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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[TB-89-009]

RIN 0581-AA19

Tobacco Inspection; Fees and Charges for Inspection and Grading of Imported Tobacco

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Tobacco Adjustment Act of 1983, as amended requires the Secretary of Agriculture to fix and collect fees and charges for the inspection and grading of all tobacco offered for importation into the United States, except cigar and oriental tobacco. This action would increase the fees charged to importers from $.0035 per pound to $.0040. The increased fees are necessary in order to cover the Department's costs of providing services under the Act.

EFFECTIVE DATE: October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456. Telephone (202) 447-2567.

SUPPLEMENTARY INFORMATION: Notice was given (54 FR 27883, July 3, 1989) that the Department proposed to amend the regulations governing the inspection of all imported tobacco, except cigar and oriental tobacco, to increase the fees for inspection and grading.

Interested parties were given an opportunity to comment on the proposed rule. No comments were received. This action makes final the fee increase as proposed. This fee increase is necessary to cover the cost of providing the service, including administrative and supervisory costs. The authority for this rule is contained in the Tobacco Adjustment Act of 1983, as amended (7 U.S.C. 511r).

Imported tobacco is inspected for grade and quality using the same standards applied to tobacco marketed through a warehouse in the United States. Fees are assessed to cover the cost of providing this grading service. The fee for grading imported tobacco has been $.0035 per pound since 1984.

The Department proposed to increase the fee to $.0040 per pound. This fee was determined after an annual review and analysis was conducted of the financial status of the program. The major factors generating the need for additional funds are increases in salaries, travel allowances and overall administrative costs since 1984.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "nonmajor" because it does not meet any of the criteria established for major rules under the Executive order.

Additionally, in conformance with the provisions of Public Law 96-354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact on small business. Few, if any, of the firms which would be affected by this rule are small businesses. The Administrator, Agricultural Marketing Service, has determined that this action would have no significant economic impact upon any entity, small or large, and would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this revision would not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and it would not alter the market share or competitive positions of small entities relative to large entities. Furthermore, the Department is required by law to fix and collect fees and charges to cover the Department's cost in operating the tobacco inspection program.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Tobacco.

Accordingly, the Department hereby amends the regulations in 7 CFR part 29, subpart B, as follows:

PART 29—[AMENDED]

1. The authority citation for part 29, Subpart B, continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

Subpart B—Regulations

2. Section 29.500 is amended by revising paragraph (a) to read as follows:

§ 29.500 Fees and charges for inspection and testing of imported tobacco.

(a) The fee for inspection of imported tobacco is $.0040 per pound, and shall be paid by the importer. This inspection fee applies to all tobacco imported into the United States except as provided in § 29.400. Fees for services rendered shall be remitted by check or draft in accordance with a statement issued by the Director, and shall be made payable to "Agricultural Marketing Service".

* * * * *

Dated: August 30, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-20831 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 915

[Docket No. FV-89-045FR]

Avocados Grown in South Florida; Minimum Weight and Diameter Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule with appropriate corrections the provisions of an interim final rule which changed the minimum maturity requirements in effect on a continuous basis for Florida and imported avocados. That rule changed the maturity shipping schedules for the Hardee, Nadir, and Pinkerton varieties of avocados, and the maturity schedule in Table I of the regulation to synchronize it with the 1989-90 calendar years. The corrections incorporated into the final rule make the shipping periods for the Black Prince variety sequentially correct, delete the Kosel and Fairchild varieties from the maturity schedule, and add the Chica and Gossman varieties to the maturity schedule. The final rule is designed to promote orderly

marketing conditions for Florida and imported avocados in the interest of growers and consumers by assuring shipment of only mature fruit, thereby creating and maintaining consumer satisfaction and avocado sales.

DATES: Section 915.332 is adopted as a final rule effective September 6, 1989. This section is applicable to avocados imported into the United States under § 944.31 as of September 11, 1989.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Marketing Agreement and Marketing Order No. 915, both as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1, and has been determined to be a "non-major" rule under criteria contained therein.

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 34 handlers subject to regulation under the marketing order for avocados grown in South Florida, and an estimated 20 importers who import avocados into the United States. In addition, there are approximately 330 avocado producers in South Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these avocado handlers, importers, and producers may be classified as small entities.

An interim final rule was issued June 2, 1989, and published in the **Federal Register** (54 FR 24322, June 7, 1989), changing the maturity requirements for avocados grown in Florida under § 915.332, and for imported avocados under § 944.31. That rule provided that interested persons could file written comments through July 7, 1989. A comment was filed by the committee identifying provisions in the interim final rule which needed correction in this final rule. The corrections incorporated in this action: (1) Change the Black Prince variety shipping period date beginning the 4th Monday of September to the 2nd Monday of September so that it is sequentially correct; (2) delete the Kosel and Fairchild varieties from the maturity schedule since they are no longer shipped; and (3) add the Chica and Gossman varieties to the maturity schedule since they are expected to be shipped this season. Since these corrections reflect the original recommendations of the committee, are based upon shipping data and maturity test data developed last season and rectify inadvertent errors made in the interim final rule, it is necessary and appropriate to incorporate such changes in this final rule.

The interim final rule revised Table I appearing in paragraph (a)(2) of § 915.332 to change the maturity requirements for the Hardee, Nadir, and Pinkerton varieties of avocados, based on last season's test data on the maturity characteristics of these varieties. The test data indicate that the Hardee and Nadir varieties mature later in the season, the Hardee variety matures at a lower weight, and the Pinkerton variety matures sooner in the season than the dates currently reflected in the shipping schedule. In recognition of these factors, the seasonal shipping schedule for the Hardee variety was shifted two weeks later into the season, with the starting date moved from the second Monday in June to the fourth Monday in June. Also for the Hardee variety, the minimum weight requirement is reduced by two ounces, with starting minimum weight reduced from 18 to 16 ounces. For the Nadir variety, the shipping schedule was shifted one week later into the season, with the starting date moved from the third Monday in June to the fourth Monday in June. For the Pinkerton variety, shipments are permitted one week earlier beginning the first Monday in October. Also, the interim final rule made calendar date adjustments in the varietal shipping schedules in the Florida avocado maturity regulation to synchronize them with the 1989–90 calendar years.

The Avocado Administrative Committee (committee) recommended the specified maturity requirements for 1989–90 season Florida avocado shipments, at its meeting of April 12, 1989. The committee works with the Department in administering the marketing agreement and order. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida avocados. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. The Act further provides that the requirements on imports shall not become effective until giving not less than three days notice.

Avocado import maturity requirements are in effect on a continuous basis under § 944.31 (7 CFR § 944.31), issued under Section 8e of the Act. That section provides that minimum weight and diameter maturity requirements for avocados imported into the United States from northern hemisphere countries be the same as such maturity requirements specified in § 915.332 for Florida avocados, and that the requirements contained in paragraph (a)(2) of § 915.332 do not apply to imported avocados grown in the southern hemisphere. Since the interim final rule changed the minimum weight and diameter maturity requirements for Florida produced avocados, these same changes apply to imported avocados grown in northern hemisphere countries. No change is needed in the text of the import regulation by this action.

Further, avocado import grade requirements are currently in effect on a continuous basis under § 944.28 (7 CFR § 944.28). A minimum grade requirement of U.S. No. 2 is also currently in effect

on a continuous basis for Florida avocados under § 915.306 (7 CFR § 915.306). Since this action does not change the grade requirements for Florida avocados, the avocado grade import requirements appearing in § 944.28 are not affected.

Some Florida avocado shipments are exempt from the maturity requirements, including gift fruit shipments of up to 20 pounds in individually addressed containers. Florida avocados utilized in commercial processing are not covered by the maturity requirements. In addition, the Florida and import avocado maturity and Florida and import grade requirements permit shipments up to 55 pounds of avocados exempt from such requirements.

The maturity requirements in the final rule reflect the committee's and the Department's appraisal of the appropriate maturity requirements for domestic and import shipments of avocados. The Department's view is that the requirements do not adversely impact growers, handlers, and importers. The application of the maturity requirements to both Florida and imported avocados over the past several years have helped to assure that only mature avocados are shipped to fresh markets. The committee considers the Florida avocado maturity requirements to be necessary to improve grower returns.

Similar maturity requirements have been in effect for several seasons, and Florida avocado growers and handlers have found such requirements beneficial in the successful marketing of the avocado crop. While compliance with these maturity requirements affect handlers' and importers' costs, these costs would be offset by the benefits derived from the more successful marketing of the crop.

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.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that the interim final rule, as published in the **Federal Register** (54 FR 24322) on June 7, 1989, along with the corrections herein specified, 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) This final rule maintains handling requirements currently in effect, with appropriate corrections incorporated, for Florida and imported avocados; (2) Florida avocado handlers are aware of these handling requirements, which were recommended by the committee at a public meeting and they will need no additional time to continue complying with such requirements; (3) the grade and maturity requirements for imported avocados are mandatory under section 8e of the Act; and (4) the interim final rule provided a 30-day comment period, and the comment received is fully addressed in this final rule.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, avocados, Florida.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

Note: This section will appear in the Code of Federal Regulations.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

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

2. Accordingly, the interim final rule amending the provisions of § 915.332, which was published in the **Federal Register** (54 FR 24322, June 7, 1989), is adopted as a final rule with the following changes. In § 915.332, Table I in paragraph (a)(2) is amended by: (1) Removing from the table the Kosel and Fairchild varieties; (2) changing on the table for the Black Prince variety the effective period entry "4th Mon. Sept" to "2nd Mon. Sept"; and (3) adding to the table the Chica variety between the Simpson and Choquette varieties, and the Gossman variety between the Zio (P) and Wagner varieties reading as follows:

§ 915.332 Florida avocado maturity regulation.

