquisition of which would not result in disqualification of the plan under the Internal Revenue Code. Plan A provides that the plan administrator is obligated to effect participant investment instructions when requested but must decline to implement any participant instructions which would not be in accordance with plan documents or which would cause a fiduciary to hold the indicia of ownership of any plan assets outside the jurisdiction of the district courts of the United States. In addition, Plan A provides that the administrator is required to forward to the participants any proxy solicitations, periodic reports, and other communications with respect to participant directed investments in publicly-offered securities. Plan A is an ERISA section 404(c) plan. Although a participant in Plan A would be permitted to direct an investment as to which there is no sufficient information available to permit an informed investment decision, it nonetheless provides a broad range of investment alternatives as to which such information is available (*e.g.*, publicly-offered securities). Finally, Plan A is an ERISA section 404(c) plan notwithstanding that it does not meet the requirements of paragraph (c) of this section because, although the plan implicitly permits participants to invest in look-through investment vehicles, it does not limit the choices of investment vehicles or investment managers to *designated* vehicles or to *designated* managers.

(2) A participant, P, independently exercises control over assets in his individual account plan by directing a plan fiduciary, F, to invest 100% of his account balance in a single stock. P is not a fiduciary with respect to the plan by reason of his exercise of control and F will not be liable for any losses

that necessarily results from P's investment instruction.

(3) Assume the same facts in paragraph (g)(2) of this section, except that P directs F to purchase the stock from B, who is a party in interest with respect to the plan. Neither P nor F has engaged in a transaction prohibited under section 406 of the Act: P because he is not a fiduciary with respect to the plan by reason of his exercise of control and F because he is not liable for any breach of part 4 of Title I that is the direct and necessary consequence of P's exercise of control. However, a prohibited transaction under section 4975(c) of the Internal Revenue Code may have occurred, and, in the absence of an exemption, tax liability may be imposed pursuant to sections 4975 (a) and (b) of the Code.

(4) Assume the same facts as in paragraph (g)(3) of this section, except that P does not specify that the stock be purchased from B, and F chooses to purchase the stock from B. In the absence of an exemption, F has engaged in a prohibited transaction described in 406(a) of ERISA because the decision to purchase the stock from B is not a direct or necessary result of P's exercise of control.

(5) Pursuant to the terms of the plan, plan fiduciary F designates three reputable investment managers which participants may appoint to manage assets in their individual accounts. Participant P selects M, one of the designated managers, to manage the assets in his account. M prudently manages P's account for 6 months after which he incurs losses in managing the account through his imprudence. M has engaged in a breach of fiduciary duty because M's imprudent management of P's account is not a direct or necessary result of P's exercise of control (the choice of M as manager). F has no fiduciary liability for M's imprudence because he has no affirmative duty to advise P (see paragraph (d)(4) of this section) and because F is relieved of co-fiduciary liability by reason of section 404(c)(2) (see paragraph (e) of this section). F does have a duty to determine the suitability of M as an investment manager, however, and M's imprudence would be a factor which F must consider in periodically reevaluating its decision to designate M.

(6) Participant P instructs plan fiduciary F to appoint G as his investment manager pursuant to the terms of the plan which provide P total discretion in choosing an investment manager. Through G's imprudence, G incurs losses in managing P's account. G has engaged in a breach of fiduciary duty because G's imprudent management of P's account is not a direct or necessary result of P's exercise of control (the choice of G as manager). Plan fiduciary F has no fiduciary liability for G's negligence because F has no obligation to advise P (see paragraph (d)(4) of this section) and because F is relieved of co-fiduciary liability for G's actions by reason of section 404(c)(2) (see paragraph (e)(2)(iii) of this section). In addition, F also has no duty to determine the suitability of G as an investment manager because the plan does not limit P's choices to *designated* investment managers.

(7) Participant P directs a plan fiduciary, F, a bank, to invest all of the assets in his individual account in a collective trust fund managed by F that is designed to be invested solely in a diversified portfolio of common stocks. Due to economic conditions, the value of the common stocks in the bank collective trust fund declines while the value of publicly-offered fixed income obligations remains relatively stable. F is not liable for any losses incurred by P solely because his individual account was not diversified to include fixed income obligations. Such losses are the direct result of P's exercise of control; moreover, under paragraph (d)(4) of this section F has no obligation to advise P regarding his investment decisions.

(8) Assume the same facts as in paragraph (g)(7) of this section except that F, in managing the collective trust fund, invests the assets of the fund solely in a few highly speculative stocks. F is liable for losses resulting from its imprudent investment in the speculative stocks and for its failure to diversify the assets of the account. This conduct involves a separate breach of F's fiduciary duty that is not a direct or necessary result of P's exercise of control (see paragraph (e)(2)(iii) of this section).

(h) *Effective date.* This section is effective with respect to transactions occurring after [180 days after publication of a final rule]. Transactions occurring before that date would be governed by section 404(c) of the Act without regard to the regulation.

Signed at Washington, DC, this 26th day of February, 1991.

**David George Ball,**

*Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor.*

[FR Doc. 91-5797 Filed 3-12-91; 8:45 am]

BILLING CODE 4510-29-M

federal register

Wednesday
March 13, 1991

# Part V

# Department of Education

34 CFR Parts 674, 675, and 676
Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Proposed Rule

**DEPARTMENT OF EDUCATION**

**34 CFR Parts 674, 675, and 676**

**RIN 1840-AB31**

## Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations for the Perkins Loan (formerly named the National Direct Student Loan (NDSL)), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs, known collectively as the campus-based programs. These proposed regulations would make typographical corrections to and clarify provisions contained in the current regulations.

**DATES:** Comments must be received on or before April 29, 1991.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Harold F. McCullough, Chief, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue SW. (room 4018, ROB-3), Washington, DC 20202-5446.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Coppage or Michael J. Oliver, U.S. Department of Education, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue SW. (room 4018, ROB-3), Washington, DC 20202-5446. Telephone (202) 708-4690. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC, 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

**SUPPLEMENTARY INFORMATION:**

### Background

The proposed revisions in these regulations result from a review of the current regulations and concerns raised by educational institutions. The review identified the need to clarify certain provisions of the current regulations, add language inadvertently omitted, and make corrections due to typographical errors.

### Summary of Significant Proposed Changes

*Proposed Changes to Perkins Loan and CWS Program Regulations*

Sections 674.2 and 675.2 Definitions

The current definition of "Full-time student" applies to both graduate and undergraduate students. Since many institutions have different standards for enrollment status for graduate and undergraduate students, the Secretary is proposing to add a definition of "Full-time graduate or professional student" and rename the definition of "Full-time student" to "Full-time undergraduate student."

The Secretary proposes to allow an institution participating in the Perkins Loan and CWS programs to have similar flexibility in determining a "full-time graduate or professional student" as the institution does under the Guaranteed Student Loan (Stafford Loan, PLUS, and Supplemental Loans for Students) programs. This proposed definition would allow the institution to determine what constitutes a full-time academic workload according to its own standards and practices.

*Proposed Changes to the Perkins Loan Program Regulations*

Section 674.31 Promissory Note

The Secretary proposes to amend this section to clarify that institutions may still capitalize the penalty charge assessed on National Defense/Direct Student Loan borrowers during the repayment period. This language was inadvertently omitted from § 674.31(b)(5) of the final regulations published December 1, 1987.

Section 674.31 Promissory Note

Section 674.32 Special Terms: Loans to Less Than Half-Time Student Borrowers

Section 674.34 Deferment of Repayment—Perkins Loans

Section 674.35 Deferment of Repayment—Direct Loans Made on or After October 1, 1980

Section 674.36 Deferment of Repayment—Direct Loans Made Before October 1, 1980 and Defense Loans

The Secretary is proposing to delete the word "regular" in the phrases "half-time regular student," "regular half-time student" and "less than half-time regular student" in §§ 674.31, 674.32, 674.34, 674.35 and 674.36 to be consistent throughout the Perkins Loan, CWS and SEOG program regulations. For example, §§ 674.32, 674.33 and 674.34 used the term "half-time student" without using the work "regular." The term "regular" has been deleted as redundant because 34 CFR 668.7(a)(1) already requires a student to be a regular student in order to be eligible for assistance under the Perkins Loan, CWS and SEOG programs.

Section 674.38 Postponement of Loan Repayments in Anticipation of Cancellation

The Secretary proposes to revise § 674.38(a)(1) in order to specifically cross-reference §§ 674.53 and 674.54 regarding cancellations for teaching. These sections were inadvertently not listed with the other sections regarding services that qualify for loan cancellation.

Section 674.43 Billing Procedures

Section 674.47 Costs Chargeable to the Fund

The Secretary proposes to revise § 674.43(a) to provide that an institution may use billing procedures in addition to those expressly listed in the regulations. This includes telephone calls made to borrowers among the billing procedures that an institution may follow. The Secretary believes that making telephone calls and working with the debtor over the telephone, as soon as the borrower is overdue in making a payment, is in keeping with the Department's goal of using all effective methods of collection. The Secretary intends to encourage institutions to use such methods in order to reduce defaults. Therefore, as a result of a review of concerns raised by the educational institutions, the Secretary proposes to revise §§ 674.43(a) and 674.47(a)(2) to clarify that the costs of all documented telephone calls made during the billing cycle to demand payment of overdue amounts on the loan, that are not recovered from the borrower, may be charged to the Perkins Loan Fund.

Appendices A, B, C, and D—Promissory Notes

The Secretary proposes to revise the sample promissory notes found in Appendices A, B, C, and D of part 674. These revised notes would correct typographical errors and clarify requirements for handling prepayments made by borrowers. These revised promissory notes reflect the current regulatory requirements and contain no policy changes. The Secretary has previously notified institutions of these revisions and instructed the institutions to begin using these revised promissory notes.

*Proposed Changes to the CWS Program Regulations*

Section 675.26 CWS Federal Share Limitations

The Secretary proposes to amend § 675.26 to clarify the CWS Federal share limitations and make the regulatory language more consistent with the statute.

Section 675.28 Community Service Learning Program

The Secretary proposes to amend § 675.28 to more accurately reflect the statutory language governing the Community Service Learning Program. The modified language would clarify that students should be provided, to the extent practicable, work-learning opportunities that relate to their educational or vocational program or goals. In addition, the section is amended to include tutorial services, child care and literacy training in order to list all examples of community services that are given in the statute.

**Executive Order 12291**

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected by these regulations would be small institutions of higher education participating in the campus-based programs. Based on analysis conducted by the Department, the Secretary has determined that these provisions would affect a minimal number of institutions.

**Paperwork Reduction Act of 1980**

These proposed regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4018, ROB-3, 7th and D Streets, SW., Washington, DC 20202-5446, between the hours of 8:30 a.m. and 4 p.m., Monday thorugh Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

**Assessment of Educational Impact**

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Parts 674, 675, and 676**

Education loan programs—education, Student aid.

(Catalog of Federal Domestic Assistance Numbers: Perkins Loan Program, 84.038; College Work-Study Program, 84.033; Supplemental Educational Opportunity Grant Program, 84.007)

Dated: March 6, 1991.

**Ted Sanders,**

*Acting Secretary of Education.*

The Secretary proposes to amend parts 674, 675, and 676 of title 34 of the Code of Federal Regulations as follows:

## PART 674—PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

**Authority:** 20 U.S.C. 1087aa-1087hh and 20 U.S.C. 421-429, unless otherwise noted.

2. Section 674.1 is amended by revising paragraph (b)(1) to read as follows:

**§ 674.1 Purpose and identification of common provisions.**

* * * * *

(b)(1) The Perkins Loan Program authorized by title IV-E of the Higher Education Act of 1965, as amended, and previously named the National Direct Student Loan Program is a continuation of the National Defense Loan Program authorized by title II of the National Defense Education Act of 1958. All rights, privileges, duties, functions, and obligations existing under title II before the enactment of title IV-E continue to exist.

* * * * *

3. In § 674.2, paragraph (b) is amended by adding the definition of "Full-time graduate or professional student" after the definition of "Financial need"; by removing the heading "Full-time student," and adding, in its place, "Full-time undergraduate student"; and under the definition of "Full-time undergraduate student"; the first line of the introductory text is amended by adding the word "undergraduate" after the word "enrolled"; paragraph (2) is amended by removing "38" and adding, in its place, "36". The definition of "Full-time graduate or professional student reads as follows:

**§ 674.2 Definitions.**

* * * * *

(b) * * *

*Full-time graduate or professional student.* An enrolled graduate or professional student who is carrying a full-time academic workload at an institution of higher education as determined by the institution according to its own standards and practices.

* * * * *

4. Section 674.8 is amended by revising paragraphs (a) introductory text and (a)(3) to read as follows:

**§ 674.8 Program participation agreement.**

* * * * *

(a) The institution shall establish and maintain a Fund and shall deposit into the Fund—

* * * * *

(3) Payments of Principal, interest, late charges, penalty charges and collection costs on loans from the Fund;

* * * * *

**§ 674.18 [Amended]**

5. In § 674.18, paragraph (b)(4) is amended by adding "Pell Grant" before "CWS".

6. Section 674.19 is amended by revising paragraph (e)(2)(i) to read as follows:

**§ 674.18 Fiscal procedures and records.**

* * * * *

(e) * * *

(2) *Loan records.* (i) An institution shall maintain a repayment history for each borrower. This repayment history must show the date and amount of each repayment over the life of the loan. It must also indicate the amount of each repayment credit to principal, interest collection costs and either penalty of late charges.

* * * * *

7. Section 674.31 is amended by revising paragraphs (b)(2)(i)(A) and (b)(B)(3) and (b)(5)(iii)(A) to read as follows:

**§ 674.31 Promissory note.**

* * * * *

(b) * * *

(2) * * *

(i) * * *

(A) For Direct Loans made on or after October 1, 1980, begins 6 months after the borrower ceases to be at least a half-time student at an institution of higher education or a comparable institution outside the U.S. approved for this purpose by the Secretary, and normally ends 10 years later;

(B) For Direct Loans made before October 1, 1980, and Perkins Loans, begins 9 months after the borrower ceases to be at least a half-time student at an institution of higher education or a comparable institution outside the U.S. approved for this purpose by the Secretary, and normally ends 10 years later;

* * * * *

(3) *Cancellation.* The promissory note must state that the unpaid principal, interest, collection costs, and either penalty or late charges on the loan are canceled upon the death or permanent and total disability of the borrower.

* * * * *

(5) * * *

(iii) * * *

(A) Add either the penalty or late charge to the principal the day after the scheduled repayment was due; or

* * * * *

8. Section 674.32 is amended by revising paragraph (a)(2)(ii) and the authority citation to read as follows:

**§ 674.32 Special terms: loans to less than half-time student borrowers.**

(a) * * *

(2) * * *

(ii) The end of a nine-month period that includes the date the loan was made and began on the date the borrower ceased enrollment as at least a half-time student at an institution of higher education or comparable institution outside the U.S. approved for this purpose by the Secretary.

* * * * *

(Authority: 20 U.S.C. 1087dd)

9. Section 674.34 is amended by revising paragraphs (b)(3), (c)(3), (c)(4), and (d)(3) introductory text, (d)(4) introductory text and (d)(4)(iii) to read as follows:

**§ 674.34 Deferment of repayment—Perkins loans.**

* * * * *

(b) * * *

(3) If a borrower is attending as at least a half-time student for a full academic year and intends to enroll as at least a half-time student in the next academic year, the borrower is entitled to deferment for 12 months.

* * * * *

(c) * * *

(3) A Peace Corps volunteer (see § 674.57);

(4) A volunteer under part A of the Domestic Volunteer Service Act of 1973 (ACTION programs) (see § 674.57);

* * * * *

(d) * * *

(3) To qualify for an internship deferment as provided in paragraph (d)(2)(ii)(A) of this section, the borrower must provide the institution with the following certifications:

* * * * *

(4) To qualify for an internship deferment as provided in paragraph (d)(2)(ii)(B) of this section, the borrower must provide the institution with a statement from an authorized official of the internship program certifying that—

* * * * *

(iii) The internship or residency program in which the borrower has been accepted leads to a degree or certificate awarded by an institution of higher education, a hospital or a health care facility that offers postgraduate training.

* * * * *

10. Section 674.35 is amended by revising paragraphs (b)(3), (c) introductory text, (c)(3) and (g) to read as follows:

**§ 674.35 Deferment of Repayment—Direct loans made on or after October 1, 1980.**

* * * * *

(b) * * *

(3) If a borrower is attending as at least a half-time student for a full academic year and intends to enroll as at least a half-time student in the next academic year, the borrower is entitled to deferment for 12 months.

* * * * *

(c) The borrower need not repay principal, and interest does not accrue, for a period of up to 3 years during which time the borrower is—

* * * * *

(3) A volunteer under part A of the Domestic Volunteer Service Act of 1973 (ACTION programs) (See § 674.57);

* * * * * *

(g) No repayment of principal or interest begins until six months after completion of any period during which the borrower is in deferment under paragraphs (b), (c), and (d) of this section.

* * * * *

11. Section 674.36 is amended by revising paragraphs (b)(3), (c)(3), (d) and (f) to read as follows:

**§ 674.36 Deferment of repayment—Direct loans made before October 1, 1980 and Defense loans.**

* * * * *

(b) * * *

(3) If a borrower is attending as at least a half-time student for a full academic year and intends to enroll as at least a half-time student in the next academic year, the borrower is entitled to deferment for 12 months.

* * * * *

(c) * * *

(3) A volunteer under part A of the Domestic Volunteer Service Act of 1973 (ACTION programs) (see § 674.57);

* * * * *

(d) The institution shall exclude the deferment periods described in paragraphs (b) and (c) of this section when determining the 10-year repayment period.

* * * * *

(f) The institution may permit the borrower to defer payment of principal and interest, but interest shall continue to accrue, on a Defense loan for a total of 3 years after the commencement or resumption of the repayment period on a loan, during which he or she is attending an institution of higher education as a less-than-half-time student.

* * * * *

12. Section 674.38 is amended by revising paragraph (a)(1) to read as follows

**§ 674.38 Postponement of loan repayments in anticipation of cancellation.**

(a) * * *

(1) Notifies the institution in writing that he or she is teaching or engaged in other services that qualify for loan cancellation under §§ 674.53 674.54, 674.55, 674.56 or 674.57.

* * * * *

13. Section 674.42 is amended by adding a new paragraph (a)(2)(x) and revising paragraph (b)(1)(i) to read as follows:

**§ 674.42 Contact with the borrower.**

(a) * * *

(2) * * *

(x) General information with respect to the average indebtedness of students who have loans at that institution under part E of the Higher Education act of 1965, as amended.