(a) * * *

(2) * * *

TABLE I

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
* * *	* * *	* * *	*	
Black Prince	2nd Mon. Aug	4th Sun. Aug	26	4 1/16
	4th Mon. Aug	2nd Sun. Sept	23	3 15/16
	2nd Mon. Sept	1st Sun. Oct	16	3 5/16
* * *	* * *	* * *	*	
Chica	3rd Mon. Sept	1st Sun. Oct	12	3 1/16
	1st Mon. Oct	3rd Sun. Oct	10	3 1/16
* * *	* * *	* * *	*	
Gossman	4th Mon. Nov	4th Sun. Dec	11	3 1/16
* * *	* * *	* * *	*	

* * * * *

Dated: August 30, 1989.

William J. Doyle,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-20809 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 932 and 944

[Docket No. FV-89-087]

Olives Grown in California and Imported Olives; Interim Final Rule Establishing Grade and Size Requirements for Limited Use Styles of California Processed Olives for the 1989-90 Season, and Conforming Changes in the Olive Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes grade and size requirements for California processed olives used in the production of limited use styles of olives such as wedges, halves, slices, or segments and establishes similar requirements in the olive import regulation to bring that regulation into conformity with the domestic requirements. The grade and size requirements are the same as implemented last season. Olives used in limited use styles are too small to be desirable for use as whole or pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles. Their use in such products over the years has helped the California olive industry meet the increasing market needs of the food service industry. The requirements for domestic olives were unanimously recommended by the California Olive Committee (committee), which works with the Department in administering the marketing order program for olives grown in California. The establishment of such requirements for imported olives is required pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: This interim final rule becomes effective September 6, 1989. Comments which are received by October 6, 1989, will be considered prior to issuance of a final rule.

ADDRESSES: Written comments concerning this rule should be submitted in triplicate to the Docket Clerk, F&V Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. All comments submitted will be made available for public inspection in the above office during regular business hours. Comments should reference the docket number and the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96458, Room 2530-S, Washington, DC 20090-6456; telephone (202) 475-3862.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California, hereinafter referred to as the order. 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 interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service 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 seven handlers of California olives subject to regulation under the order and approximately 1,400 producers in California. Approximately 25 importers of olives are subject to the olive import regulation. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Most but not all of the olive producers and importers may be classified as small entities. None of the olive handlers may be classified as small entities.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California with most of the commercial production coming from inland valleys. About 75 percent of the production comes from the San Joaquin Valley and 25 percent from the Sacramento Valley.

Olive production has fluctuated from a low of 24,200 tons during the 1972-73 crop year to a high of 146,500 tons during the 1982-83 crop year. The committee indicated that 1988 production totalled about 84,600 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. The industry expects the 1989-90 crop to be about 97,500 tons.

The primary use of California olives is for canned ripe olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. Very few California olives are exported.

This action will allow handlers to market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the California olive supply, facilitate market expansion, and benefit both growers and handlers.

This interim rule modifies § 932.153 of Subpart—Rules and Regulations (7 CFR 932.108-932.161). The modification establishes grade and size regulations for 1989-90 crop limited use size olives. The modification is issued pursuant to paragraph (a)(3) of § 932.52 of the order. This rule also makes necessary conforming changes in the olive import regulation (Olive Regulation 1; 7 CFR 944.401). The import regulation is issued pursuant to section 8e of the Act. Section 8e provides that whenever grade, size, quality, or maturity provisions are in effect for specified commodities, including olives, under a marketing order, the same or comparable requirements must be imposed on the imports.

Paragraph (a)(3) of § 932.52 of the marketing order provides that processed olives smaller than the sizes prescribed for whole and pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories. The section further provides for the establishment of size tolerances.

To allow handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned

ripe olives, the committee recommended that grade and size requirements again be established for limited use olives for the 1989–90 crop year (August 1, 1989, through July 31, 1990). The grade requirements are the same as those applied during the 1988–89 crop year, as are the sizes and the size tolerances. Permitting handlers to use small olives in the production of limited use style canned olives will have a positive impact on industry returns. In the absence of this action, the undersized fruit would have to be used for non-canning uses, like oil, for which returns are lower. Except for the changes necessary in the effective date, the provisions, hereinafter set forth in § 932.153, are the same as those established last season.

Paragraph (b)(12) of § 944.401 of the olive import regulation allows imported bulk olives which do not meet the minimum size requirements for canned whole and pitted ripe olives to be used for limited use styles if they meet specified size requirements. Continuation of the limited use authorization for California olives by this interim rule requires that similar changes be made in paragraph (b)(12) of § 944.401 to keep the import regulation in conformity with the applicable domestic requirements. These conforming changes will benefit importers because they will be able to import small-sized olives for limited use during the 1989–90 season which ends July 31, 1990.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities because it provides handlers and importers more marketing flexibility.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that authorizing the use of smaller olives in the production of limited use styles will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is found and determined that upon good cause 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 because: (1) Compliance with this action will require no special preparation by handlers and importers; (2) it is important that these requirements apply to as much of the 1989–90 marketing season as possible; (3) the olive import requirements are mandatory under section 8e of the Act; (4) this action relieves restrictions on handlers and importers; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to finalization of this interim final rule.

List of Subjects

7 CFR Part 932

California, Marketing agreements and orders, Olives.

7 CFR Part 944

Fruits, Import regulations, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR parts 932 and 944 are amended as follows.

Note: These sections will appear in the Code of Federal Regulations.

1. The authority citations for 7 CFR parts 932 and 944 continue to read as follows:

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

PART 932—OLIVES GROWN IN CALIFORNIA

2. Section 932.153 is revised to read as follows:

§ 932.153 Establishment of grade and size requirements for processed 1989–90 crop year olives for limited use.

(a) *Grade.* On and after September 6, 1989, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1989, and meet the grade requirements specified in paragraph (a)(1) of § 932.52 as modified by § 932.149.

(b) *Sizes.* On and after September 6, 1989, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1989, through July 31, 1990, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1989, or after July 31, 1990.

(2) Variety Group I olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/90 pound.

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh 1/140 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/180 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

PART 944—FRUITS; IMPORT REGULATIONS

5. Section 944.401 is amended by revising the introductory text of paragraph (b)(12) to read as follows:

§ 944.401 Olive Regulation 1.

* * * * *

(b) * * *

(12) Imported bulk olives when used in the production of canned ripe olives must be inspected and certified as prescribed in this section. Imported bulk olives which do not meet the applicable minimum size requirements specified in paragraphs (b)(2) through (b)(11) of this section may be imported during the period September 6, 1989, through July 31, 1990, for limited use, but any such olives so used shall not be smaller than the following applicable minimum size:

* * * * *

Dated: August 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–20811 Filed 9–5–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 993

[FV–89–062FR]

Expenses and Assessment Rate for Dried Prunes Produced in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate for the 1989–90 crop year under Marketing Order No. 993 for dried prunes produced in California. Authorization of this budget will allow the Prune Marketing Committee (Committee), the agency responsible for local administration of the order, to

incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: August 1, 1989 through July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 993 (7 CFR part 993), hereinafter referred to as the "order," regulating the handling of dried prunes produced 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 final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

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 final rule 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 16 handlers of prunes produced in California subject to regulation under the California prune marketing order and approximately 1,200 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of prune handlers and producers may be classified as small entities.

The marketing order for California prunes requires that the assessment rate for a particular crop year shall apply to all assessable prunes handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the U.S. Department of Agriculture for approval. The members of the Committee are handlers and producers of regulated prunes. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local areas and are, therefore, in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of assessable prunes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and assessment rate are usually acted upon by the Committee shortly before a crop year begins, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 27, 1989, and unanimously recommended 1989–90 crop year expenditures of $250,895 and an assessment rate of $1.39 per salable ton of prunes. In comparison, 1988–89 crop year budgeted expenditures were $248,320 and the assessment rate was $1.60 per ton. Assessment income for 1989–90 is estimated at $250,895 based on a crop of 180,500 salable tons of prunes.

While this final action imposes some additional costs on handlers of California prunes, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new § 993.340 and is based on Committee recommendations and other available information. A proposed rule was published in the **Federal Register** on August 2, 1989 (54 FR 31847). Comments on the proposed rule were invited from interested persons until August 14, 1989. No comments were received.

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

This action should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action, which was recommended by the Committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 993

California, Dried prunes, and Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR Part 993 continues to read as follows:

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

2. Section 993.340 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 993.340 Expenses and assessment rate.

Expenses of $250,895 by the Prune Marketing Committee are authorized, and an assessment rate payable by each handler in accordance with § 993.81 is fixed at $1.39 per ton for salable dried prunes for the 1989–90 crop year ending July 31, 1990.

Dated: August 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–20812 Filed 9–5–89; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 171

[T.D. 89–83]

Customs Regulations Amendment Relating to the Definition of Fraud Under 19 U.S.C. 1592

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to incorporate a revision of the definition of "fraud" in the penalty guidelines for violations of

19 U.S.C. 1592 published as appendix B to part 171 (19 CFR 171, appendix B). The definition of "fraud" is changed by removing the requirement that intent to defraud the revenue of the United States be proven as an element of the violation. This change brings the Customs guidelines into conformity with the current legal requirements applicable to the Government's burden of proof in civil fraud cases. Under the new definition, the critical element necessary to prove the violation is the intent to commit the fraudulent act or omission. The document also modifies the definition of "gross negligence" to maintain the distinctions between the two types of violations.

EFFECTIVE DATE: October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra L. Gethers, Regulatory Procedures and Penalties Division (202–566–8317).

SUPPLEMENTARY INFORMATION

Background

Appendix B to part 171, Customs Regulations (19 CFR part 171, appendix B), sets forth the revised penalty guidelines for violations of 19 U.S.C. 1592. Section 1592 imposes monetary penalties and other sanctions for entering, introducing, or attempting to enter or introduce any merchandise into the commerce of the U.S. by means of any document, written or oral statement, or act which is material and false, or any omission which is material. The guidelines provide for, among other things, mitigation of the monetary penalty according to the degree of culpability involved in the violation of section 1592.

Section (B) of the revised penalty guidelines in appendix B to part 171 lists and defines three degrees of culpability as: negligence, gross negligence, and fraud. In a **Federal Register** notice of December 10, 1986, (51 FR 44483), the Customs Service announced a proposed amendment of the definition of fraud in these guidelines. The guidelines are intended to provide internal guidance to Customs employees, and are not a part of the Customs Service Regulations. Although they are not technically subject to the requirements of the Administrative Procedures Act (5 U.S.C. 553(b)(A)), members of the public were offered the opportunity to submit comments on the proposed amendment to the definition.

As originally proposed, the definition for fraud under section 1592 would have been changed to read:

> A violation is determined to be fraudulent if the material false statement or act in connection with the transaction was committed (or omitted) knowingly, i.e., was done voluntarily and intentionally, and not because of mistake or accident or other innocent reason, as established by clear and convincing evidence.

Discussion of Comments

The Customs Service received sixty-five comments from members of the public. The great majority of these opposed some aspect of the proposed redefinition.

Comment: Several comments expressed concern that by placing the phrase, "as established by clear and convincing evidence" after the phrase, "and not because of mistake or accident or other innocent reason", Customs was changing the burden of proof so that an alleged violator would have to prove his innocence in order not to be accused of fraud.

Response: It was not the intention of Customs to change the Government's burden of proof in such instances. Accordingly, a modification of the definition has been made to clarify this point.

Comment: That "fraud", in general, requires intent to commit an act with knowledge of its consequences and with intent to bring about such consequences.

Response: Since section 1592 is a civil statute, the elements of fraud that must be established for penalties thereunder differ in some respects from those relating to criminal fraud. The required element of intent in civil fraud cases is intent that a representation be made, that it be directed to a particular person or class of persons, that it convey a certain meaning, that it be believed and that it shall be acted upon in a certain way.

By amending the definition of fraud under the guidelines, Customs merely is adhering to the general principle applied in civil fraud cases that "the intent which becomes important is the intent to deceive, to mislead, to convey a false impression." Thus, the intent under the new definition is directed to the making of the false representation or omission, as opposed to causing the consequences of such representation or omission (e.g. duty loss, quota violation, etc.).

Comment: The proposed change to the definition of fraud destroys the distinction between fraud and gross negligence.

Response: Under the new definition of fraud, the degree of culpability of fraud and gross negligence will remain distinguishable. For fraud, Customs still will be required to establish by clear and convincing evidence that the violator knew at the time of the import transaction involved, that the material false statement was made or that a material omission had occurred.

Inasmuch as the phrase, "deliberate intent to defraud the revenue or otherwise violate the law" will not be a part of the new definition of fraud under the guidelines, the phrase, "but without intent to defraud the revenue or violate the laws of the United States", is being eliminated from the definition of "gross negligence" under the guidelines. The latter language no longer will be needed to distinguish the definition of "gross negligence" from the succeeding definition of "fraud" set forth in the guidelines.

Comment: That Congress intended that "fraud" under section 1592, include the element of "intent to defraud the revenue or intent to violate the law", since this was a part of the definition of fraud that existed in the Customs guidelines at the time of the 1978 amendment of the statute.

Response: Customs believes that if Congress had intended that Customs not be free to adopt a definition consistent with the current trends in the law with respect to the degrees of culpability specified in the statute, Congress would have included a definition in the statute. For example, to eliminate the possibility that a lesser burden of proof, i.e. "preponderance of the evidence," might be employed in civil forfeiture cases, Congress specifically required that section 1592 violations based upon fraud be established by the Government by "clear and convincing evidence." (19 U.S.C. 1592(e)(2)) Thus, by its inaction, Congress preserved the agency's ability to define the terms.

Comment: That small importers, brokers, as well as multinational companies, while having good intentions will be more susceptible to penalties and seizures under section 1592 based upon fraud.

Response: Customs does not believe that the size, frequency, or complexity of the importer's business will have any bearing on the decision of whether or not to allege fraud in the prosecution of violations of section 1592. The actions, rather than the identities, of the parties are the determining factors considered by Customs when seizure or other actions are initiated for violations of section 1592.

Determination

After consideration of all the comments received in response to the publication of the notice of proposed

amendment, and upon further review of the matter, it has been determined to adopt the amendments with the modifications discussed.

Executive Order 12291

This is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that these amendments will not have a significant impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 171

Customs duties and inspection, Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

Amendment to the Regulations

Part 171 Customs Regulations (19 CFR Part 171), is amended as set forth below:

PART 171—FINES, PENALTIES AND FORFEITURES

1. The authority citation for Part 171 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624 * * *.

2. Appendix B to part 171 is amended by revising paragraphs (B)(2) and (B)(3) to read as follows:

Appendix B to Part 171—Customs Regulations, Revised Penalty Guidelines, 19 U.S.C. 1592

* * * * *

(B) * * *

(2) *Gross Negligence.* A violation is determined to be grossly negligent if it results from an act or acts (of commission or omission) done with actual knowledge of or wanton disregard for the relevant facts and with indifference to or disregard for the offender's obligations under the statute.

(3) *Fraud.* A violation is determined to be fraudulent if the material false statement or act in connection with the transaction was committed (or omitted) knowingly, i.e., was done voluntarily and intentionally, as established by clear and convincing evidence.

* * * * *

William von Raab,

Commissioner of Customs.

Approved: June 7, 1989.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 89-20797 Filed 9-5-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Selenium Disulfide Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by CEVA Laboratories, Inc., providing for a change from prescription to over-the-counter (OTC) distribution of a selenium disulfide suspension for use on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry eczema, seborrhea, and nonspecific dermatoses.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: CEVA Laboratories, Inc., 7101 College Blvd., Suite 610, Overland Park, KS 66210, filed a supplement to NADA 8-422 providing for OTC distribution of a selenium disulfide suspension for use on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry eczema, seborrhea, and nonspecific dermatoses. The supplement is approved and the regulations in 21 CFR 524.2101 are amended in paragraph (c) and removed in paragraph (d) to reflect the approval. The basis for approval is stated in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 524.2101 [Amended]

2. Section 524.2101 *Selenium disulfide suspension* is amended in the introductory text of paragraph (c) by removing "and 023851" and adding in its place "023851, and 050604", and by removing paragraph (d).

Dated: August 24, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 89-20847 Filed 9-5-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Fenbendazole

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co., providing

for safe and effective use of Safe-Guard™ (fenbendazole) Type A articles to make Type C free-choice vitamin/mineral feeds for cattle.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Route 202–206 North, P.O. Box 2500, Somerville, NJ 08876–1258, filed supplemental NADA 137–600 providing for use of 4 or 20 percent Safe-Guard™ (fenbendazole) Type A articles to make 1.9- and 5-gram-per-pound fenbendazole vitamin/mineral free-choice feeds for use as cattle anthelmintics. The feed is given for 3 to 6 days for a total dose of 5 milligrams fenbendazole per kilogram of body weight (2.27 milligrams per pound) for the removal and control of lungworms and certain stomach and intestinal worms. The supplemental application is approved and the regulations in 21 CFR 558.258(c) are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Fenbendazole is a new animal drug used in a Type A article to make a Type C feed. It is a Category II drug which, as provided in 21 CFR 558.4, requires an approved form FDA–1900 for making a Type C feed from a Type A article as in this NADA as amended and in the regulations in 21 CFR Part 558 as amended.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Section 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.258 is amended by adding new paragraph (c)(3) to read as follows:

§ 558.258 Fenbendazole.

* * * * *

(c) * * *

(3) It is used in free-choice cattle feed as follows:

(i) *Amount.* 5 milligrams fenbendazole per kilogram body weight (2.27 milligrams per pound).

(ii) *Indications for use.* For the removal and control of infections of lungworms (*Dictyocaulus viviparus*), barberpole worms (*Haemonchus contortus*), brown stomach worms (*Ostertagia ostertagi*), small stomach worms (*Trichostrongylus axei*), hookworms (*Bunostomum phlebotomum*), thread-necked intestinal worms (*Nematodirus helvetianus*), small intestinal worms (*Cooperia oncophora* and *C. punctata*), bankrupt worms (*Trichostrongylus colubriformis*), and nodular worms (*Oesophagostomum radiatum*) in cattle.

(iii) *Limitations.* Feed a total of 5 milligrams of fenbendazole per kilogram (2.27 milligrams per pound) of body weight to cattle over a 3 to 6 day period. Retreatment may be needed after 4 to 6 weeks. Do not slaughter within 13 days following last treatment. Do not use in dairy cattle of breeding age. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(iv) May be fed in a Type C feed as follows:

	Percent	International Feed No.
(A) Ingredient:		
Copper sulfate	0.45	6–01–720
Dried Cane Molasses	3.12	4–04–695
Monosodium phosphate	31.16	6–04–288
Salt (sodium chloride)	59.00	6–04–152
Zinc sulfate	0.76	6–05–556
Fenbendazole Type A article (200 grams per kilogram)	5.51	
(B) Ingredient:		
Dicalcium phosphate	32.31	6–00–080
Limestone	17.13	6–02–632
Magnesium oxide	9.79	6–02–756
Zinc sulfate	1.47	6–05–556
Copper sulfate	0.29	6–01–720
Potassium iodide	0.0098	6–03–759
Dried Cane Molasses	0.98	4–04–695
Selenium	0.0002	
Salt	35.93	6–04–152
Fenbendazole Type A article (200 grams per kilogram)	2.09	

(C) The content of any added vitamin and trace mineral may be varied; however, they should be comparable to those used by the firm for other free-choice feeds. Formulation modifications require FDA approval prior to marketing. The amount of selenium must comply with published regulations. For selenium (21 CFR 573.920) up to 120 parts per million in a mixture for free-choice feeding at a rate not to exceed an intake of 3 milligrams per head per day.

Dated: August 29, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 89–20848 Filed 9–5–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule; removal of condition.