* * * * *

(b) *Contact with the borrower during the initial and post-deferment grace periods.* (1)(i) For loans with a nine-month initial grace period (Direct loans made before October 1, 1980, and Perkins loans), the institution shall contact the borrower three times within the initial grace period.

* * * * *

14. Section 674.43 is amended by revising paragraphs (a) introductory text, (b)(3) introductory text and

(b)(5)(ii), and adding a new paragraph (b)(5)(iii) to read as follows:

**§ 674.43 Billing procedures.**

(a) The term "billing procedures," as used in this subpart, includes that series of actions routinely performed to notify borrowers of payments due on their accounts, to remind borrowers when payments are overdue, and to demand payment of overdue amounts. An institution shall use billing procedures that include at least the following steps:

* * * * *

(b) * * *

(3) The institution shall determine the amount of the late charge imposed for loans described in paragraph (b)(2) of this section based on either—

* * * * *

(5) * * *

(ii) May assess a late charge only during the period described in paragraph (b)(2) of this section; or

(iii) May assess a penalty charge throughout the life of the loan.

* * * * *

15. Section 674.45 is amended by revising paragraphs (c)(1)(i) and (ii)(B) and adding a new paragraph (c)(1)(iii) to read as follows:

**§ 674.45 Collection procedures.**

* * * * *

(c) * * *

(1) * * *

(i) Litigate;

(ii) * * *

(A) * * *

(B) If the institution first attempted to collect the account by using a collection firm, it shall either attempt to collect the account using institutional personnel, or place the account with a different collection firms; or

(iii) Assign the account to the Secretary in Accordance with the procedure in § 674.50.

* * * * *

16. Section 674.47 is amended by revising paragraph (a)(2) to read as follows:

**§ 674.47 Costs chargeable to the Fund.**

(a) * * *

(2) If the amount recovered from the borrower does not suffice to pay the amount of the past-due payments and the penalty or late charges, the institution may charge the Fund for only that unpaid portion of the cost of telephone calls to the borrower made pursuant to § 674.43 to demand payment of overdue amounts on the loan.

* * * * *

17. Section 647.49 is amended by revising paragraphs (f) introductory text and (h)(1)(ii) to read as follows:

**§ 674.49 Bankruptcy of borrower.**

* * * * *

(f) *Resumption of collection from the borrower.* The institution shall resume billing and collection action prescribed in this subpart after—

* * * * *

(h) * * *

(1) * * *

(ii) A discharge order, other than an order filed under 11 U.S.C. 1328(b) on a borrower owing a student loan obligation which entered the repayment period less than 5 years, exclusive of periods of deferment, from the date on which a petition for relief was filed, in a case brought under chapter 13 of the Code; or

* * * * *

**§ 674.50 [Amended]**

18. In § 674.50, paragraph (c)(6) is amended by changing the word "deferred" to "deferment" after the word "for."

* * * * *

19. In § 674.52, paragraph (d) is revised to read as follows:

**§ 674.52 Cancellation procedures.**

* * * * *

(d) The Secretary considers a borrower's loan deferment under §§ 674.34, 674.35 and 674.36 to run concurrently with any period for which a cancellation for military, Peace Corps or ACTION program service is granted.

* * * * *

**§ 674.57 [Amended]**

20. In § 674.57, paragraph (a)(2) is amended by adding after "1973" the words "(ACTION programs)."

* * * * *

23. Appendix A to part 674 is revised to read as follows:

**Appendix A—Promissory Note—Perkins Loan**

*Perkins Loan Program: Perkins Loan*

[Any bracketed clause or paragraph may be included at option of Institution.]

I, _____, promise to pay to _____ (hereinafter called the Institution), located at _____, the sum of the amounts that are advanced to me and endorsed in the Schedule of Advances set forth below. I promise to pay all reasonable collection costs, including attorney fees and other charges, necessary for the collection of any amount not paid when due.

I further understand and agree that:

*I. General*

(1) *Applicable Law.* All sums advanced under this note are drawn from a fund created under part E of title IV of the Higher Education Act of 1965, as amended (hereinafter called the Act), and are subject to the Act and the Federal Regulations issued under the Act. The terms of this note shall be interpreted in accordance with the Act and Federal Regulations, copies of which are to be kept by the Institution.

(2) *Procedures For Receiving Deferment or Cancellation.* I understand that in order to receive a deferment or cancellation, I must request the deferment or cancellation in writing from the Institution, and must submit to the Institution any documentation required by the Institution to prove that I qualify for the deferment or cancellation. I further understand that if I am eligible for deferment or cancellation under Articles VI through XI, I am responsible for submitting the appropriate requests on time. I further understand that I may lose my deferment and cancellation benefits if I fail to file my request on time.

*II. Interest*

Interest shall accrue from the beginning of the repayment period and shall be at the annual percentage rate of five percent (5%) on the unpaid balance, except that no interest shall accrue during any deferment period described in paragraph VI(1).

*III. Repayment*

(1) I promise to repay the principal and the interest which accrues on it to the Institution over a period beginning 9 months after the date I cease to be at least a half-time student at an institution of higher education, or at a comparable institution outside the United States approved for this purpose by the United States Secretary of Education (hereinafter called the Secretary), and ending 10 years later, unless that period is [shortened under paragraph III(5), or] extended under paragraphs III(4), III(7) (extensions), or VI(1) (deferments).

(2) Upon my written request, the repayment period may start on a date earlier than the one indicated in paragraph III(1).

(3)(A) I promise to repay the principal and interest over the course of the repayment period in equal monthly, bimonthly or quarterly installments, as determined by the Institution. I understand that if my installment payment for all the loans made to me by the Institution is not a multiple of $5, the Institution may round that payment to the next highest dollar amount that is a multiple of $5.

(B) Notwithstanding paragraph III(3)(A), upon my written request, repayment may be made in graduated installments in accordance with a schedule approved by the Secretary.

(4) Notwithstanding paragraph III(1), if I qualify as a low-income individual during the repayment period, the Institution, upon my written request, may extend the repayment period for up to an additional 10 years, and may adjust any repayment schedule to reflect my income.

[(5)(A) If the monthly rate that would be established under paragraph III(1), or the total monthly repayment rate of principal and interest on all my Perkins Loans, including this loan, is less than $30 per month, I shall repay the principal and interest on this loan at the rate of $30 per month (which includes both principal and interest).

[(5)(B) If I have received Perkins Loans from other institutions and the total monthly

repayment rate on those loans is less than $30, the $30 monthly payment established under subparagraph III(5)(A) includes the amounts I owe on all my outstanding Perkins Loans, including those received from other institutions. The portion of the $30 monthly payment that will be applied to this loan will be the difference between $30 and the total of the amounts owed at a monthly rate on my other Perkins Loans.

[(6) The Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless that action would extend the repayment period in paragraph III(1).]

(7) The Institution may, upon my written request, reduce any scheduled repayments or extend the repayment period indicated in paragraph III(1), if, in its opinion, circumstances such as prolonged illness or unemployment prevent me from making the scheduled payments. However, interest shall continue to accrue.

*IV. Prepayment*

(1) I may, at my option and without penalty, prepay all or any part of the principal, plus any accrued interest thereon, at any time.

(2) Amounts I repay in the academic year in which the loan was made will be used to reduce the amount of the loan and will not be considered a prepayment unless that year is also the year in which I am required to begin repayment on this loan, and my initial grace period has ended.

(3) If I repay more than the amount due for any installment, the excess will be used to prepay principal unless I designate it as an advance payment of the next regular installment.

*V. Default*

(1) The Institution may, at its option, declare my loan to be in default and may demand immediate payment of the entire unpaid balance of the loan, including principal, interest, late charges and collection costs if—

(A) I do not make a scheduled payment when due under the repayment schedule established by the Institution, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, X, or XI of this agreement.

(2) I understand that if I default on my loan, the Institution may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(3) Further, I understand that if I default on my loan and the loan is assigned to the Secretary for collection, the Secretary may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(4) I understand that if I default on my loan, I will then lose my right to defer repayments.

(5) I understand that after the Institution accelerates the loan under paragraph V(1), I will then lose my right to receive a cancellation of a portion of my loan for any teaching, volunteer or military service described in Articles VII, VIII, IX, and X performed after the date the Institution accelerated the loan.

(6) I understand that failure to pay this obligation under the terms agreed upon will prevent my obtaining additional student financial aid authorized under title IV of the Higher Education Act of 1965, as amended, until I have made arrangements which are satisfactory to the Institution or the Secretary regarding the repayment of the loan.

*VI. Deferment*

(1) I understand that upon making a properly documented written request to the Institution, I may defer making scheduled installment payments, and will not be liable for any interest that might otherwise accrue, during the following periods:

(A) While I am enrolled and in attendance as at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Secretary.

(B) For any period not to exceed three (3) years during which I am—

(i) On full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard) or the National Oceanic and Atmospheric Administration Corps, or as an officer on full-time active duty in the Commissioned Corps of the United States Public Health Service,

(ii) In service as a volunteer under the Peace Corps Act,

(iii) A volunteer under the Domestic Volunteer Service Act of 1973 (ACTION programs),

(iv) A full-time volunteer in a tax-exempt organization performing service comparable to the service performed in the Peace Corps or under the Domestic Volunteer Service Act of 1973, or

(v) Temporarily totally disabled as established by an affidavit of a qualified physician, or unable to secure employment because I am providing care required by my dependent who is so disabled.

(C) For a period not in excess of two (2) years—

(i) After I receive a baccalaureate or professional degree during which time I am serving in an internship which is required in order that I may receive professional recognition required to begin my professional practice or service, or

(ii) Serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital or a health care facility that offers postgraduate training;

(D) For a period not in excess of one (1) year during which, if I am a mother of preschool age children, I have entered or reentered the work force, and am being paid at a rate which does not exceed $1.00 above the minimum hourly wage established by section 6 of the Fair Labor Standards Act of 1938;

(E) For a period not in excess of six (6) months—

(i) That follows by six months or less a period during which I was enrolled as at least a half-time student at an eligible institution; and

(ii) During which I am pregnant, caring for my newborn baby, or caring for a child immediately after he or she was placed with me through adoption and I am neither attending an eligible institution of higher education nor gainfully employed; and

(F) During a six (6) month period immediately following the expiration of any deferment provided in paragraphs VI(1)(A) through VI(1)(E).

(2) The Institution may, upon my written request, defer my scheduled repayments if it determines that the deferment is necessary to avoid a financial hardship for me. Interest, however, will continue to accrue.

*VII. Cancellation for Teaching*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service—

(A) As a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year of service for funds under chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, and which has been designated by the Secretary (after consultation with each State Department of Education) in accordance with the provisions of section 465(a)(2) of the Act as a school with a high concentration of students from low-income families. An official Directory of designated low-income schools is published annually by the Secretary.

(B) As a full-time teacher of handicapped children (including those who are mentally retarded, hard of hearing, deaf, speech and language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, have specific learning disabilities, or are otherwise health impaired children, who by reason thereof require special education and related services); in a public or other nonprofit elementary or secondary school system.

(2) A portion of this loan will be canceled for each completed year of teaching service at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the first and second complete academic years of that teaching service,

(B) 20 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each of the third and fourth complete academic years of that teaching service, and

(C) 30 percent of the total principal amount plus interest on the unpaid balance accruing during that year for the fifth complete academic year of that teaching service.

*VIII. Head Start Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service

as a full-time staff member in a Head Start program if—

(A) That Head Start program is operated for a period which is comparable to a full school year in the locality, and

(B) My salary is not more than the salary of a comparable employee of the local educational agency.

(2) This loan will be canceled at the rate of 15 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each complete school year or equivalent period of service in a Head Start program.

(3) Head Start is a preschool program carried out under the Head Start Act.

*IX. Military Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 50 percent of the principal amount of this loan plus the interest thereon canceled if I serve as a member of the Armed Forces of the United States in an area of hostilities that qualifies for special pay under section 310 of title 37 of the United States Code.

(2) This loan will be canceled at the rate of 12½ percent of the total principal amount plus interest on the unpaid balance accruing during that year for each complete year of such service.

*X. Volunteer Service Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 70 percent of the amount of this loan plus the interest thereon canceled if I perform service—

(A) As a volunteer under the Peace Corps Act; or

(B) As a volunteer under the Domestic Volunteer Service Act of 1973 (ACTION programs).

(2) This loan will be canceled at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance accuring during that year will be canceled for each of the first and second twelve-month periods of volunteer service completed;

(B) 20 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the third and fourth twelve-month period of volunteer service completed.

*XI. Death and Disability Cancellation*

(1) In the event of my death, the total amount owed on this loan will be canceled.

(2) If I became totally and permanently disabled after I receive this loan, the Institution will cancel the total amount of this loan.

*XII. Change in Name, Address, Telephone Number, or Social Security Number*

I am responsible, and any endorser is responsible, for informing the Institution of any change or changes in name, address, telephone number, or Social Security number.

*XIII. Late Charge*

(1) The Institution will impose a late charge if—

(A) I do not make a scheduled payment when it is due, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, X, and XI of this agreement.

(2) No charge may exceed twenty (20) percent of my monthly, bimonthly or quarterly payment.

(3)(A) The Institution may—

(i) Add the late charge to the principal the day after the scheduled repayment was due; or

(ii) Include it with the next scheduled repayment after I have received notice of the late charge.

(B) If the Institution elects to add the late charge to the outstanding principal of the loan, it must so inform me before the due date of the next installment.

*XIV. Assignment*

(1) This note may be assigned by the Institution only to—

(A) The United States;

(B) Another institution upon my transfer to that institution if that institution is participating in this program; or

(C) Another institution approved by the Secretary.

(2) The provisions of this note that relate to the Institution shall, where appropriate, relate to an assignee.

*XV. Prior Loans*

I hereby certify that I have listed below all of the Perkins Loans I have obtained at other institutions. (If no prior loans have been received, state "None.")

SCHEDULE OF PERKINS LOANS AT OTHER INSTITUTIONS

| | Amount | Date | Institution |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

*XVI. Schedule of Advances*

The following amounts were advanced to me under this loan agreement on the dates indicated:

| | Amount | Date | Signature of borrower |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

**Notice to Borrower:** Do not sign this note before you read it.

I understand and agree to all of the foregoing terms and conditions.

[This note is signed as a sealed instrument.]

Signature ———————[(seal)].

Date ———, 19——.

Permanent Address (Street or Box Number, City, State, and Zip Code).

Social Security Number (borrower must provide) ———————

The borrower and Institution shall execute this note without security and without endorsement unless the borrower is a minor and this note would not, under the law of the State in which the Institution is located, create a binding obligation. If the borrower is a minor and this note would not therefore be legally binding, the Institution shall require a cosigner to this note:

I agree to repay all amounts due on this loan if the borrower fails to do so in accordance with the terms of the note.

Signature of cosigner ———————[(seal)].

Date ———, 19——.

Permanent Address (Street or Box Number, City, State, and Zip Code).

The Institution shall provide a copy of this note to you and any cosigner.

(Authority: 20 U.S.C. 1087dd)

24. Appendix B to part 674 is revised to read as follows:

**Appendix B—Promissory Note—Direct Loan**

*Perkins Loan Program: Direct Loan*

[Any bracketed clause or paragraph may be included at option of institution.]

I, ———, promise to pay to ——— (hereinafter called the Institution), located at ———, the sum of the amounts that are advanced to me and endorsed in the Schedule of Advances set forth below. I promise to pay all reasonable collection costs, including attorney fees and other charges, necessary for the collection of any amount not paid when due.

I further understand and agree that:

*I. General*

(1) *Applicable Law.* All sums advanced under this note are drawn from a fund created under Part E of Title IV of the Higher Education Act of 1965, as amended (hereinafter called the Act), and are subject to the Act and the Federal Regulations issued under the Act. The terms of this note shall be interpreted in accordance with the Act and Federal Regulations, copies of which are to be kept by the Institution.

(2) *Procedures for Receiving Deferment or Cancellation.* I understand that in order to receive a deferment or cancellation, I must request the deferment or cancellation in writing from the Institution, and must submit to the Institution any documentation required by the Institution to prove that I qualify for the deferment or cancellation. I further understand that if I am eligible for deferment or cancellation under Articles VI through X, I am responsible for submitting the appropriate requests on time. I further understand that I may lose my deferment and cancellation benefits if I fail to file my request on time.

*II. Interest*

Interest shall accrue from the beginning of the repayment period and shall be at the annual percentage rate of five percent (5%) on the unpaid balance, except that no interest

shall accrue during any deferment period described in paragraph VI(1).

*III. Repayment*

(1) I promise to repay the principal and the interest which accrues on it to the Institution over a period beginning 6 months after the date I cease to be at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the United States Secretary of Education (hereinafter called the Secretary), and ending 10 years later, unless that is [shortened under paragraph III(5), or] extended under paragraph III(4), III(7) (extensions), or VI(1) (deferments).

(2) Upon my written request, the repayment period may start on a date earlier than the one indicated in paragraph III(1).

(3)(A) I promise to repay the principal and interest over the course of the repayment period in equal monthly, bimonthly or quarterly installments, as determined by the Institution. I understand that if my installation payment for all the loans made to me by the Institution is not a multiple of $5, the Institution may round that payment to the next highest dollar amount that is a multiple of $5.

(B) Notwithstanding paragraph III(3)(A), upon my written request, repayment may be made in graduated installments in accordance with a schedule approved by the Secretary.

(4) Notwithstanding paragraph III(1), if I qualify as a low-income individual during the repayment period, the Institution, upon my written request, may extend the repayment period for up to an additional 10 years, and may adjust any repayment schedule to reflect my income.

[(5)(A) If the monthly rate that would be established under paragraph III(1), or the total monthly repayment rate of principal and interest on all my Direct, Defense and Perkins Loans, including this loan, is less than $30 per month, I shall repay the principal and interest on this loan at the rate of $30 per month (which includes both principal and interest).

(5)(B) If I have received Direct, Defense and Perkins Loans from other institutions and the total monthly repayment rate on those loans is less than $30, the $30 monthly payment established under subparagraph III(5)(A) includes the amounts I owe on all my outstanding Direct, Defense and Perkins Loans, including those received from other institutions. The portion of the $30 monthly payment that will be applied to this loan will be the difference between $30 and the total of the amounts owed at a monthly rate on my other Direct, Defense and Perkins Loans.

(6) The Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless that action would extend the repayment period in paragraph III(1).]

(7) The Institution may, upon my written request, reduce any scheduled repayments or extend the repayment period indicated in paragraph III(1), if, in its opinion, circumstances such as prolonged illness or unemployment prevent me from making the scheduled repayments. However, interest shall continue to accrue.

*IV. Prepayment*

(1) I may, at my option and without penalty, prepay all or any part of the principal, plus any accrued interest thereon, at any time.