SUMMARY: OSMRE is announcing the removal of a condition placed on the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) by the Secretary of the Interior in his conditional approval of the program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This condition, known as condition (b), required Illinois to promulgate regulations or otherwise amend its program to require that, in permanent impoundments, a minimum of 10 meters of water cover the pit floor or the highest exposed coal seam to prevent oxidation of acid-forming materials. Illinois has now repealed the provision precipitating imposition of the condition, thus rendering the condition moot.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 East

Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background
II. Secretary's Findings
III. Public and Agency Comments
IV. Secretary's Decision
V. Procedural Matters

I. Background

On June 1, 1982, the Secretary of Interior conditionally approved the Illinois program. Information pertinent to the general background, revisions, modifications, and amendments to the Illinois program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883 *et seq.*). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 913.15, 913.16, and 913.17.

II. Secretary's Findings

As originally submitted to OSMRE, the Illinois program at 62 IAC 1816.103(a)(1) allowed the creation of permanent "last cut lake" impoundments, provided the pit floor and highest exposed coal seam were covered with a minimum of four feet of water. While the Secretary found merit in the general concept of covering acid-forming materials with water to prevent oxidation, he also found that technical studies had demonstrated that a minimum water depth of 9 meters (29.5 feet) was necessary to do so.

Therefore, the Secretary, with the State's concurrence, imposed condition (b) on his approval of the Illinois program. As codified at 30 CFR 913.11(b), condition (b) required the State to submit promulgated regulations or otherwise amend its program to require that the pit floor and highest coal seam be covered with a minimum of 10 meters (33 feet) of water. It also specified that, pending completion of the above, Illinois could not approve impoundments in which these materials would be covered with less than 10 meters of water.

By letter dated March 28, 1986 (Administrative Record No. IL–1028), Illinois submitted a major regulatory reform package, which it subsequently revised and resubmitted on May 22, 1987 (Administrative Record No. IL–1029A). With a few exceptions, the Director approved the revised regulations on October 25, 1988 (53 FR 43137). As part of this package, Illinois repealed 62 IAC 1816.103(a)(1), which originally resulted in the imposition of condition (b), and replaced it with new 62 IAC 1816.102(f), which requires exposed coal seams to be "adequately covered with nontoxic and noncombustible materials." Since this language is identical to that of the corresponding Federal rule at 30 CFR 816.102(f), and since the State has deleted those provisions of its program authorizing the creation of permanent impoundments with less than adequate cover, the Secretary finds that Illinois has satisfied the requirements of 30 CFR 913.11(b).

III. Public and Agency Comments

Pursuant to 30 CFR 732.17(b)(3) and (11)(i), the Director solicited comments on both the March 28, 1986, proposed amendments and the May 22, 1987, revisions from the public and various Federal agencies with an actual or potential interest in the Illinois program (51 FR 23858, May 9, 1986, and 52 FR 24035, June 26, 1987). No substantive comments regarding condition (b), the repeal of 62 IAC 1816.103(a)(1), or the addition of 62 IAC 1816.102(f) were received. Since no one requested an opportunity to testify at a public hearing, none was held.

In addition, as announced in the May 19, 1989, **Federal Register** (54 FR 21630), OSMRE provided a separate public comment period and opportunity to request a public hearing on the removal of condition (b). No comments or request for a hearing were received either during or after this comment period, which closed June 19, 1989.

IV. Secretary's Decision

Based on the above finding, the Secretary is removing the condition of approval of the Illinois program codified at 30 CFR 913.11(b) and is amending 30 CFR part 913 to implement this decision. This final rule is being made effective immediately since consistency of State and Federal standards is required by SMCRA.

V. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

2. *Executive Order 12291 and the Regulatory Flexibility Act:* On July 12, 1984, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that the removal of this condition 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.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 29, 1989.

Scott Sewell,

Deputy Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 913.11 [Removed]

2. Section 913.11 is removed in its entirety.

[FR Doc. 89–20819 Filed 9–5–89; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of Army

32 CFR Part 518

[Army Regulation 340–17]

Release of Information and Records From Army Files; Special Designation of Initial Denial Authority; Correction

AGENCY: Department of the Army, DOD.

ACTION: Final rule; correction.

SUMMARY: The Department of the Army published on May 2, 1989, 54 FR 18653 a revision relating to the release of information and records from Army Files. This document corrects the paragraph designation which was incorrectly listed.

FOR FURTHER INFORMATION CONTACT: John O. Roach, II, Army Liaison Officer with the Federal Register, (202) 325–6277.

§ 518.15 [Corrected]

Correction

In FR Doc. 89–10460, published May 2, 1989, on page 18653, the following correction is made to § 518.15 by correctly designating paragraph (a)(4)(xix) as (a)(4)(xxv).

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 89–20977 Filed 9–5–89; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3640–1]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: USEPA announces final approval of a revision to the Wisconsin State Implementation Plan (SIP) for sulfur dioxide (SO_2). The revision consists of the incorporation of section NR 154.12(6) of the Wisconsin Administrative Code (WAC), Milwaukee Sulfur Limitations, into the Wisconsin SIP. The revision sets SO_2 emission limits for large electric utility sources in the City of Milwaukee, and provides a compliance schedule for meeting these limits. USEPA's action is based upon a SIP revision request that was submitted by the Wisconsin Department of Natural Resources (WDNR) on January 23, 1984. A notice of proposed rulemaking on this revision appeared in the August 17, 1984, **Federal Register** (49 FR 32865).

EFFECTIVE DATE: This final rulemaking becomes effective on October 6, 1989.

ADDRESSES: Copies of this revision to the Wisconsin SIP are available for inspection at: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886–6031, before visiting the Region V office).

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of this SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886–6034.

SUPPLEMENTARY INFORMATION:

Background

In today's final rulemaking action, USEPA is approving a revision to the Wisconsin SIP consisting of sections NR 154.12(6)(a) and NR 154.12(6)(b) of the WAC NR 154.12(6).[1] Section NR 154.12(6)(a) modifies the SIP to limit the SO_2 emissions of all large (greater than 250 million BTU heat input per hour) electric utility plants in the City of Milwaukee, on which construction or modification was begun prior to December 1, 1983.

This SIP revision specifies emission limits based on the type of fuel used. The emission limits are as follows:

Type of fuel	Emission limit
Solid fossil fuel or coal	3.28 lbs. of SO_2/MMBTU.
Residual fuel oil (fuel oil #6)	1.60 lbs. of SO_2/MMBTU.
All other fuels (fuel oil #2 and natural gas).	0.50 lbs. of SO_2/MMBTU.
Combination of fuels	Weighted average of the individual emission limits for each fuel type, based on the percentage of each fuel type in the fuel combination.

The WEPCo Valley Station, which burns coal, is subject to these emission limits, this is the only major SO_2 source in the area. USEPA has reviewed the State's technical support document, including the modeling analysis, which was submitted to USEPA with the SIP revision request. Based on the dispersion modeling used to set the SO_2 limits for the Milwaukee nonattainment area, USEPA has determined that a 3.28 lbs. of SO_2 per million BTU emission limitation for the WEPCo Valley Station will protect the constraining 24-hour standard, as well as the 3-hour and annual standards, thus ensuring attainment of the SO_2 National Ambient Air Quality Standards (NAAQS) in the Milwaukee area. The determination was based on a block average interpretation of the SO_2 NAAQS. Other SO_2 sources in Milwaukee County will be governed by SIP provisions such as the Wisconsin Statewide SO_2 Rule, when it is approved, and applicable New Source Review requirements.

The model technique used in the demonstration supporting this revision are based on modeling guideline in place at the time the analysis was performed (i.e. USEPA guideline 1978). Since that time, the revision has been promulgated (September 7, 1985). Since the model was completed prior to publication of revised guidance, USEPA accepts the analysis as it stands.

Section NR 154.12(6)(b) of Wisconsin's proposed SIP revision sets a compliance timetable by which compliance with the proposed emission limits must be achieved. The schedule begins on December 1, 1983, and ends on November 9, 1985, with interim milestones for compliance plan submittal, contracting, and construction. If compliance is achieved through fuel switching, however, then effective compliance is required by August 9, 1985. USEPA is approving this timetable because it is consistent with USEPA policy, as contained in "Guidance Document for Correction of Part D SIP's for Nonattainment Areas" (January 27, 1984) and "Compliance with the Statutory Provisions of Part D of the Clean Air Act, Final Rule" (48 FR 50686), and the requirements of the Clean Air Act.

The compliance test method for the emission limitations is Method 6 stack test (see 40 CFR Part 60 appendix A), this test method was approved by USEPA on May 31, 1972 (37 FR 10842), for the State and it remains in effect for these emission limitations.

On July 8, 1985 (50 FR 27892), USEPA promulgated Stack Height Rules, pursuant to section 123 of the Clean Air Act. These rules do not apply to stack heights "in existence" before December 31, 1970. A stack is "in existence" if the owner or operator had, by December 31, 1970: (1) Begun a continuous program of physical on-site construction of the stack; or, (2) entered into a binding agreement or contractual obligation, which could not be cancelled or modified without substantial loss, to undertake a program of stack construction to be completed within a reasonable time.

On October 7, 1985, the WDNR certified that the two existing stacks (serving four boilers) at WEPCo's Valley plant were "in existence" prior to December 31, 1970. Thus, the physical

[1] NR 154.12(6) was recodified without substantive changes to NR 416.04. For the purposes of this notice, USEPA is using the original codification numbers for the preamble, because that is how the rule was originally submitted to USEPA and proposed by us. However, USEPA is using the recodified number for the purpose of incorporating the rule into the SIP, because the rule with this codification is that which the State currently has the authority to enforce.

stack height for these two stacks is not subject to the Stack Height Rules and is fully creditable. Credit for merged gas streams is also allowed, because dispension techniques, such as merging gas streams, instituted before December 31, 1970, are "grandfathered" under Section 123 of the Clean Air Act, and the merging at WEPCo's Valley plant was part of the original facility construction and occurred before December 31, 1970.

Discussion of Comments

No public comments on the August 7, 1984, proposed rulemaking were received during the designated comment period. However, some two years later the Natural Resources Defense Council (NRDC), submitted a letter commenting on the proposal, and the Utility Air Regulatory Group (UARG) filed responsive comments. Both submissions were confined to the issue of averaging methods. USEPA will respond to those comments here.

NRDC argues that "USEPA may not lawfully approve the WEPCo Valley Station emission limits as adequate to attain and maintain the SO_2 NAAQS based on a 'block' average modeling analysis". NRDC also incorporated by reference several other letters sent to USEPA by NRDC in 1984 which address the issue of block versus running averages. In this correspondence NRDC argues that the use of block averages violates Section 110 of the Clean Air Act, which requires that emission limitations ensure attainment and maintenance of the air quality standards, and further, that running averages are the Agency's officially adopted interpretation of the NAAQS.[2]

USEPA disagrees with NRDC's comments. In 1971 USEPA promulgated NAAQS for sulfur oxides. The primary standard was to be measured on both an annual and 24-hour basis, and the secondary standard measured on a 3-hour basis. Since the inception of the standard in 1971 it has been USEPA's general practice to use block averages to determine attainment of the NAAQS for SO_2. In 1981 the D.C. Circuit issued an opinion in *PPG Industries, Inc.* v. *Costle*, 659 F.2d 1239 (D.C. Cir. 1981), which held that in rules implementing a national ambient air quality monitoring system USEPA could not change the NAAQS measurement method to running averages without meeting notice requirements of the Administrative Procedure Act.

[2] Letter from David Hawkins, NRDC, to Gary Gulezian, USEPA, Region V, regarding proposed actions on PPG Barberton Plant, and Ohio Power Muskingum River Plant, November 21, 1984.

From late 1985 to March 1986 USEPA conducted internal discussions concerning whether the long-standing use of block averages in SO_2 NAAQS implementation should be continued. As a result, on March 28, 1986, the Director of the Office of Air Quality Planning and Standards (OAQPS) issued a memo and supporting staff paper explaining the Agency's longstanding policy of accepting block averages and announcing that block averages were proper and would continue to be accepted. The memorandum also made it clear that in accordance with Section 116 of the Clean Air Act, States were free to submit plans to USEPA on the basis of either block or running averages.

In May 1988 the D.C. Circuit issued an opinion in *NRDC.* v. *Thomas*, 845 F.2d 1088 (D.C. Cir. 1988) dismissing NRDC's petition for review of the March 28, 1986, OAQPS memorandum. In that case, the D.C. Circuit stated that the status quo recognized in *PPG Industries* established that "block averages are a proper practice". 845 F.2d at 1094. Furthermore, the Court stated that USEPA must not act inconsistently with the D.C. Circuit's prior opinion in PPG Industries, which held that in order to require running averages, rulemaking would be necessary. 659 F.2d at 1250. Thus, contrary to NRDC's claims, USEPA's approval of Wisconsin's SIP submission based on block averages is appropriate and in accordance with law.

UARG's comments supported USEPA's approval of the Wisconsin submission. However, USEPA disagrees with UARG's contention that block averages are the only legal interpretation of the SO_2 NAAQS. As the OAQPS memorandum stated, the States are free, under Section 116 of the Clean Air Act, to provide more stringent requirements than USEPA. Also, the *NRDC* v. *Thomas* decision indicated that until rulemaking is conducted limiting the averaging method to one type or the other, USEPA should accept submissions from the States using either one.

Conclusion

USEPA reviewed NR 154.12(6)(a) and concluded that the emission limit of 3.28 lbs. of SO_2 per million BTU proposed for WEPCo's Valley Generating Station would attain and maintain the SO_2 NAAQS. In addition, USEPA concluded that the compliance schedule set forth in NR 154.12(6)(b) was consistent with USEPA policy and the Clean Air Act requirements. Therefore, on August 17, 1984 (49 FR 32865), USEPA published a rulemaking action proposing to approve Section NR 154.12(6). The comments received have not persuaded USEPA to change its position. Thus, USEPA is taking final action to approve this revision to the Wisconsin SIP.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur oxides, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 28, 1989.

F. Henry Habicht,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Wisconsin

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2570 is amended by adding paragraph (c)(38) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(38) On January 23, 1984, the Wisconsin Department of Natural Resources (WDNR) submitted SO_2 emission limits for large electric utility sources located in the City of Milwaukee, Milwaukee County, Wisconsin.

WDNR recodified the rule and on October 23, 1987, submitted it as recodified.

(i) Incorporation by reference.

(A) Wisconsin Administrative Code, Natural Resources (NR) 418.04 as found at (Wisconsin) Register, September 1986, No. 369, effective October 1, 1986.

[FR Doc. 89–20868 Filed 9–5–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 148 and 268

[FRL-3641-2]

Land Disposal Restrictions; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On August 17, 1988, EPA published regulations promulgating the congressionally-mandated prohibitions on land disposal of certain hazardous wastes listed in 40 CFR 268.10 (First Third wastes). On May 2, 1989, EPA published a rule amending certain of the "No Land Disposal" standards promulgated in the First Third final rule. This notice corrects errors and clarifies the language in the preamble and regulations of the August 17, 1988 final rule, and makes several corrections required by the May 2, 1989 rule.

EFFECTIVE DATE: This rule is effective on September 6, 1989.

ADDRESSES: The OSW docket is located at the following address, and is open from 9:30 to 3:30, Monday through Friday, excluding Federal holidays: EPA RCRA Docket (M-2427)(OS-305), 401 M Street, SW., Washington, DC 20460.

The public must make an appointment by calling (202) 475-9327 to review docket materials. Refer to Docket numbers F-88 LDR9-FFFFF and F-89-LD10-FFFFF when making appointments to review any background documentation for this rulemaking. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost; additional copies cost $0.20 per page. Copies of not easily obtainable references are available for viewing and copying only in the OSW docket.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (800) 424-9346 (toll-free) or (202) 382-3000 in the Washington, DC metropolitan area. For technical information contact Wanda LeBleu, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7392.

SUPPLEMENTARY INFORMATION:

I. Reasons and Basis for Today's Amendment

The Agency's on-going review of the clarity and accuracy of the existing hazardous waste regulations has resulted in the need to make a number of corrections and clarifications in today's rule.

Any correspondence regarding these corrections and clarifications should be sent to Wanda LeBleu at the address shown in the **"FOR FURTHER INFORMATION CONTACT"** section of this notice.

II. Summary of Clarifications and Corrections to the First Thirds Final Rule

1. In the preamble to the final rule (53 FR 31144), third column, fourth line from the top, "provisions of § 268.8." is a typographical error and in today's notice it is corrected to read "prohibitions of § 268.33(f).".

2. Certain issues have arisen regarding the use of a cost test to satisfy the requirement applicable to soft hammer wastes to utilize the best treatment practically available as an alternative to landfill or surface impoundment disposal. RCRA section 3004(g)(6). EPA interpreted this requirement to mandate use of practically available treatment that provides the greatest environmental benefit. Section 268.8(a)(1). In assessing whether treatment is practically available, EPA stated that considerations of cost could be considered, and offered by way of guidance a particular cost ratio (if treatment costs are double or more than the cost of disposal). 53 FR 31182. EPA reemphasizes here, however, as it did in the preamble to the August 17, 1988 rule, that this cost ratio is not a binding rule and therefore does not automatically mean that treatment that costs double the cost of current disposal is not practically available. *Id.* Nor are cost considerations the only ones that are relevant. Other factors that EPA considers are technical feasibility, previous practices of the generator submitting the demonstration and certification, that entity's size and financial status, and other case-specific considerations. *Id.* at 31182-83; *see also* Letter of J. Winston Porter, Assistant Administrator of the Office of Solid Waste and Emergency Response to the Regional Administrators, October 19, 1988 (also detailing that the cost ratio is only one of a number of factors that the Agency will consider).

3. In both the preamble to the final rule (53 FR 31171) and in § 268.43(a), EPA set treatment standards for hazardous waste number K101 wastewaters and low arsenic nonwastewaters, and for K102 wastewaters and low arsenic nonwastewaters. K101 and K102 high arsenic nonwastewaters have no promulgated treatment standards and are prohibited from landfill and surface impoundment disposal under the soft hammer provisions. Section 268.33(a) lists only those wastes for which treatment standards have been promulgated and, therefore, only K101 wastewaters and low arsenic nonwastewaters and K102 wastewaters and low arsenic nonwastewaters should be included in § 268.33(a). Today's notice corrects these errors.

4. On May 2, 1989, EPA amended the treatment standards for a number of First Third nonwastewaters for which the promulgated treatment standard was no land disposal. 54 FR 18836. The no land disposal standard applies only to wastes generated from the process described in the waste's listing description and disposed after August 17, 1988. EPA rescheduled all other forms of these wastes to the Third Third. *Id.* EPA, however, omitted to cross-reference these revisions in section 268.33(a), the regulation codifying First Third waste prohibitions. Today's correction adds this crossreference.

In addition, EPA rescheduled all K015 and K083 nonwastewaters to the Third Third as part of the May 2, 1989 notice. EPA is thus removing these wastecodes from § 268.33(a).

5. In the preamble to the final rule (53 FR 31145 and 31186), the Agency stated that First Third wastes for which treatment standards or effective dates have not been promulgated, as well as national capacity variance wastes, that are disposed of in a landfill or surface impoundment, must be disposed of in a landfill or surface impoundment unit (as opposed to facility) that is in compliance with the minimum technological requirements of RCRA Section 3004(o). This interpretation of minimum technological requirements was recently upheld in *Mobil Oil* v. *EPA*. 871 F. 2d 149 (D.C. Cir. 1989). In § 268.5(h)(2), the Agency stated that these restricted wastes must be disposed of in a landfill or surface impoundment unit that meets the minimum technological requirements of parts 264 and 265. The Agency intended that the language of § 268.5(h)(2) apply to all existing landfill and surface impoundment units as well as new, replacement, and lateral expansion units. However, § 268.5(h)(2)(i) and (ii) refer to § 265.301 and § 264.301, respectively, which apply only to new, replacement, and lateral expansion units. Thus, § 268.5(h)(2) can improperly be construed as not applying to existing units. Today's notice clarifies this issue by modifying § 268.5(h)(2) to specify that all landfill and surface impoundment units where these wastes are disposed are within the scope of that section.