(2) Amounts I repay in the academic year in which the loan was made will be used to reduce the amount of the loan and will not be considered a prepayment unless that year is also the year in which I am required to begin repayment on this loan, and my initial grace period has ended.

(3) If I repay more than the amount due for any installment, the excess will be used to prepay principal unless I designate it as an advance payment of the next regular installment.

*V. Default*

(1) The Institution may, at its option, declare my loan to be in default and may demand immediate payment of the entire unpaid balance of the loan, including principal, interest, late charges and collection costs, if—

(A) I do not make a scheduled payment when due under the repayment schedule established by the Institution, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, and X of this agreement.

(2) I understand that if I default on my loan, the Institution may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(3) Further, I understand that if I default on my loan and the loan is assigned to the Secretary for collection, the Secretary may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(4) I understand that if I default on my loan, I will then lose my right to defer repayments.

(5) I understand that after the Institution accelerates the loan under paragraph V(1), I will then lose my right to receive a cancellation of a portion of my loan for any teaching or military service described in Articles VII, VIII and IX, performed after the date the Institution accelerated the loan.

(6) I understand that failure to pay this obligation under the terms agreed upon will prevent my obtaining additional student financial aid authorized under Title IV of the Higher Education Act of 1965, as amended, until I have made arrangements which are satisfactory to the Institution or the Secretary regarding the repayment of the loan.

*VI. Deferment*

(1) I understand upon making a properly documented written request to the Institution, I may defer making scheduled installment payments, and will not be liable for any interest that might otherwise accrue, during the following periods:

(A) While I am enrolled and in attendance as at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Secretary.

(B) For any period not to exceed three (3) years during which I am—

(i) On full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard) or an officer on full-time active duty in the Commissioned Corps of the U.S. Public Health Service,

(ii) In service as a volunteer under the Peace Corps Act,

(iii) A volunteer under the Domestic Volunteer Service Act of 1973 (ACTION programs),

(iv) A full-time volunteer in a tax-exempt organization performing service comparable to the service performed in the Peace Corps or under the Domestic Volunteer Service Act or 1973, or

(v) Temporarily totally disabled as established by an affidavit of a qualified physician, or unable to secure employment because I am providing care required by my spouse who is so disabled.

(C) For a period not in excess of two (2) years after I receive a baccalaureate or professional degree during which time I am serving in an internship which is required in order that I my receive professional recognition required to begin my professional practice or service; and

(D) During a six (6) month period following the expiration of my deferment in paragraph VI(1)(A) through (VI)(1)(C).

(2) In addition, the Institution may permit me to defer making scheduled installment payments if it determines that the deferment is necessary to avoid a financial hardship for me. I will be required to repay interest that accrues during this period of deferment.

*VII. Cancellations for Teaching*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service—

(A) As a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year of service for funds under chapter I of the Education Consolidation and Improvement Act of 1981, as amended, and which has been designated by the Secretary (after consultation with each State Department of Education) in accordance with the provisions of section 465(a)(2) of the Act as a school with a high concentration of students from low-income families. An official Directory of designated low-income schools is published annually by the Secretary.

(B) As a full-time teacher of handicapped children (including those who are mentally retarded, hard of hearing, deaf, speech and language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, have specific learning disabilities, or are otherwise health impaired children, who by reason thereof require special education and related services) in a public or other nonprofit elementary or secondary school system.

(2) A portion of this loan will be canceled for each completed year of teaching service at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the first and second complete academic years of that teaching service,

(B) 20 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each of the third and fourth complete academic years of that teaching service, and

(C) 30 percent for the total principal amount plus interest on the unpaid balance accruing during the year for the fifth complete academic year of that teaching service.

*VIII. Head Start Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service as a full-time staff member in a Head Start program if—

(A) That Head Start program is operated for a period which is comparable to a full school year in the locality, and

(B) My salary is not more than the salary of a comparable employee of the local educational agency.

(2) This loan will be canceled at the rate of 15 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each complete school year or equivalent period of service in a Head Start program.

(3) Head Start is a preschool program carried out under the Head Start Act.

*IX. Military Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 50 percent of the principal amount of this loan plus the interest thereon canceled if I serve as a member of the Armed Forces of the United States in an area of hostilities that qualifies for special pay under section 310 of Title 37 of the United States Code.

(2) This loan will be canceled at the rate of 12½ percent of the total principal amount plus interest on the unpaid balance accruing during the last year of each complete year of such service.

*X. Death and Disability Cancellation*

(1) In the event of my death, the total amount owed on this loan will be canceled.

(2) If I become totally and permanently disabled after I receive this loan, the Institution will cancel the total amount of this loan.

*XI. Change in Name, Address, Telephone Number or Social Security Number*

I am responsible, and any endorser is responsible, for informing the Institution of any change or changes in name, address, telephone number or Social Security number.

*XII. Late Charge*

(1) The Institution will impose a late charge if—

(A) I do not make a scheduled payment when it is due, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, and X of this agreement.

(2) No charge may exceed twenty (20) percent of my monthly, bimonthly or quarterly payment.

(3)(A) The Institution may—

(i) Add the late charge to the principal the day after the scheduled repayment was due; or

(ii) Include it with the next scheduled repayment after I have received notice of the late charge.

(B) If the Institution elects to add the late charge to the outstanding principal of the loan, it must so inform me before the due date of the next installment.

*XIII. Assignment*

(1) This note may be assigned by the Institution only to—

(A) The United States;

(B) Another institution upon my transfer to that institution if that institution is participating in this program; or

(C) Another institution approved by the Secretary.

(2) The provisions of this note that relate to the Institution shall, where appropriate, relate to an assignee.

*XIV. Prior Loans*

I hereby certify that I have listed below all of the Perkins Loans, National Direct Student Loans, and National Defense Student Loans I have obtained at other institutions. (If no prior loans have been received, state "None".)

SCHEDULE OF PERKINS LOANS, NATIONAL DIRECT STUDENT LOANS, AND NATIONAL DEFENSE STUDENT LOANS AT OTHER INSTITUTIONS

| | Amount | Date | Institution |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

*XV. Schedule of Advances*

The following amounts were advanced to me under this loan agreement on the dates indicated:

| | Amount | Date | Signature of borrower |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

**Notice to Borrower:** Do not sign this note before you read it.

I understand and agree to all the foregoing terms and conditions.

[This note is signed as a sealed instrument.]

Signature ———————— [(seal)].
Date ————, 19——.
Permanent Address (Street or Box Number, City, State, and Zip Code). ————————
Social Security Number (borrower must provide) ————————

The borrower and Institution shall execute this note without security and without endorsement unless the borrower is a minor and this note would not, under the law of the State in which the Institution is located, create a binding obligation. If the borrower is a minor and this note would not, therefore, be legally binding, the Institution shall require a cosigner to this note:

I agree to repay all amounts due on this loan if the borrower fails to do so in accordance with the terms of the note.

Signature of Cosigner ———————— [(seal)].
Date ————, 19——.
Permanent Address (Street or Box Number, City, State, and Zip Code) ————————

The Institution shall provide a copy of this note to you and any cosigner.

(Authority: 20 U.S.C. 1087dd.)

25. Appendix C to part 674 is revised to read as follows:

**Appendix C—Promissory Note—Perkins Loan—Less Than Half-Time Student Borrower**

*Perkins Loan Program; Perkins Loan*

[Any bracketed clause or paragraphs may be included at option of institution.]

I, ————, promise to pay to ———— (hereinafter called the Institution), located at ————, the sum of the amounts that are advanced to me and endorsed in the Schedule of Advances set forth below. I promise to pay all reasonable collection costs, including attorney fees and other charges, necessary for the collection of any amount not paid when due.

I further understand and agree that:

*I. General*

(1) *Applicable Law.* All sums advanced under this note are drawn from a fund created under part E of title IV of the Higher Education Act of 1965, as amended (hereinafter called the Act), and are subject to the Act and the Federal Regulations issued under the Act. The terms of this note shall be interpreted in accordance with the Act and Federal Regulations, copies of which are to be kept by the Institution.

(2) *Procedures for Receiving Deferment or Cancellations.* I understand that in order to receive a deferment or cancellation, I must request the deferment or cancellation in writing from the Institution, and must submit to the Institution any documentation required by the Institution to prove that I qualify for the deferment or cancellation. I further understand that if I am eligible for deferment or cancellation under Articles VI through X, I am responsible for submitting appropriate requests on time. I further understand that I may lose my deferment and cancellation benefits if I fail to file my request on time.

*II. Interest*

Interest shall accrue from the beginning of the repayment period and shall be at the Annual percentage rate of five percent (5%) on the unpaid balance, except that no interest shall accrue during any deferment period described in paragraph VI(1).

*II. Repayment*

(1)(A) I promise to repay the principal and the interest which accrues on it to the Institution over a period beginning—

(i) On the date of the next scheduled installment payment on any other outstanding Perkins Loan I have received; or

(ii) If I have no other outstanding Perkins Loans, either nine months from the date this loan is made, or if the loan was made less than nine months after I ceased at least half-time enrollment status, at the end of that nine-month period.

(B) I understand that this repayment period shall end 10 years later, unless it is extended under paragraph III(4), III(7), or VI(1), or shortened under paragraph III(5).

(2) Upon my written request, the repayment period may start on a date earlier than the one indicated in paragraph III(1).

(3)(A) I promise to repay the principal and interest over the course of the repayment period in equal monthly, biomonthly or quarterly installments as determined by the Institution. I understand that if my monthly payment for all loans made to me by the Institution is not a multiple of $5, the Institution may round that payment to the next highest dollar amount that is a multiple of $5.

(B) Notwithstanding paragraph III(3)(A), upon my written request, repayment may be made in graduated installments in accordance with a schedule approved by the United States Secretary of Education (hereinafter called the Secretary).

(4) Notwithstanding paragraph III(1), if I qualify as a low-income individual during the repayment period, the Institution, upon my written request, may extend the repayment period for up to an additional 10 years, and may adjust any repayment schedule to reflect my income.

[(5)(A) If the monthly rate that would be established under paragraph III(1), or the total monthly repayment rate of principal and interest on all my Perkins Loans, including this loan, is less than $30 per month, I shall repay the principal and interest on this loan at the rate of $30 per month (which includes both principal and interest).

(5)(B) If have received Perkins Loans from other institutions and the total monthly repayment rate on those loans is less than $30, the $30 monthly payment established under subparagraph III(5)(A) includes the amounts I owe on all my outstanding Perkins Loans, including those received from other institutions. The amount of this $30 monthly payment that will be applied to this loan will be the difference between $30 and the total of the amounts owed at a monthly rate on my other Perkins Loans.

(6) The Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless that action would extend the repayment period in paragraph III(1).]

(7) The Institution may, upon my written request, reduce any scheduled repayments or extend the repayment period indicated in paragraph III(1), if, in its opinion, circumstances such as prolonged illness or unemployment prevent me from making the scheduled repayments. However, interest shall continue to accrue.

*IV. Prepayment*

(1) I may, at my option and without penalty, prepay all or any part of the principal, plus any accrued interest thereon, at any time.

(2) If I repay more than the amount due for any installment, the excess will be used to prepay principal unless I designate it as an advance payment of the next regular installment.

*V. Default*

(1) The Institution may, at its option, declare my loan to be in default and may demand immediate payment of the entire unpaid balance of the loan, including principal, interest, late charges and collection costs if—

(A) I do not make a scheduled payment when due under the repayment schedule established by the Institution, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, X, or XI of this agreement.

(2) I understand that if I default on my loan, the Institution may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(3) Further, I understand that if I default on my loan and the loan is assigned to the Secretary for collection, the Secretary may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(4) I understand that if I default on my loan, I will then lose my right to defer repayments.

(5) I understand that after the Institution accelerates the loan under paragraph V(1), I will then lose my right to receive a cancellation of a portion of my loan for any teaching, volunteer or military service described in Articles VII, VIII, IX, and X, performed after the date the Institution accelerated the loan.

(6) I understand that failure to pay this obligation under the terms agreed upon will prevent my obtaining additional student financial aid authorized under title IV of the Higher Education Act of 1965, as amended, until I have made arrangements which are satisfactory to the Institution or the Secretary regarding the repayment of the loan.

*VI. Deferment*

(1) I understand that upon making a properly documented written request to the Institution, I may defer making scheduled installment payments, and will not be liable for any interest that might otherwise accrue, during the following periods:

(A) While I am enrolled and in attendance as at least a half time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Secretary.

(B) For any period not to exceed (3) years during which I am—

(i) On full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard) or the National Oceanic and Atmospheric Administration Corps, or an officer on full-time active duty in the Commissioned Corps of the United States Public Health Service,

(ii) In service as a volunteer under the Peace Corps Act,

(iii) A volunteer under the Domestic volunteer Service Act of 1973 (ACTION programs),

(iv) A full-time volunteer in a tax-exempt organization performing service comparable to the service performed in the Peace Corps or under the Domestic Volunteer Service Act of 1973, or

(v) Temporarily totally disabled as established by an affidavit of a qualified physician, or unable to secure employment because I am providing care required by my dependent who is so disabled;

(C) For a period not in excess of two (2) years—

(i) After I receive a baccalaureate or professional degree during which time I am serving in an internship which is required in order that I may receive professional recognition required to begin my professional practice or service, or

(ii) Serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital or a health care facility that offers postgraduate training;

(D) For a period not in excess of one (1) year during which, if I am a mother of preschool age children, I have entered or reentered the work force, and am being paid at a rate which does not exceed $1.00 above the minimum hourly wage established by section 6 of the Fair Labor Standards Act of 1938;

(E) For a period not in excess of six (6) months—

(i) That follows by six months or less a period during which I was enrolled as at least a half-time student at an eligible institution; and

(ii) During which I am pregnant, caring for my newborn baby, or caring for a child immediately after he or she was placed with me through adoption and I am neither attending an eligible institution of higher education nor gainfully employed; and

(F) During a six (6) month period immediately following the expiration of any deferment provided in paragraphs VI(1)(A) through VI(1)(E).

(2) The Institution may, upon my written request, defer my scheduled repayment if it determines that the deferment is necessary to avoid a financial hardship for me. Interest however, will continue to accrue.

*VII. Cancellation for Teaching*

(1) In understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service—

(A) As a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year of service for funds under Chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, and which has been designated by the Secretary

(after consultation with each State Department of Education) in accordance with the provisions of section 465(a)(2) of the Act as a school with a high concentration of students from low-income families. An official Directory of designated low income schools is published annually by the Secretary.

(B) As a full-time teacher of handicapped children (including those who are mentally retarded, hard of hearing, deaf, speech and language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, have specific learning disabilities, or are otherwise health impaired children, who by reason thereof require special education and related services) in a public or other nonprofit elementary or secondary school system.

(2) A portion of this loan will be canceled for each completed year of teaching service at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the first and second complete academic years of that teaching service,

(B) 20 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each of the third and fourth complete academic years of that teaching service, and

(C) 30 percent of the total principal amount plus interest on the unpaid balance accruing during that year for the fifth complete academic year of that teaching service.

*VIII. Head Start Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service as a full-time staff member in a Head Start program if—

(A) The Head Start program is operated for a period which is comparable to a full school year in the locality, and

(B) My salary is not more than the salary of a comparable employee of the local educational agency.

(2) This loan will be canceled at the rate of 15 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each complete school year or the equivalent period of service in a Head Start program.

(3) Head Start is a preschool program carried out under the Head Start Act.

*IX. Military Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 50 percent of the principal amount of this loan plus the interest thereon canceled if I serve as a member of the Armed Forces of the United States in an area of hostilities that qualifies for special pay under section 310 of title 37 of the United States Code.

(2) This loan will be canceled at the rate of 12½ percent of the total principal amount plus interest on the unpaid balance accruing during that year for each complete year of such service.

*X. Volunteer Service Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 70 percent of the amount of this loan plus the interest thereon canceled if I perform service—

(A) As a volunteer under the Peace Corps Act, or

(B) As a volunteer under the Domestic Volunteer Service Act of 1973 (ACTION programs).

(2) This loan will be canceled at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the first and second twelve-month periods of volunteer service completed;

(B) 20 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the third and fourth twelve-month periods of volunteer service completed.

*XI. Death and Disability Cancellation*

(1) In the event of my death, the total amount owed on this loan will be canceled.

(2) If I become totally and permanently disabled after I receive this loan, the Institution will cancel the total amount of this loan.

*XII. Change in Name, Address, Telephone Number or Social Security Number*

I am responsible, and any endorser is responsible, for informing the Institution of any change or changes in name, address, telephone number or Social Security number.

*XIII. Late Charge*

(1) The Institution will impose a late charge if—

(A) I do not make a scheduled payment when it is due, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, X, and XI of this agreement.

(2) No charge may exceed twenty (20) percent of my monthly, bimonthly or quarterly payment.

(3)(A) The Institution may—

(i) Add the late charge to the principal the day after the scheduled repayment was due; or

(ii) Include it with the next schedule repayment after I have received notice of the late charge.

(B) If the Institution elects to add the late charge to the outstanding principal of the loan, it must so inform me before the due date of the next installment.

*XIV. Assignment*

(1) This note may be assigned by the Institution only to—

(A) The United States;

(B) Another institution upon my transfer to that institution if that institution is participating in this program; or

(C) Another institution approved by the Secretary.

(2) The provisions of this note that relate to the Institution shall, where appropriate, relate to an assignee.

*XV. Prior Loans*

I hereby certify that I have listed below all of the Perkins Loans I have obtained at other institutions. (If no prior loans have been received, state "None.")

SCHEDULE OF PERKINS LOANS AT OTHER INSTITUTIONS

| | Amount | Date | Institution |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

*XVI. Schedule of Advances*

The following amounts were advanced to me under this loan agreement on the dates indicated:

| | Amount | Date | Signature of borrower |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

**Notice to Borrower:** Do not sign this note before you read it.

I understand and agree to all of the foregoing terms and conditions.

[This note is signed as a sealed instrument.]

Signature _____ [(seal)].

Date _____, 19___.

Permanent Address (Street or Box Number, City, State, and Zip Code) _____

_____

Social Security Number (borrower must provide) _____

The borrower and Institution shall execute this note without security and without endorsement unless the borrower is a minor and this note would not, under the law of the State in which the Institution is located, create a binding obligation. If the borrower is a minor and this note would not therefore be legally binding, the Institution shall require a cosigner to this note:

I agree to repay all amounts due on this loan if the borrower fails to do so in accordance with the terms of the note.

Signature of cosigner _____ [(seal)].

Date _____, 19___.

Permanent Address (Street or Box Number, City, State, and Zip Code) _____

_____

The Institution shall provide a copy of this note to you and any cosigner.

(Authority: 20 U.S.C. 1087dd)

26. Appendix D to part 674 is revised to read as follows:

**Appendix D—Promissory Note—Direct Loan—Less Than Half-Time Student Borrower**

*Perkins Loan Program: Direct Loan*

[Any bracketed clause or paragraph may be included at option of institution.]

I, ————, promise to pay to ———— (hereinafter called the Institution), located at ————, the sum of the amounts that are advanced to me and endorsed in the Schedule of Advances set forth below. I promise to pay all reasonable collection costs, including attorney fees and other changes, necessary for the collection of any amount not paid when due.

I further understand and agree that:

*I. General*

(1) *Applicable Law.* All sums advanced under this note are drawn from a fund created under part E of title IV of the Higher Education Act of 1965, as amended (hereinafter called the Act), and are subject to the Act and the Federal Regulations issued under the Act. The terms of this note shall be interpreted in accordance with the Act and Federal Regulations, copies of which are to be kept by the Institution.

(2) *Procedures for Receiving Deferment or Cancellation.* I understand that in order to receive a deferment or cancellation, I must request the deferment or cancellation in writing from the Institution, and must submit to the institution any documentation required by the Institution to prove that I qualify for the deferment or cancellation. I further understand that if I am eligible for deferment or cancellation under Articles VI through X, I am responsible for submitting the appropriate requests on time. I further understand that I may lose my deferment and cancellation benefits if I fail to file my request on time.

*II. Interest*

Interest shall accrue from the beginning of the repayment period and shall be at the annual percentage rate of five percent (5%) on the unpaid balance, except that no interest shall accrue during any deferment period described in paragraph VI(1).

*III. Repayment*

(1)(A) I promise to repay the principal and the interest which accrues on it to the Institution over a period beginning—

(i) On the date of the next scheduled installment payment on any other outstanding loan made under the Perkins Loan Program I have received; or,

(ii) If I have no other outstanding loans made under the Perkins Loan Program, either nine months from the date this loan is made, or, if the loan was made less than nine months after I ceased at least half-time enrollment status, at the end of that nine-month period.

(B) I understand that this repayment period shall end 10 years later, unless it is extended under paragraphs III(4), III(7), or VI(1), or shortened under paragraph III(5).

(2) Upon my written request, the repayment period may start on a date earlier than the one indicated in paragraph III(1).

(3)(A) I promise to repay the principal and interest over the course of the repayment period in equal monthly, bimonthly or quarterly installments, as determined by the Institution. I understand that if my monthly payment for all the loans made to me by the Institution is not a multiple of $5, the Institution may round that payment to the next highest dollar amount that is a multiple of $5.

(B) Notwithstanding paragraph III(3)(A), upon written request, repayment may be made in graduated installments in accordance with a schedule approved by the United States Secretary of Education (hereinafter called the Secretary).

(4) Notwithstanding paragraph III(1), if I qualify as a low-income individual during the repayment period, the Institution, upon my written request, may extend the repayment period for up to an additional 10 years, and may adjust any repayment schedule to reflect my income.

[(5)(A) If the monthly rate that would be established under paragraph III(1), or the total monthly repayment rate of principal and interest on all my Direct, Defense and Perkins Loans, including this loan, is less than $30 per month, I shall repay the principal and interest on this loan at the rate of $30 per month (which includes both principal and interest).

(5)(B) If I have received Direct, Defense and Perkins Loans from other institutions and the total monthly repayment rate on those loans is less than $30, the $30 monthly payment established under subparagraph III(5)(A) includes the amounts I owe on all outstanding Direct, Defense and Perkins Loans, including those received from other institutions. The portion of the $30 monthly payment that will be applied to this loan will be the difference between $30 and the total of the amounts owed at a monthly rate on my other Direct, Defense and Perkins Loans.

(6) The Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless that action would extend the repayment period in paragraph III(1).]

(7) The Institution may, upon my written request, reduce any scheduled repayments or extend the repayment period indicated in paragraph III(1), if, in its opinion, circumstances such as prolonged illness or unemployment, prevent me from making the scheduled repayments. However, interest shall continue to accrue.

*IV. Prepayment*

(1) I may, at my option and without penalty, prepay all or any part of the principal, plus any accrued interest thereon, at any time.

(2) Amounts I repay in the academic year in which the loan was made will be used to reduce the amount of the loan and will not be considered a prepayment unless that year is also the year in which I am required to begin repayment on this loan, and my initial grace period has ended.

(3) If I repay more than the amount due for any installment, the excess will be used to prepay principal unless I designate it as an advance payment of the next regular installment.

*V. Default*

(1) The Institution may, at its option, declare my loan to be in default and may demand immediate payment of the entire unpaid balance of the loan, including principal, interest, late charges and collection costs if—

(A) I do not make a scheduled payment when due under the repayment schedule established by the Institution, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, and X of this agreement.

(2) I understand that if I default on my loan, the Institution may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(3) Further, I understand that if I default on my loan and the loan is assigned to the Secretary for collection, the Secretary may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(4) I understand that if I default on my loan, I will then lose my right to defer repayments.

(5) I understand that after the Institution accelerates the loan under paragraph V(1), I will then lose my right to receive a cancellation of a portion of my loan for any teaching or military service described in Articles VII, VIII, and IX, performed after the date the Institution accelerated the loan.

(6) I understand that failure to pay this obligation under the terms agreed upon will prevent my obtaining additional student financial aid authorized under Title IV of the Higher Education Act of 1965, as amended, until I have made arrangements which are satisfactory to the Institution or the Secretary regarding the repayment of the loan.

*VI. Deferment*

(1) I understand that upon making a properly documented written request to the Institution, I may defer making scheduled installment payments, and will not be liable for any interest that might otherwise accrue, during the following periods:

(A) While I am enrolled and in attendance as at least a half-time student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Secretary.

(B) For any period not to exceed three years during which I am—

(i) On full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard) or an officer on full-time active duty in the Commissioned Corps of the U.S. Public Health Service,

(ii) In service as a volunteer under the Peace Corps Act,

(iii) A volunteer under the Domestic Volunteer Service Act of 1973 (ACTION programs),

(iv) A full-time volunteer in a tax-exempt organization performing service comparable to the service performed in the Peace Corps or under the Domestic Volunteer Service Act of 1973, or

(v) Temporarily totally disabled as established by an affidavit of a qualified physician, or unable to secure employment

because I am providing care required by my spouse who is so disabled.

(C) For a period not in excess of two (2) years after I receive a baccalaureate or professional degree during which time I am serving in an internship which is required in order that I may receive professional recognition required to begin my professional practice of service; and

(D) During a six (6) month period following the expiration of my deferment in paragraph VI(1)(A) through VI(1)(C).

(2) In addition, the Institution may permit me to defer making scheduled installment payments if it determines that the deferment is necessary to avoid a financial hardship for me. I will be required to repay interest that accrues during this period of deferment.

*VII. Cancellation for Teaching*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service—

(A) As a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year of service for funds under Chapter I of the Education Consolidation and Improvement Act of 1981, as amended, and which has been designated by the Secretary (after consultation with each State Department of Educaton) in accordance with the provisions of section 465(a)(2) of the Act as a school with a high concentration of students from low-income families. An official Directory of designated low-income schools is published annually by the Secretary.

(B) As a full-time teacher of handicapped children (including those who are mentally retarded, hard of hearing, deaf, speech and language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, have special learning disabilities, or are otherwise health-impaired children, who by reason thereof require special education and related services) in a public or other nonprofit elementary or secondary school system.

(2) A portion of this loan will be canceled for each completed year of teaching service at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance accruing during that year will be canceled for each of the first and second complete academic years of that teaching service,

(B) 20 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each of the third and fourth complete academic years of that teaching service, and

(C) 30 percent of the total principal amount plus interest on the unpaid balance accruing during that year for the fifth complete academic year of that teaching service.

*VIII. Head Start Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon canceled if I perform service as full-time staff member in a Head Start program if—

(A) That Head Start program is operated for a period which is comparable to a full school year in the locality, and

(B) My salary is not more than the salary of a comparable employee of the local educational agency.

(2) This loan will be canceled at the rate of 15 percent of the total principal amount plus interest on the unpaid balance accruing during that year for each complete school year or equivalent period of service in a Head Start program.

(3) Head Start is a preschool program carried out under the Head Start Act.

*IX. Military Cancellation*

(1) I understand that upon making a properly documented written request to the Institution, I am entitled to have up to 50 percent of the principal amount of this loan plus the interest thereon canceled if I serve as a member of the Armed Forces of the United States in an area of hostilities that qualifies for special pay under section 310 of title 37 of the United States Code.

(2) This loan will be canceled at the rate of 12½ percent of the total principal amount plus interest on the unpaid balance for each complete year of such service.

*X. Death and Disability Cancellation*

(1) In the event of my death, the total amount owed on this loan will be canceled.

(2) If I become totally and permanently disabled after I receive this loan, the Institution will cancel the total amount of this loan.

*XI. Change in Name, Address, Telephone Number or Social Security Number*

I am responsible, and any endorser is responsible, for informing the Institution of any change or changes in name, address, telephone number or Social Security number.

*XII. Late Charge*

(1) The Institution will impose a late charge if—

(A) I do not make a scheduled payment when it is due, and

(B) I do not submit to the Institution, on or before the date on which payment is due, documentation that I qualify for a deferment or cancellation described in Articles VI, VII, VIII, IX, and X of this agreement.

(2) No charge may exceed twenty (20) percent of my monthly, bimonthly or quarterly payment.

(3)(A) The Institution may—

(i) Add the late charge to the principal the day after the scheduled repayment was due; or

(ii) Include it with the next scheduled repayment after I have received notice of the late charge.

(B) If the Institution elects to add the late charge to the outstanding principal of the loan, it must so inform me before the due date of the next installment.

*XIII. Assignment*

(1) This note may be assigned by the Institution only to—

(A) The United States;

(B) Another institution upon my transfer to that institution if that institution is participating in this program; or

(C) Another institution approved by the Secretary.

(2) The provisions of this note that relate to the Institution shall, where appropriate, relate to an assignee.

*XIV. Prior Loans*

I hereby certify that I have listed below all of the Perkins Loans, National Direct Student Loans, and National Defense Student Loans I have obtained at other institutions. (If no prior loans have been received, state "None.")

SCHEDULE OF PERKINS LOANS, NATIONAL DIRECT STUDENT LOANS, AND NATIONAL DEFENSE STUDENT LOANS AT OTHER INSTITUTIONS.

| | Amount | Date | Institution |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

*XV. Schedule of Advances*

The following amounts were advanced to me under this loan agreement on the dates indicated:

| | Amount | Date | Signature of borrower |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

Notice to **Borrower:** Do not sign this note before you have read it.

I understand and agree to all of the foregoing terms and conditions.

[This note is signed as a sealed instrument.]

Signature _____ [(seal)].

Date _____, 19 ___.

Permanent Address (Street or Box Number, City, State, and Zip Code) _____

Social Security Number (borrower must provide) _____

The borrower and Institution shall execute this note without security and without endorsement unless the borrower is a minor and this note would not, under the law of the State in which the Institution is located, create a binding, obligation. If the borrower is a minor and this note would not, therefore, be legally binding, the Institution shall require a cosigner to this note:

I agree to repay all amounts due on this loan if the borrower fails to do so in accordance with the terms of the note.

Signature of Cosigner _____ [(seal)].

Date _____, 19 ___.

Permanent Address (Street of Box Number, City, State, Zip Code) _____

The Institution shall provide a copy of this note to you and any cosigner.

(Authority: 20 U.S.C. 1087dd)

## PART 675—COLLEGE WORK-STUDY AND JOB LOCATION AND DEVELOPMENT PROGRAMS

1. The authority citation for part 675 continues to read as follows:

Authority: 42 U.S.C. 2751–2756a, unless otherwise noted.

2. In § 675.2, paragraph (b) is amended by adding the definition of "Full-time graduate or professional student" after the definition of "Financial need"; by removing the heading "Full-time student", and adding, in its place, "Full-time undergraduate student"; and under the definition of "Full-time undergraduate student" the first line of the introductory text is amended by adding the word "undergraduate" after the word "enrolled". The definition of "Full-time graduate or professional student" reads as follows:

**§ 675.2 Definitions.**

* * * * *

(b) * * *

*Full-time graduate or professional student.* An enrolled graduate or professional student who is carrying a full-time academic workload at an institution of higher education as determined by the institution according to its own standards and practices.

* * * * *

**§ 675.16 [Amended]**

3. In § 675.16, paragraph (b)(1) is amended by changing the word "or" to "of" before the word "his", and paragraph (b)(3) is amended by changing the word "or" to "of" before the word "prepaid."

**§ 675.18 [Amended]**

4. In § 675.18, paragraph (a)(4) is amended by changing the word "allocation" to "program" after "SEOG."

**§ 675.22 [Amended]**

5. In § 675.22, paragraph (a)(6) is amended by changing the word "dlobbying" to "lobbying."

**§ 675.23 [Amended]**

6. In § 675.23, paragraph (b)(2)(ii) is amended by changing the word "by" to "be" after the word "otherwise."

7. Section 675.26 is amended by revising paragraphs (a)(1) introductory text, (a)(1)(ii) and (a)(2) to read as follows:

**§ 675.26 CWS Federal share limitations.**

(a)(1) Unless the Secretary approves a higher share under paragraph (d) of this section, the Federal share of CWS compensation paid to a student enrolled in any institution participating in the CWS program who is employed other than by a for-profit organization described in § 675.23 may not exceed—

* * * * *

(ii) 90 percent for a student employed in a community service learning program described in § 675.28, and the amount paid to students under the community service learning program shall not exceed 10 percent of the institution's cumulative CWS allocations and reallocation for an award year.

(2) The Federal share of the compensation paid to a student employed by a for-profit organization may not exceed 60 percent for award years 1987–88 and 1988–89, 55 percent for award year 1989–90, and 50 percent for award year 1990–91 and subsequent award years.

* * * * *

8. Section 675.28 is amended by revising paragraphs (a), (b)(2) and (c)(2)(ii) to read as follows:

**§ 675.28 Community service learning program.**

(a) An institution may use up to 10 percent of its allocation under the CWS program to employ its students in a community service learning program designed to develop, improve or expand services for low-income individuals and families, or to solve particular problems related to the needs of low-income individuals.

(b) * * *

(2) Provides students with work-learning opportunities, to the maximum extent practicable, that relate to their educational or vocational programs or goals.

(c) * * *

(2) * * *

(ii) May include activities related to such fields as health care, education (including tutorial services), child care, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development and community improvement.

* * * * *

9. Section 675.34 is amended by revising paragraph (a)(2) to read as follows:

**§ 675.34 Multi-institutional job location and development programs, or arrangements with nonprofit organizations.**

(a) * * *

(2) A nonprofit organization for a community services job location and development program only. The nonprofit organization must have professional direction and staff.

* * * * *

## PART 676—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

**§ 676.2 [Amended]**

2. In § 676.2, paragraph (b) is amended by removing the title "Full-time student" and adding in its place the title "Full-time undergraduate student"; and under the definition of "Full-time undergraduate student", the first line of the introductory text is amended by adding the word "undergraduate" after the word "enrolled".

**§ 676.3 [Amended]**

3. In § 676.3, paragraph (b) is amended by changing the word "of" to "or" after the word "allocation".

**§ 676.16 [Amended]**

4. In § 676.16, paragraph (f) is amended by removing the words "and NDSL" after "SEOG".

**§ 676.18 [Amended]**

5. In § 676.18, paragraph (a)(3) is amended by changing the word "allocation" to "program" after "CWS".

[FR Doc. 91–5826 Filed 3–12–91; 8:45 am]
BILLING CODE 4000-01-M

federal register

Wednesday
March 13, 1991

# Part VI

# Department of Commerce

## Bureau of Export Administration

**15 CFR Parts 770, 776, 778, and 799**

**Expansion of Foreign Policy Controls on Chemical Weapon Precursors; Imposition of Foreign Policy Controls on Equipment and Technical Data Related to the Production of Chemical and Biological Weapons; Interim Rules**

**15 CFR Parts 771, 776, and 778**

**Imposition and Expansion of Foreign Policy Controls; Proposed Rule**

**DEPARTMENT OF COMMERCE**

**Bureau of Export Administration**

**15 CFR Parts 776 and 799**

**[Docket No. 910237-1037]**

## Expansion of Foreign Policy Controls on Chemical Weapon Precursors

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** In support of U.S. policies opposing the proliferation and use of chemical weapons, the Department of Commerce is expanding the foreign policy controls on exports of certain chemical weapon precursors (i.e., chemicals that can be used in the manufacture of chemical weapons).

This interim rule amends the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR), by expanding the number of countries for which a validated license is required for thirty-nine precursor chemicals. Under this rule, the thirty-nine chemicals will require a validated license for export to all destinations except NATO member countries, Australia, Austria, Ireland, Japan, New Zealand, and Switzerland. Previously, these chemicals required a validated license only for export to Country Groups S and Z, Iran, Iraq, Syria, and military and police entities in the Republic of South Africa.

**DATES:** This rule is effective March 13, 1991. Comments must be received by April 12, 1991.

**ADDRESSES:** Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** For questions on foreign policy controls, call Toni Jackson, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4531.

For questions of a technical nature on chemical weapon precursors, call James Seevaratnam, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-5695.

**SUPPLEMENTARY INFORMATION:**

### Background

This interim rule expands the number of countries for which a validated license is required to export thirty-nine precursor chemicals. Under this rule, a validated license is now required to export these chemicals to all destinations except NATO member countries, Australia, Austria, Ireland, Japan, New Zealand, and Switzerland. This rule amends the CCL by adding to ECCN 4798B the thirty-nine chemicals formerly controlled under ECCN 5798F and removing ECCN 5798F from the CCL.

The changes made by this rule address one of the measures called for in President Bush's December 13, 1990, decision on the Enhanced Proliferation Control Initiative (EPCI) and included in Executive Order 12735 of November 16, 1990, on chemical and biological weapons proliferation. Executive Order 12735 of November 16, 1990, directs the Secretary of Commerce to exercise his authority under Executive Order 12730 to control exports that the Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. The EPCI directs the Commerce Department to adopt worldwide export controls on fifty chemical weapons precursors. Worldwide controls were already in place for eleven of these fifty chemicals under ECCN 4798B. The revision to ECCN 4798B, which adds the thirty-nine chemicals formerly controlled under ECCN 5798F, provides worldwide export controls on all fifty chemicals consistent with the President's directive. These fifty chemicals have been identified as precursors by the twenty-nation Australia Group, which seeks to control the proliferation of chemical weapons. The United States will seek the agreement of all Australia Group governments to adopt equivalent controls.

Consistent with the expansion of foreign policy controls on exports of chemical precursors, this rule also amends § 776.19 to apply the reexport provisions of part 774 to reexports of chemical precursors controlled under ECCN 4798B and to apply the parts and components provisions of § 776.12 to all items controlled under ECCNs 4798B, 4997B, and 4998B.