6. In the preamble to the final rule (53 FR 31200), the Agency inadvertently stated that commenters and applicants

for site-specific treatability variances should write to the Assistant Administrator for the Office of Solid Waste and Emergency Response. These commenters and applicants should send their materials to the Administrator, or his delegated representative. Today's notice corrects this error.

7. EPA included in the proposed and final regulations an extended discussion of the meaning and ramifications of the respective terms "restricted" and "prohibited" hazardous wastes (53 FR 17620 (May 17, 1988) and 53 FR 31208–09 (August 17, 1988)). This discussion was essentially accurate, but contains several features requiring further clarification. In some cases, clarifying rule changes are necessary to match the preamble language.

In the preamble (53 FR 31208), EPA indicated that restricted wastes are those that are prohibited from land disposal by either statute or regulation, "regardless of whether subcategories of such wastes are subject to a § 268.5 extension, § 268.6 'no migration' exemption, or national capacity variance, any of which makes them currently eligible for land disposal." EPA did not intend to imply that these three enumerated circumstances are the only ones to consider in determining whether a waste is "restricted." Thus, the correct formulation is that any hazardous waste that is exempt from a prohibition on some form of land disposal, but nevertheless subject to at least one type of prohibition, is still "restricted." An example not mentioned in the preamble is a waste going to an underground injection well if such a waste is prohibited from one or more other methods of land disposal. Another example is a soft hammer waste, which is prohibited under § 268.8 from disposal in some landfills and impoundments, but not prohibited from other methods of land disposal (e.g., land treatment units). EPA is consequently amending this paragraph of the preamble to make this point more clear.

EPA, however, has never intended to regulate certain wastes under the land disposal restriction program, even though the August 17, 1988 preamble technically characterized such wastes as "restricted" hazardous wastes. These wastes are farmers' wastes being disposed of on a farmer's own land, conditionally exempt small quantity generator wastes, and newly listed or identified wastes for which EPA has not promulgated a regulatory land disposal prohibition within six months of the final rule identifying or listing the waste. The regulations are already clear that conditionally exempt small quantity generator wastes and certain farmer wastes are not subject to any provisions of part 268 (see § 261.5 (b), (c), (e), (f), and (g), and § 262.70), and EPA has certainly never suggested that newly identified or listed wastes become subject to part 268 requirements until EPA promulgates regulations prohibiting such wastes from land disposal. EPA is adding clarifying regulatory language today to make this point absolutely clear.

EPA also suggested in the preamble that restricted wastes would invariably be subject to the prohibitions on storage and on dilution (53 FR 31209). Although generally true, this overstates the case for certain wastes that are not subject to or are exempt from a land disposal prohibition, and that are actually disposed using a method allowed by the regulations or statute. Examples are soft hammer wastes not destined for landfill or impoundment disposal, or wastes subject to national capacity variances. As written, both the preamble discussion and the regulations subject these wastes to the dilution and storage prohibitions (through the use of the term "restricted" in section 268.3 and the broad introductory language in § 268.50(a) and a limited number of exceptions in § 268.50(d)). This was not EPA's intent. The general principle is that the dilution and storage prohibitions apply only if the waste is disposed by a prohibited method of land disposal. There is no reason to prohibit dilution or storage if the waste can be land disposed by a method that is not prohibited. For example, conditionally exempt small quantity generator wastes (as defined by § 261.5) can be diluted or stored for any length of time before being land disposed, because such wastes are not subject to the land disposal prohibitions. The Agency is consequently using this opportunity to clarify the preamble language regarding § 268.3 and correcting the language of § 268.50 to be consistent with this overall principle. (EPA does not believe that the regulatory language of § 268.3 requires any change, because that provision is written essentially in terms of a person's diluting as a means of avoiding a prohibition—which language applies only if there is a prohibition to be avoided. The regulatory language in § 268.3 continues to apply provided it is interpreted in accord with the above paragraph and the paragraph that follows.)

EPA cautions, however, that if a person dilutes a restricted waste which is not subject to a land disposal prohibition when diluted but which becomes subject to a land disposal prohibition before it is land disposed, the § 268.3 dilution prohibition could apply. For example, if generator A dilutes a national capacity variance waste before the expiration of the variance but disposes of it after the variance expires, EPA may consider the dilution to have been for the purpose of avoiding a prohibition and therefore impermissible. The following chart summarizes which restricted wastes are subject to the dilution prohibition and the storage prohibition. It also clarifies which restricted wastes are subject to the waste analysis and tracking requirements.

Waste	Waste analysis and tracking (§ 268.7)	Dilution (§ 268.3)	Storage (§ 268.50)
National capacity variance (Subpart C)	YES	NO*	NO
Case-by-case extension (§ 268.5)	YES	NO*	NO
No migration exemption (§ 268.6)	YES	NO*	NO
Soft hammer wastes:			
a. disposed in landfill or impoundment	YES	YES	NO
b. disposed by another method	YES	NO*	NO
Wastes injected underground where there is a treatment standard applicable to one or more other methods of land disposal.	YES	NO*	NO
Wastes treated in § 268.4 impoundments	YES	YES	YES
Conditionally Exempt Small Quantity Generator wastes (§ 261.5)	NO	NO	NO
Farmer disposing on own land (§ 262.70)	NO	NO	NO
Newly identified or listed wastes for which EPA has not promulgated a treatment standard	NO	NO	NO
Wastes that meet all applicable treatment standards and prohibition levels	YES	NO	NO

YES = subject to regulatory requirement; NO = not subject.

* These wastes are not subject to the dilution prohibition in § 268.3 if they are disposed using a permissible method of land disposal during the period of the variance, extension, or exemption.

8. EPA stated in the preamble to the final regulation that "soft hammer" wastes (*i.e.*, First Third or Second Third wastes for which treatment standards are not established by August 8, 1988 and June 8, 1989, respectively) that are not being disposed in landfills or surface impoundments remain subject to the tracking requirements in § 268.7 (53 FR 31209)). EPA had also indicated at proposal that § 268.7 would apply to all soft hammer wastes (53 FR 11765, April 8, 1988). A tracking requirement is necessary for these wastes in order to provide a consistent method of tracking all restricted wastes, and to inform facilities receiving the wastes of other applicable regulatory requirements (*id.*).

The regulatory language codifying these statements, however, could be read as applying only to soft hammer wastes that are destined for disposal in landfills and surface impoundments. See § 268.7(a)(4). This is because § 268.7(a)(4) cross-references § 268.33(f), which in turn cross-references § 268.8, both of which can be read to apply only to soft hammer wastes intended for landfill and surface impoundment disposal. In order to ensure that the regulations more clearly reflect EPA's intent that tracking is required for all soft hammer wastes (as proposed and as discussed in the final preamble), EPA is amending § 268.7(a)(4) to make this requirement clear.

9. Section 268.7(b)(6) of the regulations was added as part of the First Third rule to clarify the certification and notification obligations of a treatment, storage, or disposal facility that sends its prohibited wastes to another treatment facility or storage facility rather than to a land disposal facility. Today's notice reiterates that § 268.7(b)(6) does not relieve treatment facilities of their testing obligations, which are set out in the introductory paragraph of § 268.7(b). Thus, they must continue to test at the frequency specified in their waste analysis plan.

10. A number of commenters found § 268.8 to be confusing; this probably was due to the fact that the provisions covering the certification/demonstration requirements were spread out in several regulatory paragraphs. Today's notice rearranges § 268.8 to consolidate these requirements.

11. In the preamble to the final rule (53 FR 31185), EPA stated that the owner or operator of a TRSF (treatment, recovery, or storage facility) must, only for the initial shipment of a soft hammer waste, send a copy of the generator's demonstration and certification and the TRSF's certification (if applicable) to the disposal facility receiving the waste or treatment residues. Subsequent shipments generally require only the certifications. Section 268.8(c)(2) does not explicitly state this point. Today's notice revises § 268.8(c)(2) to state that the demonstration requirements only apply to the initial shipment of a soft hammer waste.

However, it should be noted that if there are any changes in the conditions that formed the basis of the demonstration and certification(s), the generator must notify the Regional Administrator of the changes (see § 268.8(b)(1)). EPA indicated in the preamble that the generator would also have to prepare a new demonstration and certification to account for these changed circumstances (52 FR 31185). The TRSF must send this new demonstration, along with the applicable certifications, to the receiving facility along with the initial shipment of the waste after the change in circumstances.

12. In § 268.8(d) of the final rule, "under § 263.33(f)" is a typographical error and should read "under § 268.33(f)". Today's notice corrects this error.

13. In the preamble to the final rule (53 FR 31145), wastewaters are defined as wastes that contain less than 1% total organic carbon (TOC) and less than 1% total suspended solids (TSS). The preamble then goes on to use the terms TSS and total filterable solids interchangeably. These terms are not necessarily the same. TSS corresponds to a test method called the Non-filterable Residues Test (Method No. 160.2, Methods for Chemical Analysis of Water and Wastes, EPA–600/4–79–020, March, 1983). The term filterable solids refers to a different test method called the Filterable Residues Test. The Agency intended the use of only TSS (and the Non-filterable Residues Test) to determine whether a waste is a wastewater. Today's notice clarifies this ambiguity in the preamble. Section 268.12(b) of the final rule refers only to TSS and does not need to be changed.

14. In § 268.32(f) of the final rule, "if such disposal" is a typographical error and should read "if such unit". Today's notice corrects this error.