This rule also amends Supplement No. 1 to § 799.2 (Commodity Interpretations) by revising "Interpretation 23: Precursor Chemicals" to reflect the changes in the list of chemicals controlled by ECCN 4798B and the removal of ECCN 5798F.

The general policy of denying applications to export or reexport chemicals controlled under ECCN 4798B to Iran, Iraq, Libya and Syria remains in effect. Exports and reexports to other destinations will generally be approved unless there is reason to believe the chemicals will be used in producing chemical weapons or otherwise devoted to chemical warfare purposes.

The contract sanctity provisions contained in this rule are consistent with the requirements of the Export Administration Act of 1979, as amended (EAA). However, serious consideration is being given to eliminating these contract sanctity provisions when the final rule is published, in light of the serious concerns raised by chemical and biological weapons. The Department invites public comments on this issue, as well as all other aspects of the regulation.

The Department of Commerce has submitted a report to the Congress to support this expansion in U.S. foreign policy controls.

### Saving Clause

Shipments of items removed from general license authorization as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before March 27, 1991, may be exported under the previous general license provisions up to and including April 10, 1991. Any such items not actually exported before midnight April 10, 1991, require a validated export license in accordance with this regulation.

### Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005 and 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public

participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the contract sanctity provisions contained in this rule are especially encouraged.

The period for submission of comments will close April 12, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

**List of Subjects in 15 CFR Parts 776 and 799**

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 776 and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 776 and 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*), E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

## PART 776—[AMENDED]

**§ 776.19 [Amended]**

2. Section 776.19 is amended:

a. By removing paragraph (a)(ii) and redesignating paragraphs (a)(i) and (a)(iii) as new paragraphs (a)(1) and (a)(2), respectively;

b. By revising paragraphs (b) and (e);

c. By removing paragraph (i);

d. By redesignating paragraphs (f), (g), and (h) as new paragraphs (g), (h), and (i), respectively;

e. By adding a new paragraph (f);

f. By removing paragraph (1) and redesignating paragraph (m) as new paragraph (n);

g. By redesignating paragraphs (j) and (k) as new paragraphs (l) and (m), respectively; and

h. By adding new pargraphs (j) and (k), as follows:

**§ 776.19 Chemical and biological agents.**

* * * * *

(b) Unless one or more of the criteria stated in paragraphs (c) through (k) of this section are met, applications to export the goods in ECCNs 4798B, 4997B, and 4998B will generally be denied to Libya, Iran, Iraq, and Syria. Applications will generally be approved to other destinations, except where there is reason to believe that those goods will be used in producing chemical or biological weapons or will otherwise be devoted to chemical or biological warfare purposes.

* * * * *

(e) The contract sanctity date for exports of items in ECCNs 4997B and 4998B from the United States to Iran, Iraq, or Syria is February 22, 1989.

(f) The contract sanctity date for exports of the following chemicals from the United States to Iran or Iraq is February 22, 1989: Dimethyl methylphosphonate, methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorus oxychloride, and thiodiglycol. The contract sanctity date for exports of the following chemicals from the United States to Syria is February 22, 1989: Dimethyl methylphosphonate, methylphosphonyl dichloride, and methylphosphonyl difluoride.

* * * * *

(j) The contract sanctity date for exports of chemicals controlled by ECCN 4798B from the United States to all destinations (except Iran, Iraq, Libya, or Syria) is March 7, 1991, except for applications to export the following chemicals: 2-chloroethanol, dimethyl methylphosphonate, dimethyl phosphite (dimethyl hydrogen phosphite), methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorus oxychloride, phosphorous trichloride, thiodiglycol, thionyl chloride, triethanolamine, and trimethyl phosphite. (See also paragraphs (h) and (i) of this section.) This provision does not apply to exports to Country group Z or to military or police entities in the Republic of South Africa. For exports to Iran, Iraq, Libya, Syria, see paragraphs (c) through (g) of this section.

(k) The contract sanctity date for reexports of chemicals controlled under ECCN 4798B to any destination (except Iran, Iraq, Libya, or Syria) is March 7, 1991. The contract sanctity date for reexports of these chemicals to Iran, Iraq, Libya, or Syria is December 12, 1989. This provision does not apply to exports to Country Group Z or to military or police entities in the Republic of South Africa.

* * * * *

## PART 799—[AMENDED]

**Supplement No. 1 to § 799.1 [Amended]**

3. In Supplement No. 1 to Section 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products, and Related Materials), ECCN 4798B is amended by revising the List of Chemicals Controlled, as follows:

**4798B Precursor and intermediate chemicals used in the production of chemical warfare agents.**

* * * * *

**List of Chemicals Controlled by ECCN 4798B**

(See Supplement No. 1 to 799.2, Interpretation 23: Precursor Chemicals, for synonyms for the following chemicals.)

(1) (C.A.S. #1341-49-7) Ammonium hydrogen fluoride;

(2) (C.A.S. #7784-34-1) Arsenic trichloride;

(3) (C.A.S. #76-93-7) Benzilic acid;

(4) (C.A.S. #107-07-3) 2-Chloroethanol;

(5) (C.A.S. #78-38-6) Diethyl ethylphosphonate;

(6) (C.A.S. #15715-41-0) Diethyl methylphosphonite;

(7) (C.A.S. #2404-03-7) Diethyl-N,N-dimethylphosphoroamidate;

(8) (C.A.S. #762-04-9) Diethyl phosphite;

(9) (C.A.S. #100-37-8) N,N-Diethylethanolamine;

(10) (C.A.S. #5842-07-9) N,N-Diisopropyl-.beta.-aminoethane thiol;

(11) (C.A.S. #96-80-0) N,N-Diisopropyl-.beta.-aminoethanol;

(12) (C.A.S. #96-79-7) N,N-Diisopropyl-.beta.-aminoethyl chloride;

(13) (C.A.S. #108-18-9) Diisopropylamine;

(14) (C.A.S. #6163-75-3) Dimethyl ethylphosphonate;

(15) (C.A.S. #756-79-6) Dimethyl methylphosphonate;

(16) (C.A.S. #868-85-9) Dimethyl phosphite (dimethyl hydrogen phosphite);

(17) (C.A.S. #124-40-3) Dimethylamine;

(18) (C.A.S. #506-59-2) Dimethylamine hydrochloride;

(19) (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL);

(20) (C.A.S. #1498-40-4) Ethylphosphonous dichloride [Ethylphosphinyl dichloride]; [1]

(21) (C.A.S. #430-78-4) Ethylphosphonus difluoride [Ethylphosphinyl difluoride]; [2]

(22) (C.A.S. #1066-50-8) Ethylphosphonyl dichloride;

(23) (C.A.S. #753-98-0) Ethylphosphonyl difluoride;

(24) (C.A.S. #7664-39-3) Hydrogen fluoride;

(25) (C.A.S. #3554-74-3) 3-Hydroxyl-l-methylpiperidine;

(26) (C.A.S. #76-89-1) Methyl Benzilate;

(27) (C.A.S. #676-83-5) Methylphosphonous dichloride [Methylphosphinyl dicloride]; [3]

(28) (C.A.S. #753-59-3) Methylphosphonous diflouride [Methylphosphinyl difluoride]; [4]

(29) (C.A.S. #676-97-1) Methylphosphonyl dichloride;

(30) (C.A.S. #676-99-3) Methylphosphonyl difluoride;

(31) (C.A.S. #10025-87-3) Phosphorus Oxychloride;

(32) (C.A.S. #10026-13-8) Phosphorus pentachloride;

(33) (C.A.S. #1314-80-3) Phosphorus pentasulfide;

(34) (C.A.S. #7719-12-2) Phosphorus trichloride;

(35) (C.A.S. #75-97-8) Pinacolone;

(36) (C.A.S. #464-07-3) Pinacolyl alcohol;

(37) (C.A.S. #151-50-8) Potassium cyanide;

(38) (C.A.S. #7789-23-3) Potassium fluoride;

(39) (C.A.S. #7789-23-9) Potassium hydrogen fluoride;

(40) (C.A.S. #1619-34-7) 3-Quinuclidinol;

(41) (C.A.S. #3731-38-2) 3-Quinuclidinone;

(42) (C.A.S. #1333-83-1) Sodium bifluoride;

(43) (C.A.S. #143-33-9) Sodium cyanide;

(44) (C.A.S. #7681-49-4) Sodium fluoride;

(45) (C.A.S. #1313-82-2) Sodium sulfide;

(46) (C.A.S. #111-48-8) Thiodiglycol;

(47) (C.A.S. #7719-09-7) Thionyl chloride;

(48) (C.A.S. #102-71-6) Triethanolamine;

(49) (C.A.S. #122-52-1) Triethyl phosphite; and

(50) (C.A.S. #121-45-9) Trimethyl phosphite.

4. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 5798F is removed.

**Supplement No. 1 to § 799.2 [Amended]**

5. In Supplement No. 1 to § 799.2 (Interpretations), Interpretation 23 (Precursor Chemicals) is revised to read as follows:

*Interpretation 23: Precursor Chemicals*

Following is a listing of chemicals controlled by ECCN 4798B that includes their Chemical Abstract Service Registry (C.A.S.) number and synonyms (i.e., alternative names). These chemicals require a validated license to all countries except Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

(1) (C.A.S. #1341-49-7) Ammonium hydrogen fluoride
- Acid ammonium fluoride
- Ammonium bifluoride
- Ammonium difluoride
- Ammonium hydrofluoride
- Ammonium hydrogen bifluoride
- Ammonium hydrogen difluoride
- Ammonium monohydrogen difluoride

(2) (C.A.S. #7784-34-1) Arsenic trichloride
- Arsenic (III) chloride
- Arsenous chloride
- Fuming liquid arsenic
- Trichloroarsine

(3) (C.A.S. #76-93-7) Benzilic acid
- .alpha.,.alpha.-Diphenyl-.alpha.-hydroxyacetic acid
- Diphenylgloycolic acid
- .alpha.,.alpha.-Diphenylglycolic acid
- Diphenylhydroxyacetic acid
- .alpha.-Hydroxy-2,2-diphenylacetic acid
- 2-Hydroxy-2,2-diphenylacetic acid
- .alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid
- Hydroxydiphenylacetic acid

(4) (C.A.S. #107-07-3) 2-Chloroethanol
- 2-Chloro-1-ethanol
- Chloroethanol
- 2-Chloroethyl alcohol
- Ethene chlorohydrin
- Ethylchlorohydrin
- Ethylene chlorhydrin
- Ethylene chlorohydrin
- Glycol chlorohydrin
- Glycol monochlorohydrin
- 2-Hydroxyethyl chloride

(5) (C.A.S. #78-38-6) Diethyl ethylphosphonate
- Ethylphosphonic acid diethyl ester

(6) (C.A.S. #15715-41-0) Diethyl methylphosphonite
- Diethoxymethylphosphine
- Diethyl methanephosphonite
- O,O-Diethyl methylphosphonite
- Methyldiethoxyphosphine
- Methylphosphonous acid diethyl ester

(7) (C.A.S. #2404-03-7) Diethyl-N,N-dimethylphosphoroamidate
- N,N-Dimethyl-O,O'-diethyl phosphoramidate
- Diethyl dimethylphosphoramidate
- Dimethylphosphoramidic acid diethyl ester

(8) (C.A.S. #762-04-9) Diethyl phosphite
- Diethoxyphosphine oxide
- Diethyl acid phosphite
- Diethyl hydrogen phosphite
- Diethyo phosphonate
- Hydrogen diethyl phosphite

(9) (C.A.S. #100-37-8) N,N-Diethylethanolamine
- N,N-Diethyl-2-aminoethanol
- Diethyl (2-hydroxyethyl)amine
- N,N-Diethyl-N-(.beta,-hydroxyethyl)amine
- N,N-Diethyl-2-hydroxyethylamine
- Diethylaminoethanol
- 2-(Diethylamino)ethanol
- Diethylamino)ethyl alcohol
- N,N-Diethylmonoethanolamine
- (2-Hydroxyethyl)diethylamine
- 2-Hydroxytriethylamine

(10) (C.A.S. #5842-07-9) N,N-Diisopropyl-.beta.-aminoethane thiol
- 2-(Diisopropylamino) ethanethiol

[1] Chemical name used elsewhere in the List of Chemicals for this ECCN 4798B.

[2] See footnote 1 to this ECCN 4798B.

[3] See footnote 1 to this ECCN 4798B

[4] See footnote 1 to this ECCN 4798B

Diisopropylaminoethanethiol
.beta.-Diisopropylaminoethanethiol
2-(bis(1-Methylethyl)amino) ethanethiol
(11) (C.A.S. #96-80-0) N,N-Diisopropyl-.beta.-aminoethanol
N,N-Diisopropyl-2-aminoethanol
2-(Diisopropylamino) ethanol
(N,N-Diisopropylamino) ethanol
2-(Diisopropylamino) ethyl alcohol
N,N-Diisopropylethanolamine
(12) (C.A.S. #96-79-7) N,N-Diisopropyl-.beta.-aminoethyl chloride
2-Chloro-N,N-diisoproplethanamine
1-Chloro-N,N-diisopropylaminoethane
2-Chloro-N,N-diisopropylethylamine
N-(2-chlorethyl)-N-(1-methylethyl)-2-propanamine
N-(2-Chloroethyl) diisopropylamine
N,N-Diisopropyl-2-chloroethylamine
1-(Diisopropylamino)-2-cholorethane
2-(Diisopropylamino) ethyl chloride
Diisopropylaminoethyl chloride
.beta.-Diisopropylaminoethyl chloride
(13) (C.A.S. #108-18-9) Diisopropylamine
N,N Diisopropylamine
N-(1-Methylethyl)-2-propanamine
(14) (C.A.S. #6163-75-3) Dimethyl ethylphosphonate
Dimethyl ethanephosphonate
Ethylphosphonic acid dimethyl ester
(15) C.A.S. #756-79-6) Dimethyl methylphosphonate
Dimethoxymethyl phosphine oxide
Dimethyl methanephosphonate
Methanephosphonic acid dimethyl ester
Methylphosphonic acid dimethyl ester
(16) (C.A.S. #868-85-9) Dimethyl phosphite
Dimethoxphosphine oxide
Dimethyl acid phosphite
Dimethyl hydrogen phosphite
Dimethyl phosphonate
Hydrogen dimethyl phosphite
Methyl phosphonate
(17) (C.A.S. #124-40-3) Dimethylamine
N-Methyl methanamine
(18) (C.A.S. #506-59-2) Dimethylamine hydrochloride
Dimethylammonium chloride
N-Methyl methanamine hydrochloride
(19) (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL)
Methylphosphonous acid 2-(bis(1-methylethyl)amino)ethyl ethyl ester
(20) (C.A.S. #1498-40-4) Ethylphosphonous dichloride
Dichloroethylphosphine
Ethyl phosphonous dichloride
Ethyldichlorophosphine
(21) (C.A.S. #430-78-4) Ethylphosphonus difluoride
Ethyldifluorophosphine
(22) (C.A.S. #1066-50-8) Ethylphosphonyl dichloride
Dichloroethylphosphine oxide
Ethanephosphonyl chloride
Ethylphosphinic dichloride
Ethylphosphonic acid dichloride
Ethylphosphonic dichloride
(23) (C.A.S. #753-98-0) Ethylphosphonyl difluoride
Ethyl difluorophosphite
Ethyldifluorophosphine oxide
Ethylphosphonic difluoride
(24) (C.A.S. #7664-39-3) Hydrogen fluoride
Anhydrous hydrofluoric acid
Fluorhydric acid
Fluorine monohydride
Hydrofluoric acid gas
(25) (C.A.S. #3554-74-3) 3-Hydroxyl-1-methylpiperidine
3-Hydroxy-N-methylpiperidine
1-Methyl-3-hdroxypiperidine
N-Methyl-3-hydroxypiperidine
1-Methyl-3-piperidinol
N-Methyl-3-piperidonol
(26) (C.A.S. #76-89-1) Methyl benzilate
Benzilic acid methyl ester
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid methyl ester
Methyl .alpha.-phenylmandelate
Methyl diphenyglycolate
(27) (C.A.S. #676-83-5) Methylphosphonous dichloride
Dichloromethylphosphine
Methyldichlorophosphine
Methylphosphorus dichloride
(28) (C.A.S. #753-59-3) Methylphosphonous diflouride
Difluoromethylphosphine
Methyldifluorophosphine
(29) (C.A.S. #676-97-1) Methylphosphonyl dichloride
Dichloromethylphosphine oxide
Methanephosphonodichloridic acid
Methanephosphonyl chloride
Methylphosphonic acid dichloride
Methylphosphonic dichloride
Methylphosphonodichloridic acid
Methylphosphonyl chloride
(30) (C.A.S. #676-99-3) Methylphosphonyl difluoride
Difluoromethylphosphine oxide
Methyl difluorophosphite
Methylphosphonic difluoride
(31) (C.A.S. #10025-87-3) Phosphorus oxychloride
Phosphonyl trichloride
Phosphoric chloride
Phosphoric trichloride
Phosphoroxychloride
Phosphoroxytrichloride
Phosphorus chloride oxide
Phosphorus monoxide trichloride
Phosphorus oxide trichloride
Phosphorus oxytrichloride
Phosphorus trichloride oxide
Phosphoryl trichloride
Trichlorophosphine oxide
Trichlorophosphorus oxide
(32) (C.A.S. #10026-13-8) Phosphorus pentachloride
Pentachlorophosphorane
Pentachlorophosphorus
Phosphoric chloride
Phosphorus(V) chloride
Phosphorus perchloride
(33) (C.A.S. #1314-80-3) Phosphorus pentasulfide
Diphosphorus pentasulfide
Phosphoric sulfide
Phosphorus persulfide
Phosphorus sulfide
(34) (C.A.S. #7719-12-2) Phosphorus trichloride
Phosphorus chloride
Trichlorophosphine
(35) (C.A.S. #75-97-8) Pinacolone
tert-Butyl methly ketone
2,2-Dimethyl-3-butanone
3,3-Dimethyl-2-butanone
2,2-Dimethylbutanone
3,3-Dimethylbutanone
1,1-Dimethylethyl methyl kentone
Methyl tert-butyl ketone
Pinacolin
Pinacoline
1,1,1-Trimethylacetone
(36) (C.A.S. #464-07-3) Pinacolyl alcohol
tert-Butyl methyl carbinol
2,2-Dimethyl-3-butanol
3,3-Dimethyl-2-butanol
1-Methyl-2,2-dimethylpropanol
(37) (C.A.S. #151-50-8) Potassium cyanide
(38) (C.A.S. #7789-23-3) Potassium fluoride
Potassium monofluoride
(39) (C.A.S. #7789-29-9) Potassium hydrogen fluoride
Hydrogen potassium difluoride
Hydrogen potassium fluoride
Potassium acid fluoride
Potassium bifluoride
Potassium hydrogen difluoride
Potassium monohydrogen difluoride
(40) (C.A.S. #1619-34-7) 3-Quinuclidinol
1-Azabicyclo(2.2.2)octan-3-ol
3-Hydroxyquinuclidine
(41) (C.A.S. #3731-38-2) 3-Quinuclidinone
1-Azabicyclo(2.2.2)octan-3-one
3-Oxyquinuclidine
Quinuclidone
(42) (C.A.S. #1333-83-1) Sodium bifluoride
Sodium hydrogen difluoride
Sodium hydrogen fluoride
Thiophosphoric anhydride
(43) (C.A.S. #143-33-9) Sodium cyanide
(44) (C.A.S. #7681-49-4) Sodium fluoride
Sodium monofluoride
(45) (C.A.S. #1313-82-2) Sodium sulfide
Disodium monosulfide
Disodium sulfide
Sodium monosulfide
Sodium sulphide
(46) (C.A.S. #111-48-8) Thiodiglycol
Bis(2-hydroxyethyl) sulfide
Bis(2-hydroxyethyl) thioether
Di(2-hydroxyethyl) sulfide
Diethanol sulfide
2,2'-Dithiobis-(ethanol)
3-Thiapentane-1,5-diol
2,2'-Thiobisethanol
2,2'-Thiodiethanol
Thiodiethylene glycol
2,2'-Thiodiglycol
(47) (C.A.S. #7719-09-7) Thionyl chloride
Sulfinyl chloride
Sulfinyl dicholoride
Sulfur chloride oxide
Sulfur oxychloride
Sulfurous dichloride
Sulfurous oxychloride
Thionyl dichloride
(48) (C.A.S. #102-71-6) Triethanolamine
Alkanolamine 244
Nitrilotriethanol
2,2',2''-Nitrilotriethanol
2,2',2''-Nitrilotris(ethanol)
TEA
TEA(amino alcohol)
Tri(2-hydroxyethyl)amine
Triethanolamin
Tris (.beta.-hydroxyethyl)amine
Tris(2-hydroxyethyl)amine
Trolamine
(49) (C.A.S. #122-52-1) Triethyl phosphite
Phosphorous acid triethyl ester
Triethoxyphosphine

Tris(ethoxy) phosphine
(50) (C.A.S. #121-45-9) Trimethyl phosphite
Phosphorus acid trimethyl ester
Trimethoxyphosphine

Dated: March 7, 1991.