15. In the final rule (53 FR 31217), second column, in § 268.33(f), "of this part are not applicable," and "or surface impoundment unless the wastes are the subject of a valid demonstration and certification pursuant to § 268.8." have typographical errors and should read "of this part have not been promulgated," and "or surface impoundment unless a demonstration and certification has been submitted pursuant to § 268.8.", respectively. Today's notice corrects these errors.

16. Section 268.6(f)(1) indicates that a consequence of detecting migration of hazardous constituents at a unit which has received a no migration variance is that receipt of "restricted" waste at the unit must be suspended. The reference to "restricted" wastes is erroneous, and EPA intended the slightly less broad term "prohibited" waste. (*See* § 286.6(f)(3), a parallel provision, where EPA used the correct term "prohibited".) Use of the term "restricted" would, for example, prevent the unit from receiving treated soft hammer wastes or wastes that are subject to a type of capacity variance. The Agency did not intend to impose such requirements and is therefore correcting the error.

17. EPA amended § 266.20 to provide that materials that are recycled by being used in a manner constituting disposal would be exempt from subtitle C regulation only if they meet the treatment standards for every prohibited hazardous waste that they contain. 53 FR 31212 and 53 FR 31197–98 (preamble). EPA also stated that fertilizers produced from waste K061 continued to be exempt from subtitle C regulation. *Id.*

In codifying these provisions, however, EPA inadvertently deleted the final sentence of the pre-existing § 266.20, which provided that "[c]ommercial fertilizers produced for the general public's use that use recycled materials also are not presently subject to regulation." It is clear from the preamble (cited above) that the result EPA intended was for all such fertilizers (except those produced from waste K061 and not containing any other hazardous waste) to remain exempt from subtitle C regulation provided that they meet applicable treatment standards for every hazardous waste that they contain. In other words, such fertilizers would be subject to the same regulatory requirements as all other prohibited wastes being used in a manner constituting disposal. EPA consequently is correcting the regulatory language to achieve this result.

EPA also notes that commercial fertilizers that are produced from waste K061 are not subject to the tracking requirements in § 268.7(b)(8) for other wastes that are used in a manner

constituting disposal. EPA meant the reference in § 268.7(b)(8)—"subject to the provisions of § 266.20(b)"—to refer to wastes that are subject to substantive provisions of § 266.20(b), namely those required to meet substantive treatment standards. EPA is amending § 268.7(b)(8) to state that the tracking provision applies to wastes used in a manner constituting disposal that must meet treatment standards.

EPA also is adding a conforming subparagraph (4) to § 268.7(c) to cross-reference the determination that users of waste-derived products used in a manner constituting disposal are not subject to § 268.7 with respect to these wastes (and assuming the wastes meet all applicable treatment standards). See 53 FR 31198, August 17, 1988.

EPA also is changing the inaccurate parenthetical reference in § 266.20(b) to "hazardous waste constituent" as synonymous to "recyclable material" to the correct "hazardous waste." See § 261.6(a).

18. In § 268.33(g) of the final regulation, EPA indicated, incorrectly, that initial generators could determine whether they are in compliance with applicable first third treatment standards only by testing their waste. In fact, EPA's rules have stated since the inception of the land disposal prohibition program that generators also have the option of determining if the waste meets a treatment standard based on their own knowledge of the waste. Section 268.7(a). EPA is correcting § 268.33(g) to include this option, and to correct the unintended inconsistency with § 268.7(a). (Of course, a generator who also treats is subject to the testing requirements of § 268.7(b).)

III. Rationale for Immediate Effective Date

Today's notice does not create any new regulatory requirements. Rather, it restates and clarifies existing requirements by correcting a number of errors in the August 17, 1988 final rule (53 FR 31138) and the May 2, 1989 rule (54 FR 18836). For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 9903(b)(3), to provide for an immediate effective date. In addition, there already was full opportunity to comment on all of these issues during the rulemaking so that further comment is unnecessary. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3)(B) to promulgate today's corrections in final form and that there is good cause under 5 U.S.C. 533(d)(3) to waive the requirement that regulations be published at least 30 days before they become effective.

Finally, EPA notes that although it is not withdrawing any existing regulatory language, all of today's revisions operate prospectively.

IV. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. Due to the nature of this regulation (technical correction), the amendment is not "major"; therefore, no Regulatory Impact Analysis is required.

List of Subjects

40 CFR Part 148

Environmental protection, Hazardous materials, Imports, Insurance, Labeling, Packaging and containers, Recycling, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: August 29, 1989.

Jonathan Z. Cannon,

Acting Assistant Administrator for Solid Waste and Emergency Response.

The following corrections are made in the preamble to SWH–FRL–3420–4, the Hazardous Waste Management System; Land Disposal Restrictions; Final Rule, published in the **Federal Register** on August 17, 1988 (53 FR 31138):

1. On page 31144, third column, fourth line from the top, "provisions of § 268.8.", should read "prohibitions of § 268.33(f).".

2. On page 31145, third column, 21st line from the top, "(*i.e.*, total filterable solids)" should read "(TSS)".

3. On page 31145, third column, second paragraph, fifth line, "filterable solids content (*i.e.*, total suspended solids (TSS) levels)," should read "TSS levels".

4. On page 31145, third column, second paragraph, eighth line and 14th line, "filterable solids" should read "suspended solids".

5. On page 31145, third column, second paragraph, 11th line, "filtered solids" should read "suspended solids".

6. On page 31200, second column, 14th line from the bottom, "Assistant Administrator for the Office of Solid Waste and Emergency Response" should read "Administrator, or his designated representative,".

7. On page 31200, second column, 3rd line from the bottom, and third column, 7th line from the top, "Assistant Administrator (or Regional Administrator, if authority is delegated)" should read "Administrator, or his designated representative,".

8. On page 31208, third column, the second paragraph should read as follows:

"Restricted" wastes are those categories of hazardous wastes that are prohibited from one or more methods of land disposal either by regulation or statute (regardless of whether subcategories of such wastes are subject to a § 268.5 extension, § 268.6 "no migration" exemption, or any other exemption, any of which makes them currently eligible for one or more methods of land disposal). In other words, a hazardous waste is "restricted" no later than the date of the first automatic prohibition established in, or pursuant to, RCRA section 3004 (d), (e), (f), or (g).

The following corrections are made in the rules for SWH–FRL–3420–4, the Hazardous Waste Management System; Land Disposal Restrictions; Final Rule, published in the **Federal Register** on August 17, 1988 (53 FR 31138):

§ 266.20 [Corrected]

9. On page 31212, first column, § 266.20(b) is revised to read as follows:

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in Subpart D of Part 268 (or applicable prohibition levels in § 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (*i.e.*, hazardous waste) that they contain. Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation."

§ 268.1 [Corrected]

10. In § 268.1(c), the introductory text is revised by changing "prohibited" to "restricted", §§ 268.1(c)(3) and 268.1(c)(4) are removed, and a new § 268.1(e) is added to read as follows:

(e) The following hazardous wastes are not subject to any provision of part 268:

(1) Waste generated by small quantity generators of less than 100 kilograms of non-acute hazardous waste or less than 1 kilogram of acute hazardous waste per month, as defined in § 261.5 of this chapter;

(2) Waste pesticides that a farmer disposes of pursuant to § 262.70;

(3) Wastes identified or listed as hazardous after November 8, 1984 for which EPA has not promulgated land disposal prohibitions or treatment standards.

§ 268.5 [Corrected]

11. On page 31213, third column, § 268.5(h)(2) is revised to read as follows:

(h) * * *

(2) Such hazardous waste may be disposed in a landfill or surface impoundment only if such unit is in compliance with the technical requirements of the following provisions regardless of whether such unit is existing, new, or a replacement or lateral expansion.

§ 268.6 [Corrected]

12. On page 31213, second column, § 268.6(f)(1) is revised to read as follows: "(1) Immediately suspend receipt of prohibited waste at the unit, and".

§ 268.7 [Corrected]

13. On page 31213, third column, § 268.7(a)(3) is revised to read as follows:

(a) * * *

(3) If a generator's waste is subject to an exemption from a prohibition on the type of land disposal method utilized for the waste (such as, but not limited to, a case-by-case extension under § 268.5, an exemption under § 268.6, or a nationwide capacity variance under subpart C), with each shipment of waste he must submit a notice to the facility receiving his waste stating that the waste is not prohibited from land disposal. The notice must include the following information:

* * * * *

§ 268.7 [Corrected]

14. On page 31214, first column, § 268.7(a)(4) is revised to read as follows:

(a) * * *

(4) If a generator determines that he is managing a waste that is subject to the prohibitions under § 268.33(f) (including wastes that are disposed of in disposal units other than landfills or surface impoundments) and is not subject to the prohibitions set forth in § 268.32 of this part, with each shipment of waste the generator must notify the treatment, storage or disposal facility, in writing, of any applicable prohibitions set forth in § 268.33(f). The notice must include the following information:

* * * * *

§ 268.7 [Corrected]

15. On page 31214, second column, the first sentence of § 268.7(b)(8) is revised to read as follows: "Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of § 266.20(b) regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (*i.e.*, the recycler) is not required to notify the receiving facility, pursuant to paragraph (b)(4) of this section."

§ 268.7 [Corrected]

16. On page 31214, third column, the following paragraph (c)(4) is added:

(c) * * *

(4) Where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal subject to the provisions of § 266.20(b), the owner or operator is not subject to paragraphs (c)(1)–(3) of this section with respect to such waste.

§ 268.8 [Corrected]

17. On page 31214, third column, and page 31215, first and second columns, § 268.8(a) is revised to read as follows:

(a) * * *

(2) If a generator determines that there is no practically available treatment for his waste, he must fulfill the following specific requirements:

(i) Prior to the initial shipment of waste, the generator must submit a demonstration to the Regional Administrator that includes: a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion of why he was not able to obtain treatment or recovery for that waste. The generator must also provide to the Regional Administrator the following certification:

I certify under penalty of law that the requirements of 40 CFR 268.8(a)(1) have been met and that disposal in a landfill or surface impoundment is the only practical alternative to treatment currently available. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

The generator does not need to wait for Regional Administrator approval of the demonstration/certification before shipment of the waste. However, if the Regional Administrator invalidates the demonstration/certification for the reasons outlined in § 268.8(b)(2), the generator must immediately cease further shipments of the waste, and immediately inform all facilities that received the waste of such invalidation, and keep records of such communication on-site in his files.