James M. LeMunyon,

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 91-5859 Filed 3-8-91; 4:25 pm]

BILLING CODE 3510-DT-M

---

## 15 CFR Parts 770, 776, 778, and 799

**[Docket No. 910241-1041]**

## Imposition of Foreign Policy Controls on Equipment and Technical Data Related to the Production of Chemical and Biological Weapons

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** In support of U.S. policies opposing the proliferation and prohibited use of chemical and biological weapons, the Department of Commerce is imposing foreign policy controls on exports of certain dual-use equipment that can be used to produce:

(1) Chemicals or biological agents controlled by ECCNs 4798B, 4997B, or 4998B on the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR);

(2) Chemicals or biological warfare agents controlled under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130).

The Department is also imposing foreign policy controls on technical data for the production of such equipment.

Specifically, this interim rule amends the Export Administration Regulations (EAR) to impose validated licensing requirements on exports of this equipment and technical data to Country Groups S and Z and countries listed in a new Supplement No. 5 to part 778 of the EAR.

**DATES:** This rule is effective March 13, 1991. Comments must be received by April 12, 1991.

**ADDRESSES:** Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** For questions on foreign policy controls, call Toni Jackson, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4531.

For questions of a technical nature on chemical weapon precursors, biological agents, and equipment that can be used to produce chemical and biological agents, call James Seevaratnam, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-5695.

**SUPPLEMENTARY INFORMATION:**

### Background

This interim rule amends the Export Administration Regulations (EAR) to impose a validated licensing requirement on exports of certain equipment that can be used to produce the following:

(1) Chemicals or biological agents controlled under ECCNs 4798B, 4997B, or 4998B on the Commodity Control List (CCL);

(2) Chemicals and biological warfare agents controlled under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130), administered by the U.S. Department of State.

This rule also creates a new § 776.20, which imposes a validated licensing requirement on exports of technical data for the production of such equipment. The equipment and technical data subject to this validated licensing requirement have diverse civil applications and, this, are not uniquely related to chemical and biological weapons production.

The validated licensing requirement for this equipment and technical data applies only to exports and reexports to Country Groups S and Z and the regions and countries listed in new Supplement No. 5 to part 778 of the EAR. Supplement No. 5 includes the Middle Eastern and Southwest Asian regions and certain other countries.

Section 776.20 establishes the licensing policy for reviewing applications to export or reexport equipment and the technical data related to chemical and biological weapons production. Exports and reexports of such items will be denied if they would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons.

This rule implements part of Executive Order 12735 of November 16, 1990, on Chemical and Biological Weapons Proliferation, as well as the Enhanced Proliferation Control Initiative (EPCI) announced on December 13, 1990. Excutive Order 12735 of November 16, 1990, directs the Secretary of Commerce to control exports that the Secretary of Commerce and the Secretary of State determine would assist a country in acquiring chemical and biological weapons capability. The EPCI directs Commerce to control dual-use equipment and technical data related to chemical and biological weapons. This rule creates new Export Control Commodity Numbers (ECCNs) in the CCL to control this equipment to Country Groups S and Z and the regions and countries listed in new Supplement 5 to part 778.

The following ECCNs are added to the CCL:

*5129F:* Chemical processing equipment linked with nickel or constructed of Hastelloy, Monel, or another alloy with nickel content.

*5132F:* Pumps or valves designed to be vapor leak proof.

*5133F:* Thermometers or other chemical processing sensors encased in nickel alloy.

*5134F:* Filling equipment enclosed in a glove box or similar environmental barrier, or incorporating a nickel-lined or Hastelloy nozzle.

*5135F:* Specially designed incinerators for chemical precursors listed in ECCN 4798B, chemical warfare agents, or organophosphorus compounds.

*5140F:* Toxic gas monitoring systems.

*5141F:* Monitoring systems for the detection of chemical compounds having anticholinesterase activity.

*5165F:* Detection or assay systems for biological agents.

*5167F:* Biohazard containment equipment.

*5170F:* Equipment for the microencapsulation of live microorganisms.

*5797F:* Intermediate chemicals used in the production of chemical warfare agents.

*5997F:* Complex media for the growth of microorganisms.

The United States will seek the agreement of all Australia Group governments to adopt equivalent controls on this equipment. The twenty-member Australia Group, in which the United States participates, seeks to prevent the proliferation of chemical and biological weapons.

The Department of Commerce has submitted a report to the Congress in accordance with section 6 of the Export Administration Act of 1979, as amended, to support this imposition of U.S. foreign policy controls.

The contract sanctity provision contained in this rule is consistent with the requirements of the Export Administration Act of 1979, as amended (EAA). However, serious consideration is being given to eliminating this contract sanctity provision when the final rule is published, in light of the serious concerns raised by chemical and biological weapons. The Department invites public comments on this issue, as

well as all other aspects of the regulation.

Consistent with the prohibitions on trade with Iraq and Kuwait contained in the Executive Orders issued on August 2 and 9, 1990, exporters should obtain guidance from the Office of Foreign Assets Control, U.S. Department of Treasury, concerning any export or reexport to Iraq or Kuwait.

**Saving Clause**

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before March 27, 1991, may be exported under the previous general license provisions up to and including April 10, 1991. Any such items not actually exported before midnight April 10, 1991, require a validated export license in accordance with this regulation.

**Rulemaking Requirements**

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005 and 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the contract sanctity provision contained in this rule are especially encouraged.

The period for submission of comments will close April 12, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

**List of Subjects**

*15 CFR Part 770*

Administrative practice and procedure, Exports.

*15 CFR Parts 776 and 799*

Exports, Reporting and recordkeeping requirements.

*15 CFR Part 778*

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, parts 770, 776, 778, and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 770, 776 and 778 is revised to read as follows:

**Authority:** Public Law 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Public Law 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95-242, 92 Stat. 141 (42 U.S.C. 2139(a)); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

2. The authority citation for 15 CFR part 799 is revised to read as follows:

**Authority:** Public Law 96-72, 93 Stat. 503 (50 U.S.C. app 2401 *et seq.*), as amended; Public Law 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

## PART 770—[AMENDED]

3. Section 770.2 is amended by adding alphabetically a definition for "Middle East" a definition for "Southwest Asia" to read as follows:

**§ 770.2 Definitions of terms.**

* * * * *

*Middle East.* Geographically, this region is understood to include Bahrain, Egypt, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.

* * * * *

*Southwest Asia.* Geographically, this region is understood to include Afghanistan, India, Iran, and Pakistan.

* * * * *

## PART 776—[AMENDED]

4. Part 776 is amended by adding a new § 776.20 to read as follows:

**§ 776.20 Equipment and technical data related to the production of chemicals and biological agents.**

(a) The following controls on equipment and technical data related to the production of chemicals and biological agents are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons:

(1) Equipment identified in ECCNs 5129F, 5132F, 5133F, 5134F, 5135F, 5140F, and 5141F in the Commodity Control List, which can be used in the production of chemical weapons precursors and chemical warfare agents, requires a validated license for export from the United States to Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

(2) Equipment and materials identified in ECCNs 5165F, 5167F, 5170F, 5797F, and 5997F, which can be used in the production of biological agents, require a validated license for export from the United States to Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

(3) Technical data for the production of commodities described in paragraphs (a)(1) and (a)(2) of this section are not eligible for General License GTDR if destined for a country listed in Supplement No. 5 to part 778 of this subchapter.

(b) *Licensing policy.* (1) Unless the criteria stated in paragraph (b)(3) of this section are met, applications to export the commodities and technical data described in paragraph (a) of this section will be considered on a case-by-case basis to determine whether the export would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual applications:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The non-proliferation credentials of the importing country; and

(iv) The types of assurances or guarantees against the design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case.

(3) The contract sanctity date for the commodities and technical data described in paragraph (a) of this section is March 7, 1991.

## PART 778—[AMENDED]

5. Part 778 is amended by adding a new Supplement No. 5 to read as follows:

**Supplement No. 5—Dual-use Chemical and Biological Equipment; Regions, Countries, and Other Destinations**

Bulgaria
China (People's Republic of)
Cuba
Middle East [1]
Myanmar (Burma)
North Korea
Romania
South Africa
Southwest Asia [2]
Soviet Union
Taiwan
Vietnam

## PART 799—[AMENDED]

**Supplement No. 1 to § 799.1 [Amended]**

6. In Supplement No. 1 to Section 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5129F is added immediately following ECCN 4128B, as follows:

**5129F Chemical processing equipment lined with nickel or constructed of Hastelloy, Monel, or another alloy with nickel content.**

### Controls for ECCN 5129F

*Unit:* Report in "number".

*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

*GLV $ Value Limit:* $0 for all destinations.

*Processing Code:* TE.

*Reason for Control:* Foreign policy.

*Special Licenses Available:* None.

### List of Equipment Controlled by ECCN 5129F

Any of the following types of chemical processing equipment lined with nickel or constructed of Hastelloy, Monel, or another alloy with a nickel content in excess of 40% by weight, as follows:

(a) Reactor vessels with a capacity greater than 5 liters;

(b) Storage tanks and containers with a capacity greater than 10 liters;

(c) Heat exchangers;

(d) Distillation columns with a capacity greater than 2 liters per hour;

(e) Degassing equipment or condensers.

7. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5132F is added immediately following ECCN 3131A, as follows:

**5132F Pumps or valves designed to be vapor leak proof.**

### Controls for ECCN 5132F

*Unit:* Report in "number".

*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

*GLV $ Value Limit:* $0 for all destinations.

*Processing Code:* TE.

*Reason for Control:* Foreign policy.

*Special Licenses Available:* None.

### List of Equipment Controlled by ECCN 5132F

Pumps or valves having any of the following characteristics:

(a) Incorporating a body made from alloy with a nickel content in excess of 40% by weight;

(b) Lined with nickel; or

(c) Otherwise designed to be vapor leak proof.

**Note:** This ECCN 5132F controls double seal, electromagnetic drive, or canned pumps, and bellows or diaphragm valves, having any of the characteristics described in paragraphs (a) through (c) of the List of Equipment Controlled.

8. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5133F is added immediately following ECCN 5132F, as follows:

**5133F Thermometers or other chemical process sensors encased in nickel alloy having a nickel content greater than 40%.**

### Controls for ECCN 5133F

*Unit:* Report in "number".

*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.

*GLV $ Value Limit:* $0 for all destinations.

*Processing Code:* TE.

*Reason for Control:* Foreign policy.

*Special Licenses Available:* None.

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5134F is added immediately following ECCN 5133F, as follows:

**5134F Filling equipment enclosed in a glove box or similar environmental barrier, or incorporating a nickel-lined or Hastelloy nozzle.**

### Controls for ECCN 5134F

*Unit:* Report in "number".

*Validated License Required:* Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.

*GLV $ Value Limit:* $0 for all destinations.

*Processing Code:* TE.

[1] See § 770.2 of this subchapter for definition.

[2] See footnote 1.

*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5135F is added immediately following ECCN 5134F, as follows:

**5135F Specially designed incinerators for chemical precursors listed in ECCN 4798B, chemical warfare agents, or organophosphorus compounds.**

**Controls for ECCN 5135F**

*Unit:* Report in "number".
*Validated License Required:* Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

11. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5140F is added immediately following ECCN 5135F, as follows:

**5140F Toxic gas monitoring systems.**

**Controls for ECCN 5140F**

*Unit:* Report in "number".
*Validated License Required:* Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

**List of Equipment Controlled by ECCN 5140F**

Toxic gas monitoring systems designed to detect phosphorus, sulphur, or fluorine compounds, or designed to detect any chemical weapons precursor or chemical warfare agent, that are:

(a) Designed for continuous operation; and

(b) Capable of detecting such chemicals at a concentration less than 0.1 milligrams per cubic meter of air.

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5141F is added immediately following ECCN 5141F, as follows:

**5141F Monitoring systems for the detection of chemical compounds having anticholinesterase activity.**

**Controls for ECCN 5141F**

*Unit:* Report in "number"
*Validated License Required:* Country Groups S and Z countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5165F is added immediately following ECCN 1145F, as follows:

**5165F Detection or assay systems that are capable of detecting concentrations of less than one part per million in air of biological agents or toxins controlled by ECCN 4997B or ECCN 4998B.**

**Controls for ECCN 5165F**

*Unit:* Report in "number".
*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5167F is added immediately following ECCN 5165F, as follows:

**5167F Biohazard containment equipment.**

**Controls for ECCN 5167F**

*Unit:* Report in "number".
*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

**List of Equipment Controlled Under ECCN 5167F**

Biohazard containment equipment, as follows:

(a) Complete P3 or P4 level laboratory facilities;

(b) Equipment that incorporates or is contained in a P–3 or P–4 containment housing.

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 5170F is added immediately following ECCN 5167F, as follows:

**5170F Equipment for the microencapsulation of live microorganisms.**

**Controls for ECCN 5170F**

*Unit:* Report in "number".
*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

16. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), a new ECCN 5797F is added immediately following ECCN 4784B, as follows:

**5797F Intermediate chemicals used in the production of chemical warfare agents.**

**Controls for ECCN 5797F**

*Unit:* Report in "$ value".
*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

**List of Chemicals Controlled by ECCN 5797F**

(a) (C.A.S. #693–13–0) Di-isopropylcarbodiimide;

(b) (C.A.S. #538–75–0) Di-cyclohexocarbodiimide.

17. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 9 (miscellaneous), a new ECCN 5997F is added immediately following ECCN 4997B, as follows:

**5997F Complex media (specifically brain/heart infusion media) for the growth of microorganisms in Class 3 or Class 4, in quantities greater than 100 kilograms.**

**Controls for ECCN 5997F**

*Unit:* Report in "number".
*Validated License Required:* Country Groups S and Z and countries listed in Supplement No. 5 to part 778 of this subchapter.
*GLV $ Value Limit:* $0 for all destinations.
*Processing Code:* TE.
*Reason for Control:* Foreign policy.
*Special Licenses Available:* None.

Dated: March 7, 1991.

**James M. LeMunyon,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 91-5860 Filed 3-8-91; 4:26 pm]

BILLING CODE 3510-DT-M

**DEPARTMENT OF COMMERCE**

**Bureau of Export Administration**

**15 CFR Parts 771, 776, and 778**

**[Docket No. 910249-1049]**

## Imposition and Expansion of Foreign Policy Controls

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Proposed rule and request for public comment.

**SUMMARY:** The Department of Commerce is proposing to amend the Export Administration Regulations (EAR) in support of U.S. non-proliferation policies. This proposal would impose foreign policy controls on certain exports by providing authority to deny items that already require a validated license, for any reason other than short supply, where the export is determined to be for a facility involved in the design, development, production, or use of missiles or chemical or biological weapons.

This proposal would also impose foreign policy controls on exports to specified destinations when the exporter knows, or to any destination when the exporter is informed by the Office of Export Licensing (OEL), that the commodities, technical data, or software will be used in the design, development, production or use of missiles or of chemical or biological weapons, or are destined for a facility engaged in such activities.

In addition, this proposal would impose foreign policy controls on exports to specified destinations when a U.S. person knows, or to any destination when the U.S. person is informed by OEL, that the commodities, technical data, or software will be used in the design, development, production, or use of missiles or chemical or biological weapons, or are destined for a facility engaged in such activities. Neither may a U.S. person, without a validated license, perform any contract, service, or employment knowing that it assists such activities.

This proposal would also impose foreign policy controls on participation and support by U.S. persons in the design, development, production, or use of missiles or of chemical or biological weapons.

This proposal would restrict participation by U.S. persons in construction of whole plants to produce chemical weapon precursors in certain countries.

This proposal would also make changes in the organization of regulations relating to weapons proliferation, grouping them in newly designated part 778, Proliferation Controls.

**DATES:** Comments must be received by April 12, 1991.

**ADDRESSES:** Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Sullivan, Bureau of Export Administration, Telephone: (202) 377-8760.

**SUPPLEMENTARY INFORMATION:**

### Background

The Department of Commerce, in consultation with the Department of State, has decided to propose expanding foreign policy controls in several ways in support of U.S. non-proliferation policies.

One proposed EAR change would provide authority to deny a license for exports of items that already require a validated license, for any reason other than short supply, where the export could be destined for the design, development, production, or use of missiles or chemical or biological weapons, or for a facility engaged in such activities.

The proposed rule would also impose foreign policy controls on exports to specified destinations when the exporter knows the export will be used in the design, development, production, stockpiling, or use of missiles or of chemical or biological weapons, or is destined for a facility engaged in such activities.

The rule does not provide a proposed definition of the term "know". However, consideration is being given to whether such a definition is advisable. The following definition is under consideration for inclusion in the final rule, and comments on the need for and wording of a definition are especially encouraged.

*Know.* Except as the term is used in part 769, a person shall be considered to know a circumstance or result when that person:

(a) Is aware that such circumstance exists, or that such result is substantially certain to occur; or

(b) Has a firm belief that such circumstance exists, or that such result is substantially certain to occur.

A person knows of the existence of a particular circumstance if that person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

In addition, the proposed rule would amend the EAR to make clear that the Office of Export Licensing may inform an exporter at any time that a validated license is required for a specific export or reexport transaction or for exports or reexports to a specific end-user or end-use because of an unacceptable risk that such shipments will be used in sensitive nuclear activities, in the design, development, production, stockpiling, or use of chemical or biological weapons, or in the design, development, production or use of missiles. An exporter or reexporter may be individually informed by OEL, or notice may be published in the **Federal Register**. This proposal would provide new supplements to the EAR to identify regions and countries, as well as facilities and projects, to which certain validated license requirements apply.

Also, the proposed rule would substitute the term "missiles" for the current "missiles capable of delivering nuclear weapons". The definition of such missiles, as contained in the EAR, is not affected by this change.

Also, the proposed rule would add a new provision to the EAR to restrict participation by U.S. persons in missile, chemical weapons, or biological weapons development. No U.S. person may knowingly export or reexport to specified destinations commodities, software, or technical data, regardless of origin, for use in the design, development, production, stockpiling, or use of chemical or biological weapons, or of missiles, or to a facility engaged in such activities. Nor may a U.S. person, without a validated license, perform any contract, service, or employment knowing that it assists such activities. When a U.S. person has been informed by OEL, these prohibitions apply to any destination. In addition, the rule restricts participation and support by U.S. persons in the design, construction, or export of whole plants to make precursors for chemical weapons. This prohibition also extends to support of any such transactions, through financing, freight forwarding, or other comparable activities. The term "U.S. person" is defined for the purposes of these provisions to include foreign branches of companies organized in the United States.

In amending the Export Administration Act of 1979 in 1985, the Congress added section 6(m), which prohibited the President from restricting transactions in performance of a contract entered into before the date of a report to Congress of the intent to

impose a foreign policy control. The effect of that provision has been to require approval of export license applications when a contract predates the control program, unless denial is based on some other control provision of the EAR. While contract sanctity is provided in this proposal, serious consideration is being given to eliminating these contract sanctity provisions when the final rule is published, in light of the serious concerns raised by missiles or chemical or biological weapons. The Department invites public comments on this issue, as well as all other aspects of the regulation.

Consistent with the prohibitions on trade with Iraq and Kuwait contained in the Executive Orders issued on August 2 and 9, 1990, exporters should obtain guidance from the U.S. Department of Treasury, Office of Foreign Assets Control concerning any export or reexport to Iraq or Kuwait.

On March 7, 1991, the Department submitted a report notifying the Congress of its intent to impose these controls. To provide contract sanctity, export licenses may be issued on a case-by-case basis for the export of commodities, software, or technical data subject to these new controls in performance of a contract or an agreement entered into before March 7, 1991 (the date of notification to Congress of intent to impose these controls).

**Rulemaking Requirements and Invitation to Comment**

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005 and 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. The Secretary of Commerce has submitted a report to Congress on the need for these controls. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in proposed form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments on the suggested definition of "know" and on the contract sanctity provisions contained in this rule are especially encouraged.

The period for submission of comments will close (April 12, 1991.). The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4518, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

**List of Subjects**

*15 CFR Parts 771 and 776*

Exports, Reporting and recordkeeping requirements.

*15 CFR Part 778*

Exports, Nuclear energy, Reporting and recordkeeping requirements.

Accordingly, parts 771, 776, and 778 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citations for parts 771, and 776 are revised to read as follows:

**Authority:** Public Law 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Public Law 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); Executive Order 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

2. The authority citation for part 778 is revised to read as follows:

**Authority:** Public Law 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Public Law 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Public Law 95-242, 92 Stat. 141 (42 U.S.C. 2139(a)); Executive Order 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and Executive Order 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

## PART 771—AMENDED

3. Section 771.2(c) is amended by removing the word "or" at the end of paragraphs (c)(11) and (c)(12), and by adding new paragraphs (c)(13) and (c)(14) to read as follows:

**§ 771.2 General provisions.**

* * * * *

(c) * * *

(13) The exporter either:

(i) Knows that the commodity, software or technical data:

(A) Are destined for any facility or project listed in Supplement No. 7 to part 778 of this subchapter; or

(B) Will be used in the design, development, production, or use of missiles in or by a country where a facility or project listed in Supplement No. 7 to part 778 of this subchapter is located; or

(ii) Is informed by OEL that a validated license is required for export to a consignee, wherever located,

because the export may apply to the design, development, production, or use of missiles;

(14) The exporter either:

(i) Knows that the commodity, software or technical data:

(A) Are destined for any facility listed in Supplement No. 6 to part 778 of this subchapter; or

(B) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Supplement No. 5 to part 788; or

(ii) Is informed by OEL that a validated license is required for export to a consignee, wherever located, because the export may apply to the design, development, production, stockpiling, or use of chemical or biological weapons.

* * * * *

## PART 776—AMENDED

4. Part 776 is amended by removing §§ 776.18, 776.19, and 776.20.

5. The heading to part 778 is revised to read as follows:

## PART 778—PROLIFERATION CONTROLS

6. Section 778.1 is revised to read as follows:

### § 778.1 Purpose.

(a) *Scope.* This part defines the types of transactions that are governed by the U.S. policy concerning the non-proliferation of chemical and biological weapons, nuclear weapons or explosive devices, missile systems and the U.S. maritime nuclear propulsion policy. The controls implement policies set out in section 3(2) (A) and (B) of the Export Administration Act and section 309(c) of the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242), that is:

(1) To exercise the necessary vigilance from the standpoint of their significance to the national security of the United States;

(2) To further significantly the foreign policy of the United States or to fulfill its international responsibilities; and

(3) To maintain controls over items because of their potential significance for nuclear explosive purposes.

(b) *Related legislation.* These controls supplement those exercised by the Nuclear Regulatory Commission and the Department of Energy under the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and other statutes, and by the Office of Defense Trade Controls, Department of State, under the Arms Export Control Act of 1976. (See §770.10 of this subchapter.)

### § 778.2 [Amended]

7. In § 778.2 paragraph (a) is amended by removing the last two sentences.

8. Section 778.3 is amended by adding two new sentences at the end of the introductory text to read as follows:

### § 778.3 Additional validated license requirements for exports with certain nuclear end-uses.

* * * When the Office of Export Licensing determines that there is an unacceptable risk of use in or diversion to such activities, it may inform the exporter, either individually or through amendment to the regulations in this subchapter, that an individual validated license is required. However, the absence of any such notification does not excuse the exporter from compliance with the validated license requirements of this section.

* * * * *

9. A new § 778.6 is added to read as follows:

### § 778.6 Preparing nuclear-related application.

An application for a license to export commodities or technical data subject to provisions of § 778.2, § 778.3, or § 778.5 shall be prepared and submitted on Form BXA–622P, Application for Export License, in accordance with instructions set forth in §§ 772.5 and 779.5(e) of this subchapter with the following additional instructions:

(a) *Identification of License Application.* Enter the words "NUCLEAR CONTROLS" in Item 4, "Special Purpose," of Form BXA–622P.

(b) *Consignee in country of ultimate destination.* If the consignee in the country of ultimate destination is not the end-user of the commodities give the name and address of the end-user in item 12, "Special End-Use," or on an attachment to the application, and if known, the specific geographic locations of any installations, establishments, or sites at which the commodities will be used.

(c) *Commodity description.* (1) If the CCL entry in question is divided into sub-entries, indicate the specific sub-entry that describes the commodity. In addition, specifications or descriptive brochures should be provided when available.

(2) If applicable, include a description of any specific features of design or specific modifications that make the commodity capable of the uses described in § 778.3.

(d) *End-use.* (1) A vague or general end-use description will delay review of an application. Applications indicating resale as the end-use sometimes must be returned without action in order to obtain more information.

(2) When submitting an application under § 778.3, fully explain the basis for the knowledge or belief that the commodities are intended for the purpose(s) described therein. Additionally, indicate, if possible, the specific end-use(s) the commodities will have in the designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices or in the designing, constructing, fabricating, or operating the facilities described in § 778.3.

10. Sections 778.7 and 778.8 are revised to read as follows:

### § 778.7 Equipment and related technical data used in the design, development, production, or use of missiles.

(a) *Validated license requirements.* In support of U.S. foreign policy to limit the proliferation of missiles, an individual validated license is required to export certain commodities, software, and technical data related to the design, development, production, or use of such missiles to Country Groups QSTVWYZ.

(1) *Commodities subject to weapons delivery systems controls.* The commodities that require a validated license because they are subject to foreign policy controls on weapons delivery systems appear within ECCNs 2018A, 2118A, 4118B, 4302B, 1357A, 1361A, 1362A, 1385A, 1460A, 1485A, 1501A, 1516A, 1517A, 4518B, 1522A 1529A, 4529B, 1531A, 1533A, 1564A, 4564B, 1565A, 1568A, 4568A, 4587B, 1595A, 1715A, and 1746A. Exporters should consult the Reason for Control paragraph in each ECCN to determine the specific items subject to these foreign policy controls.

(2) *Technical data and software subject to weapons delivery systems controls.* Technical data and software that require a validated license because they are subject to foreign policy controls on nuclear weapons delivery systems are listed in paragraph (4) of Supplement No. 4 to part 779 of this subchapter.

(3) *Definition.* The term "missiles" is defined as rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least 500 kilograms (kg) payload to a range of at least 300 kilometers (km).

(b) *Controls on other commodities, technical data, and software.* BXA will review license applications, in accordance with the licensing policy described in paragraph (d) of this section, for commodities, technical data, or software not described in paragraph (a) of this section that:

(1) Require a validated license for reasons other than short supply; and

(2) Could be destined for the design, development, production, or use of missiles, or for a facility engaged in such activities.

(c) *Additional validated license requirements based on end-uses related to the design, development, production, or use of missiles.* (1) In addition to the validated license requirements described in paragraph (a) and paragraph (b) of this section, a validated license is required to export any commodity, software, or technical data (excluding technical data exportable under the provisions of General License GTDA and commodities identified in ECCN 7599I or 7999I), when the exporter knows that the commodities, software, or technical data:

(i) Are destined for any facility or project listed in Supplement No. 7 to part 778; or

(ii) Will be used in the design, development, production or use of missiles in or by a country where a facility or project listed in Supplement No. 7 to part 778 is located.

(2) The Office of Export Licensing may inform the exporter, either individually or through amendment to these regulations, that an individual validated license is required because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. However, the absence of any such notification does not excuse the exporter from compliance with the validated license requirements of paragraph (c)(1) of this section. Those facilities, projects, companies, or government entities currently identified are listed in Supplement No. 7 to part 778.

(d) *Licensing policy.* (1) Unless the criteria stated in paragraphs (d)(3), (d)(4) or (d)(5) of this section are met, applications to export the commodities will be considered on a case-by-case basis to determine whether the export would make a material contribution to the proliferation of missiles. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual applications:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, or use of missiles;

(iii) The capabilities and objectives of the missile and space programs of the recipient country;

(iv) The non-proliferation credentials of the importing country; and

(v) The types of assurances or guarantees against design, development production or use, of missiles delivery purposes that are given in a particular case.

(3) Consistent with section 6(m) of the EAA, the following contract sanctity dates have been established:

(i) License applications involving contracts for batch mixers specified in ECCN 4118B that were entered into prior to January 19, 1990, will be considered on a case-by-case basis.

(ii) License applications for commodities, technical data, or software described only in paragraph (b) or (c) of this section that involve a contract entered into prior to March 7, 1991, will be considered on a case-by-case basis.

(iii) Applicants who wish a pre-existing contract to be considered in reviewing their license applications must submit documentation sufficient to establish the existence of a contract.

(e) Commodities and technical data described in paragraph (a) of this section are not eligible for special licenses.

**§ 778.8 Chemical precursors and biological agents, and associated equipment and technical data.**

(a) *Validated license requirements.* The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons:

(1) Chemicals identified in ECCN 4798B require a validated license for export from the United States to all destinations except Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Neitherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

(2) Equipment identified in EECNs 5129F, 5132F, 5133F, 5134F, 5135F, 5140F, and 5141F in the Commodity Control List, which can be used in the production of chemical weapons precursors and chemical warfare agents, requires a validated license for export from the United States to Country Groups S and Z and regions and countries listed in Supplement No. 5 to Part 778.

(3) Viruses and viroids identified in ECCN 4997B and bacteria, fungi, and protozoa identified in ECCN 4998B require a validated license to all destinations except Canada.

(4) Equipment and materials identified Regional Director, ECCNs 5165F, 5167F, 5170F, 5797F, and 5997F, which can be used in the production of biological agents, require a validated license for export from the United States to Country Groups S and Z and regions and countries listed in Supplement No. 5 to part 778.

(5) The following restrictions apply to use of General License GTDR:

(i) General License GTDR is not available for technical data for the production of chemical precursors described in paragraph (a)(1) of this section, except to Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom;

(ii) General License GTDR is not available for the export of technical data for the production of commodities described in paragraphs (a)(2) and (a)(4), of this section to regions and countries listed in Supplement No. 5 to Part 778;

(iii) General License GTDR is not available for the export of technical data for the production of commodities described in paragraph (a)(3) of this section;

(iv) (A) General License GTDR is not available for technical data for facilities designed or intended to produce chemical weapons precusors controlled by ECCN 4798B on the CCL, involving the following:

(*1*) Overall plant design;

(*2*) Design, specification, or procurement of equipment;

(*3*) Supervision of construction, installation, or operation of complete plant or components thereof;

(*4*) Training of personnel;

(*5*) Consultation on specific problems involving such facilities.

(B) This prohibition on use of General License GTDR does not apply to exports to Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom;

(v) General License GTDR is available only to Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom, for software for process control that is specifically configured to control or initiate the production of chemical weapons precusors controlled by ECCN 4798B.

(b) *Controls on other commodities, technical data, and software.* BXA will

review license applications, in accordance with the licensing policy described in paragraph (d) of this section, for commodities, technical data, or software not described in paragraph (a) of the section that:

(1) Require a validated license for reasons other than short supply;

(2) Are destined to a country other than those listed in paragraph (a)(1) of this section; and

(3) Could be destined for the design, development, production, stockpiling, or use of chemical or biological weapons, or for a facility engaged in such activities.

(c) *Additional validated license requirements based on end-uses related to the design, development, production, stockpiling, or use of chemical or biological weapons.* (1) In additon to the validated license requirements described in paragraph (a) and paragraph (b) of this section, a validated license is required to export any commodity, software, or technical data excluding technical data exportable under the provisions of General License GTDA and commodities identified in ECCN 7599I or 7999I), when the exporter knows that the commodities, software, or technical data:

(i) Are destined for any facility listed in Supplement No. 6 to par 778; or

(ii) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a region or country listed in Supplement No. 5 to part 778.

(2) The Office of Export Licensing may inform the exporter, either individually or through amendment to these regulations, that an individual validated license is required because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. However, the absence of any such notification does not excuse the exporter from compliance with the validated license requirements of paragraph (c)(1) of this section. Those facilities currently identified are listed in Supplement No. 6 to part 778.

(d) *Licensing policy.* (1) Unless the criteria stated in paragraph (d)(3) of this section are met, applications to export the commodities and technical data subject to this policy will be considered on a case-by-case basis to determine whether the export would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on individual applications:

(i) The specific nature of the end-use;

(ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The non-proliferation credentials of the importing country; and

(iv) The types of assurances or guarantees against design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case.

(3) *Contract sanctity.* Consistent with section 6(m) of the EAA, the following contract sanctity dates have been established.

(i) The contract sanctity date for exports to Syria of dimethyl methylphosphonate, methyl phosphonyldifluoride, phosphorous oxychloride, thiodiglycol, dimethylamine hydrochloride, dimethylamine, ethylene chlorohydrin (2-chloroethanol), and potassium fluoride is April 28, 1986.

(ii) The contract sanctity date for exports to Iran or Syria of dimethyl phosphite (dimethyl hydrogen phosphite), methyl phosphonyldichloride, 3-quinuclidinol, N,N-diisopropylaminoethane-2-thiol, N,N-diisopropylaminoethyl-2-chloride, 3-hydroxy-1-methylpiperidine, trimethyl phosphite, phosphorous trichloride, and thionyl chloride is July 6, 1987.

(iii) The contract sanctity date for exports to Iran or Syria of items in ECCNs 4997B and 4998B is February 22, 1989.

(iv) The contract sanctity date for exports to Iran of dimethyl methylphosphonate, methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorous oxychloride, and thiodiglycol is February 22, 1989.

(v) The contract sanctity date for exports to Syria of dimethyl methylphosphonate, methylphosphonyl dichloride, and methylphosphonyl difluoride is February 22, 1989.

(vi) The contract sanctity date for exports to Iran, Libya, or Syria of potassium hydrogen fluoride, ammonium hydrogen fluoride, sodium fluoride, sodium bifluoride, phosphorus pentasulfide, sodium cyanide, triethanolamine, diisopropylamine, sodium sulfide, and N,N-diethylethanolamine is December 12, 1989.

(vii) The contract sanctity date for exports to all destinations (except Iran or Syria) of phosphorus trichloride, trimethyl phosphite, and thionyl chloride is December 12, 1989. For exports to Iran or Syria, paragraph (d)(3)(ii) of this section applies.

(viii) The contract sanctity date for exports to all destinations (except Iran, Libya, or Syria) of 2-chloroethanol and triethanolamine is January 15, 1991. For exports of 2-chloroethanol to Syria, paragraph (d)(3)(i) of this section applies. For exports of triethanolamine to Iran, Libya, or Syria, paragraph (d)(3)(vi) of this section applies.

(ix) The contract sanctity date for exports to all destinations (except Iran, Libya, or Syria) of chemicals controlled by ECCN 4798B is March 7, 1991, except for applications to export the following chemicals: 2-chloroethanol, dimethyl methylphosphonate, dimethyl phosphite (dimethyl hydrogen phosphite), methylphosphonyl dichloride, methylphosphonyl difluoride, phosphorous oxychloride, phosphorous trichloride, thiodiglycol, thionyl chloride, triethanolamine, and trimethyl phosphite. (See also paragraphs (d)(3)(vi) and (d)(3)(vii) of this section.) For exports to Iran, Libya, or Syria, see paragraphs (d)(3)(i) through (d)(3)(vi) of this section.

(x) The contract sanctity date for exports of the following commodities and technical data is March 7, 1991:

(A) equipment (for producing chemical weapon precursors and chemical warfare agents) described in paragraph (a)(2) of this section;

(B) Equipment and materials (for producing biological agents) described in paragraph (a)(4) of this section;

(C) Technical data described in paragraph (a)(5) of this section; and

(D) Commodities, technical data, or software described in paragraph (c) of this section.

(xi) The contract sanctity date for exports of commodities, technical data, or software described in paragraph (b) of this section is March 7, 1991.

(xii) The contract sanctity date for reexports of chemicals controlled under ECCN 4798B is March 7, 1991, except that the contract sanctity date for reexports of these chemicals to Iran, Libya, or Syria is December 12, 1989.

(xiii) The contract sanctity date for reexports of viruses and viroids identified under ECCN 4997B and bacteria fungi, and protozoa identified under ECCN 4998B is March 7, 1991.

(4) When preparing a license application for chemicals, applicants shall type the Chemical Abstract Service (C.A.S.) Registry number in Item 9(b) before each chemical name. The C.A.S. numbers are listed with the controlled chemicals in ECCN 4798B under the "List of Chemicals." See Supplement No. 1 to § 799.2 of this subchapter, Interpretation 23: Precursor Chemicals,

for synonyms of controlled chemicals in ECCN 4798B.

11. A new § 778.9 is added to read as follows:

**§ 778.9 Activites of U.S. persons.**

(a) A validated license or reexport authorization is required for the export, reexport, or transfer of any commodities, software, or technical data, regardless of origin, by a U.S. person (defined below) where that person knows that such commodities, software, or technical data:

(1) Will be used in the design, development, production, or use of missiles in or by a country where a facility or project listed in Supplement No. 7 to part 778 is located; or

(2) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Supplement No. 5 to part 778, or are destined for a facility listed in Supplement No. 6 to part 778.

(b) No U.S. person shall, without a validated license or other authorization from the Office of Export Licensing:

(1) Perform any contract, service, or employment that the U.S. person knows will assist in the design, development, production, or use of missiles in or by a country where a facility or project listed in Supplement No. 7 to part 778 is located;

(2) Perform any contract, service, or employment that the U.S. person knows will assist in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Supplement No. 5 to part 778, or is destined for a facility listed in Supplement No. 6 to part 778.

(c) No U.S. person shall, without a validated license or other authorization from the Office of Export Licensing, participate in the design, construction, or export of a whole plant to make chemical weapons precursors identified in ECCN 4798B, in countries other than Australia, Austria, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

(d) No U.S. person shall, without a validated license or other authorization from the Office of Export Licensing, knowingly support an export, reexport, or transfer that does not have a validated license or other authorization as required by this section. Support means any action, including financing, transportation, and freight forwarding, by which a person facilitates an export, reexport, or transfer without being the actual exporter or reexporter.

(e) The Office of Export Licensing may inform U.S. persons, either individually or through amendment to these regulations, that an individual validated license is required because an activity could involve the types of participation and support described in paragraphs (a) through (d) of this section, anywhere in the world.

(f) For purposes of this section, the term "U.S. person" includes:

(1) Any individual who is a citizen or permanent resident alien of the United States;

(2) Any juridical person organized under the laws of the United States, or any jurisdiction within the United States including foreign branches; and

(3) Any person in the United States.

(g) It shall be the policy of the Department of Commerce to permit no activity covered by this section that is material in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons, or of missiles.

(h) See §§ 770.2 and 779.1(a) of this subchapter for definitions of other terms used in this section.

12. A new section 778.10 is added to read as follows:

**§ 778.10 Effect of other provisions.**

If, at the time of export, a validated license is also required under other provisions of the Export Administration Regulations (15 CFR parts 730–799), the application shall be submitted in accordance with the provisions of part 778 as well as other applicable provisions. The requirements of part 778 are applicable in addition to, rather than in lieu of, any other validated license requirement set forth in the Export Administration Regulations. Insofar as consistent with the provisions of part 778, all of the other provisions shall apply equally to applications for licenses and licenses issued under these special provisions.

13. Part 778 is amended by adding a new Supplement No. 6 to read as follows:

**Supplement No. 6—Chemical and Biological Agent Facilities**

[TEXT TO BE FURNISHED IN FINAL RULE]

14. Part 778 is amended by adding a new Supplement No. 7 to read as follows:

**Supplement No. 7—Missile Technology Projects and Facilities**

[TEXT TO BE FURNISHED IN FINAL RULE]

Dated: March 7, 1991.

**James M. LeMunyon,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 91–5861 Filed 3–8–91; 4:27 pm]

BILLING CODE 3510–DT–M

# Reader Aids

Federal Register

Vol. 56, No. 49

Wednesday, March 13, 1991

## INFORMATION AND ASSISTANCE

**Federal Register**

| | |
|---|---|
| Index, finding aids & general information | 523-5227 |
| Public inspection desk | 523-5215 |
| Corrections to published documents | 523-5237 |
| Document drafting information | 523-5237 |
| Machine readable documents | 523-3447 |

**Code of Federal Regulations**

| | |
|---|---|
| Index, finding aids & general information | 523-5227 |
| Printing schedules | 523-3419 |

**Laws**

| | |
|---|---|
| Public Laws Update Service (numbers, dates, etc.) | 523-6641 |
| Additional information | 523-5230 |

**Presidential Documents**

| | |
|---|---|
| Executive orders and proclamations | 523-5230 |
| Public Papers of the Presidents | 523-5230 |
| Weekly Compilation of Presidential Documents | 523-5230 |

**The United States Government Manual**

| | |
|---|---|
| General information | 523-5230 |

**Other Services**

| | |
|---|---|
| Data base and machine readable specifications | 523-3408 |
| Guide to Record Retention Requirements | 523-3187 |
| Legal staff | 523-4534 |
| Library | 523-5240 |
| Privacy Act Compilation | 523-3187 |
| Public Laws Update Service (PLUS) | 523-6641 |
| TDD for the hearing impaired | 523-5229 |

## FEDERAL REGISTER PAGES AND DATES, MARCH

8681-8904 ..... 1
8905-9120 ..... 4
9121-9268 ..... 5
9269-9580 ..... 6
9581-9834 ..... 7
9835-10140 ..... 8
10141-10356 ..... 11
10357-10502 ..... 12
10503-10770 ..... 13

## CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**1 CFR**

**Proposed Rules:**
305 ..... 9656

**3 CFR**

**Proclamations:**
6254 ..... 9121
6255 ..... 9269
6256 ..... 9579
6257 ..... 10353
6258 ..... 10357

**Executive Orders:**
12163 (See Presidential Determination 91-20 of January 25, 1991) ..... 8681
12193 (See EO 12753) ..... 10501
12295 (See EO 12753) ..... 10501
12351 (See EO 12753) ..... 10501
12409 (See EO 12753) ..... 10501
12463 (See EO 12753) ..... 10501
12506 (See EO 12753) ..... 10501
12554 (See EO 12753) ..... 10501
12587 (See EO 12753) ..... 10501
12629 (See EO 12753) ..... 10501
12670 (See EO 12753) ..... 10501
12706 (Superseded by EO 12753) ..... 10501
12753 ..... 10501

**Administrative Orders:**
Memorandums:
February 21, 1991 ..... 9271
Presidential Determinations:
No. 91-20 of January 25, 1991 ..... 8681

**5 CFR**

213 ..... 10141
316 ..... 10141
317 ..... 10141
351 ..... 10141
831 ..... 10141
842 ..... 10141
870 ..... 10141
890 ..... 10141

**Proposed Rules:**
581 ..... 9181

**7 CFR**

1 ..... 9581
17 ..... 9273
46 ..... 8683
51 ..... 10302
301 ..... 9273
905 ..... 8684
911 ..... 10143
915 ..... 10143
916 ..... 10359
917 ..... 10359
918 ..... 8905
944 ..... 10503
958 ..... 10359
981 ..... 10505
1046 ..... 9274
1434 ..... 9592
1864 ..... 10145
1903 ..... 10145
1910 ..... 10145
1940 ..... 10508
1944 ..... 10145
1945 ..... 10145
1951 ..... 10145
1955 ..... 10145
1956 ..... 10145
1965 ..... 10145
1980 ..... 10145

**Proposed Rules:**
12 ..... 9258
58 ..... 10382
704 ..... 9293
777 ..... 10660
920 ..... 9302
929 ..... 10189
1005 ..... 9306
1410 ..... 9293
1413 ..... 9251
1421 ..... 10189, 10192

**8 CFR**

241 ..... 8906
242 ..... 8906
274 ..... 8685

**9 CFR**

82 ..... 9752
331 ..... 8907, 8908
381 ..... 8907, 8908

**10 CFR**

2 ..... 10359
710 ..... 10068
1048 ..... 9611
Ch. XVII ..... 9605

**Proposed Rules:**
710 ..... 10075
1703 ..... 9902

**11 CFR**

110 ..... 9275

**12 CFR**

265 ..... 8687
325 ..... 10154

600 ... 8910
601 ... 8910
602 ... 8910
603 ... 8910
604 ... 9611
606 ... 8910
611 ... 8910, 10169
612 ... 8910
614 ... 8910
615 ... 8910
617 ... 8910
618 ... 8910
619 ... 8910
621 ... 8910
960 ... 8688
1410 ... 10302
**Proposed Rules:**
327 ... 9308

**13 CFR**
21 ... 8699-8701
25 ... 8699-8701
39 ... 9612-9618, 9835-9838
71 ... 9618-9620
121 ... 10360
122 ... 10360
1209 ... 8910
**Proposed Rules:**
39 ... 8732, 8733, 8935, 9659, 9661, 9907-9913
71 ... 9660, 9663, 9914
75 ... 10302
91 ... 8938

**14 CFR**
21 ... 8699-8701
39 ... 10361
71 ... 10362-10364, 10660
**Proposed Rules:**
Ch. I ... 10383
71 ... 10384, 10660
158 ... 10462

**15 CFR**
303 ... 9621
770 ... 10760
776 ... 10756, 10760
778 ... 10760
799 ... 10756, 10760
**Proposed Rules:**
771 ... 10760
776 ... 10760
778 ... 10760

**16 CFR**
305 ... 9123
1500 ... 9276
1502 ... 9276
**Proposed Rules:**
1700 ... 9181

**17 CFR**
240 ... 9124

**18 CFR**
1301 ... 9288
**Proposed Rules:**
35 ... 8938

**19 CFR**
**Proposed Rules:**
141 ... 9311

**20 CFR**
302 ... 10302
**Proposed Rules:**
216 ... 10385

**21 CFR**
5 ... 8709
510 ... 9622, 9840
520 ... 8709, 8710, 9840
522 ... 9622
524 ... 9622
556 ... 8710
558 ... 9622, 9841
1308 ... 9132
1316 ... 8685
**Proposed Rules:**
201 ... 9312
356 ... 9915
808 ... 8940

**22 CFR**
514 ... 8711

**23 CFR**
1235 ... 10328

**24 CFR**
Ch. I ... 9472
91 ... 9169
791 ... 9822
**Proposed Rules:**
203 ... 8941

**26 CFR**
1 ... 8911, 10365
31 ... 8911
301 ... 9169
602 ... 8912, 10365
**Proposed Rules:**
1 ... 8943-8967, 10211, 10395-10397
301 ... 9182

**27 CFR**
5 ... 8922
**Proposed Rules:**
16 ... 10066

**28 CFR**
0 ... 8923, 10509
8 ... 8685
**Proposed Rules:**
11 ... 8734
51 ... 10348

**29 CFR**
541 ... 9252
579 ... 9252
580 ... 9252
801 ... 9046
1601 ... 9623
1910 ... 10377
**Proposed Rules:**
516 ... 9183
778 ... 9183
1602 ... 9185
2550 ... 10724

**30 CFR**
56 ... 9626
57 ... 9626
228 ... 10510
243 ... 9251
723 ... 10060
845 ... 10060
**Proposed Rules:**
7 ... 10464
18 ... 10464
870 ... 10404
901 ... 8967
913 ... 8969
935 ... 9312

**31 CFR**
100 ... 10169
570 ... 10356

**32 CFR**
191 ... 10170
291 ... 9841
627 ... 9424
**Proposed Rules:**
155 ... 10215
162 ... 10219
299a ... 9314

**33 CFR**
3 ... 9288
100 ... 9850, 9851
110 ... 9852
117 ... 8712, 10512
151 ... 8878
165 ... 9289, 10513
**Proposed Rules:**
117 ... 9916

**34 CFR**
**Proposed Rules:**
674 ... 10742
675 ... 10742
676 ... 10742

**36 CFR**
**Proposed Rules:**
9 ... 9917

**37 CFR**
201 ... 10660
211 ... 10660

**38 CFR**
6 ... 9626
8 ... 9626
21 ... 9627
36 ... 9853
**Proposed Rules:**
3 ... 10303
4 ... 10303

**39 CFR**
**Proposed Rules:**
111 ... 9664

**40 CFR**
52 ... 9172-9175, 10171
60 ... 9177
61 ... 10514
82 ... 9518, 10660
147 ... 9408
228 ... 9178
**Proposed Rules:**
Ch. I ... 8972, 9315, 10522
61 ... 10523, 10524
86 ... 8856, 9754
123 ... 8973
300 ... 9187
435 ... 10664
600 ... 8856
799 ... 9092, 9105

**41 CFR**
105-8 ... 9862
301-1 ... 9878
301-10 ... 10378
302-11 ... 9289, 10378
Ch. 304 ... 9878

**42 CFR**
400 ... 8832
405 ... 8832
406 ... 8832
412 ... 9633
434 ... 10515

**43 CFR**
5400 ... 10173
5420 ... 10173
5450 ... 10173
5460 ... 10173
9230 ... 10173
**Public Land Orders:**
6838 ... 10380

**44 CFR**
64 ... 10515, 10517
353 ... 9452

**45 CFR**
74 ... 8712
205 ... 8924
232 ... 8926
234 ... 8926
235 ... 8926
801 ... 9180
1180 ... 10176
1611 ... 9634

**46 CFR**
25 ... 8878
**Proposed Rules:**
56 ... 10526
58 ... 10526
107 ... 10526
108 ... 10526
109 ... 10526
111 ... 10526
174 ... 10526

**47 CFR**
0 ... 9752
2 ... 9881
21 ... 9897
69 ... 9897
73 ... 8933, 8934, 9898, 9899, 10178, 10381, 10518, 10519
80 ... 9881
94 ... 9897, 9900
**Proposed Rules:**
1 ... 10222
2 ... 10222
43 ... 10526
73 ... 8974-8976, 9189-9191, 9924, 10227, 10527
76 ... 9924
95 ... 10222

**48 CFR**
**Proposed Rules:**
22 ... 9832
42 ... 9832
52 ... 9832
Ch. 2, App. N ... 9082
202 ... 9082
203 ... 9082
204 ... 9082
217 ... 9082
223 ... 10405

225 ..... 9082
228 ..... 9082
232 ..... 9082
245 ..... 9082
252 ..... 9082, 10405
1403 ..... 10227
1405 ..... 10227
1415 ..... 10227
1453 ..... 10227
1803 ..... 8718
1804 ..... 8718
1805 ..... 8718
1806 ..... 8718
1814 ..... 8718
1815 ..... 8718
1819 ..... 8718
1836 ..... 8718
1849 ..... 8718
1852 ..... 8718
1853 ..... 8718

**49 CFR**

1 ..... 9635
386 ..... 10179
571 ..... 10185
1010 ..... 9635
1011 ..... 8721
1177 ..... 10519
1330 ..... 8722

**Proposed Rules:**

383 ..... 9925
571 ..... 9928
575 ..... 10661
Ch. X ..... 9191
1053 ..... 9339

**50 CFR**

611 ..... 8722, 38723
620 ..... 8722
646 ..... 9251
672 ..... 9635, 9636
675 ..... 9636, 10521

**Proposed Rules:**

20 ..... 9462
285 ..... 10227
641 ..... 9930
658 ..... 8736
672 ..... 9251
675 ..... 9251, 10527

## LIST OF PUBLIC LAWS

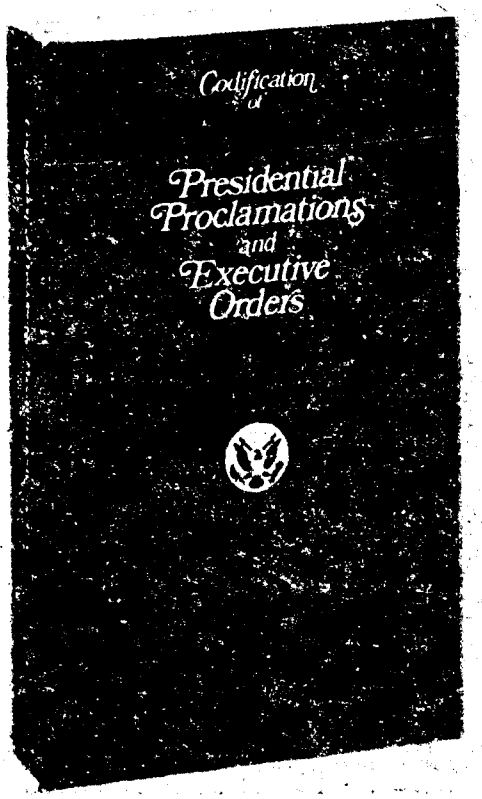
**Last List March 8, 1991**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-275-3030).

**S.J. Res. 55/Pub. L. 102-8**

Commemorating the two hundredth anniversary of United States-Portuguese diplomatic relations. (Mar. 8, 1991; 105 Stat. 26; 2 pages) Price: $1.00

# New edition .... Order now !




For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325

---

Order Processing Code:
***6661**

Superintendent of Documents **Publications** Order Form

P3

***Charge your order. It's easy!***

**To fax your orders and inquiries—(202) 275-0019**

☐ **YES,** please send me the following indicated publication:

_____ copies of the CODIFICATION OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS, S/N 069-000-00018-5 at $32.00 each.

The total cost of my order is $_____. (International customers please add 25%.) Prices include regular domestic postage and handling and are good through 1/90. After this date, please call Order and Information Desk at 202-783-3238 to verify prices.

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

**Please Choose Method of Payment:**

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date)

***Thank you for your order!***

(Signature)

7-89

**Mail To:** Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325