(ii) With the initial shipment of waste, the generator must submit a copy of the demonstration and the certification discussed above in § 268.8(a)(2)(i) to the receiving facility. With each subsequent waste shipment, only the certification is required to be submitted provided that the conditions being certified remain unchanged. Such a generator must retain on-site a copy of the demonstration (if applicable) and certification required for each waste shipment for at least five years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

(3) If a generator determines that there are practically available treatments for his waste, he must contract to use the practically available technology that yields the greatest environmental benefit. He must also fulfill the following specific requirements:

(i) The generator must submit to the Regional Administrator, prior to the initial shipment of waste, a demonstration that includes: a list of facilities and facility officials contacted, addresses, telephone numbers, and contact dates, as well as a written discussion explaining why the treatment or recovery technology chosen provides the greatest environmental benefit. The generator must also provide to the Regional Administrator the following certification:

I certify under penalty of law that the requirements of 40 CFR 268.8(a)(1) have been met and that I have contracted to treat my waste (or otherwise provide treatment) by the practically available technology which yields the greatest environmental benefit, as indicated in my demonstration. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

The generator does not need to wait for Regional Administrator approval of the demonstration/certification before shipment of the waste.

(ii) With the initial shipment of waste, the generator must submit to the receiving facility a copy of the

demonstration and the certification discussed above in § 268.8(a)(3)(i). With each subsequent waste shipment, only the certification is required to be submitted provided that the conditions being certified remain unchanged. Such a generator must retain on-site a copy of the demonstration (if applicable) and certification required for each waste shipment for at least five years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site disposal. The five-year record retention requirement is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

§ 268.8 [Corrected]

18. On page 31215, second column, § 268.8(b)(1) is revised by adding the following language before the period at the end of the sentence: ", and submit a new demonstration and certification as provided in § 268.8(a) to the receiving facility."

* * * * *

§ 268.8 [Corrected]

19. On page 31215, third column, first paragraph, § 268.8(c)(2) should read:

(c)(2) The owner or operator of a treatment, recovery or storage facility must, for each initial shipment of waste, send a copy of the generator's demonstration (if applicable) and certification under § 268.8(a)(2)(i) or § 268.8(a)(3)(i) and certification under § 268.8(c)(1) (if applicable) to the facility receiving the waste or treatment residues. With each subsequent waste shipment, only the certification is required to be submitted provided that the conditions being certified remain unchanged.

§ 268.8 [Corrected]

20. On page 31215, third column, second paragraph, § 268.8(d), "prohibited under § 263.33(f)" should be changed to read "prohibited under § 268.33(f)."

§ 268.32 [Corrected]

21. On page 31216, third column, in § 268.32(f), "such disposal" should be changed to "such unit."

§ 268.33 [Corrected]

22. On page 31217, first column, in § 268.33(a), "K004 (nonwastewater)" should read "K004 wastes specified in § 268.43(a)."

23. On page 31217, first column, in § 268.33(a), "K006 (nonwastewaters)" should read "K006 wastes specified in § 268.43(a)."

24. On page 31217, first column, in § 268.33(a), "K015 wastewaters" should be removed.

25. On page 31217, first column, in § 268.33(a), "K021 (nonwastewater)" should read "K021 wastes specified in § 268.43(a)."

26. On page 31217, first column, in § 268.33(a), "K025" should read "K025 nonwastewaters specified in § 268.43(a)."

27. On page 31217, first column, in § 268.33(a), "K083 (nonwastewaters)" should be removed.

28. On page 31217, first column, in § 268.33(a), "K100" should read "K100 nonwastewaters specified in § 268.43(a)."

29. On page 31217, first column, in § 268.33(a), "K101" should read "K101 (wastewater), K101 (nonwastewater, low arsenic subcategory—less than 1% total arsenic)."

30. On page 31217, first column, in § 268.33(a), "K102" should read "K102 (wastewater), K102 (nonwastewater, low arsenic subcategory—less than 1% total arsenic)."

§ 268.33 [Corrected]

31. On page 31217, second column, in § 268.33(f), "are not applicable" is revised to read "have not been promulgated,"; and "unless the wastes are the subject of a valid demonstration and certification pursuant" is revised to read "unless a demonstration and certification have been submitted."

§ 268.33 [Corrected]

32. On page 31217, second column, in § 268.33(g), "extract of the waste" should read "extract of the waste, or the generator may use knowledge of the waste."

§ 268.44 [Corrected]

33. On page 31221, second column, second paragraph, in § 268.44(h), "facility may apply to the Assistant Administrator of the Office of Solid Waste and Emergency Response, or his delegated representative," should read "facility may apply to the Administrator, or his delegated representative,".

§ 268.50 [Corrected]

34. On page 31221, third column, § 268.50(d) is revised to read as follows:

(d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste (for example, because of an approved case-by-case extension under § 268.5, an approved § 268.6 petition, or a national capacity variance under subpart C), the prohibition in paragraph (a) of this section does not apply during the period of such exemption.

[FR Doc. 89-20865 Filed 9-5-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-3636-1]

North Carolina; Recommencement of Proceedings to Determine Whether To Withdraw Hazardous Waste Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of continuation of hearing to determine whether to withdraw hazardous waste program approval.

SUMMARY: On April 20, 1989 (54 FR 15940), EPA issued a Notice of its intent to hold a hearing to determine whether to withdraw hazardous waste approval of North Carolina's Hazardous Waste Program. A hearing was held during July 18–21, 1989 and July 24–28, 1989, in Raleigh, North Carolina. On August 23, 1989, the presiding Administrative Law Judge provided notice that the hearing would continue beginning Monday, September 18, 1989, at the Radisson Plaza Hotel, 420 Fayetteville Street, Raleigh, North Carolina.

DATES: These proceedings will continue beginning September 18, 1989. A block of rooms has been reserved for those persons needing overnight lodging through September 29, 1989. Reservations must be made by September 6, 1989, at the location listed below. Tenants are responsible for costs involving overnight stay.

ADDRESS: Radisson Plaza Hotel, 420 Fayetteville Street Mall, Raleigh, North Carolina 27601.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Jr., Chief, Waste Planning Section, RCRA Branch, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Lee A. DeHihns, III,

Acting Regional Administrator.

[FR Doc. 89-20866 Filed 9-5-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6744

[CA-940-09-4214-10; CA 24903]

Partial Revocation of Public Land Order No. 2729; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 80.79 acres of public land withdrawn for use of the Bureau of Reclamation in connection with the Central Valley Reclamation Project. This action will open the land to allow the sale of the Federally reserved minerals underlying privately owned lands to the surface owner.

EFFECTIVE DATE: October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, BLM California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2729 which withdrew land for the Central Valley Project, Nashville Unit, Consumnes River Division, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 9 N., R.10 E., Sec. 25, lots 1 to 4 inclusive.

The area described contains 80.79 acres in El Dorado County.

2. At 10 a.m. on October 6, 1989, the land described in paragraph 1 shall be opened to the operation of Section 209 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2757; 43 U.S.C. 1719, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Dated: August 28, 1989.

Frank A. Bracken,

Under Secretary of the Interior.

[FR Doc. 89-20860 Filed 9-5-89; 8:45 am]

BILLING CODE 4310-40-M

43 CFR Public Land Order 6745

[OR-943-09-4214-10; GP9-235; OR 39912]

Withdrawal of Public Land for U.S. Air Force Radar Transmitter Site; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 2,622 acres of public land from surface entry and mining for 20 years to be used as a U.S. Air Force radar transmitter site. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general lands laws, including the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, and reserved for use by the Department of the Air Force in connection with the Over-the-Horizon Backscatter West Coast Transmitter Site:

Willamette Meridian

A parcel of land situated in secs. 19, 30, 31, and 32, T. 26 S., R. 20 E., and sec. 6, T. 27 S., R. 20 E., described as follows:

Commencing at the southwest corner of said section 31; thence N. 0°50'01" E. along the west line of said section 4,682.15 feet to the Point of Beginning; thence continuing along said line N. 0°50'01" E., 18.26 feet; thence N. 67°22'48" E., 5,402.59 feet; thence N. 54°09'10" W., 4,023.04 feet; thence N. 35°51'06" E., 6,213.18 feet; thence S. 54°09'28" E., 6,100.18 feet; thence S. 35°50'47" W., 6,213.99 feet; thence S. 22°36'50" E., 2,985.54 feet; thence S. 78°51'00" E., 5,087.51 feet; thence S. 11°09'00" W., 6,499.77 feet; thence N. 78°50'00" W., 6,122.13 feet; thence N. 11°08'47" E., 4,055.50 feet; thence S. 67°22'48" W., 4,277.00 feet; thence N. 22°37'12" W., 6,196.46 feet to the Point of Beginning.

The area described contains approximately 2,622 acres in Lake County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary of the Interior determines that the withdrawal shall be extended.

3. If the site is abandoned, or the withdrawal is relinquished or expires without being extended, all structures and facilities shall be timely removed and the land shall be restored to the satisfaction of the Secretary of the Interior, in consultation with the head of the holding agency. In the event the withdrawal expires without being extended, the holding agency shall undertake no activities on the land except in connection with decontamination, restoration, and the removal of structures and facilities.

Dated: August 28, 1989.

Frank A. Bracken,

Under Secretary of the Interior.

[FR Doc. 89-20861 Filed 9-5-89; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6746

[AK-932-09-4214-10; AA-721]

Partial Revocation of Air Navigation Site No. 157, Iliamna, for Selection of Land by the State of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Departmental Order insofar as it affects 4.77 acres of public land withdrawn for Air Navigation Site No. 157, at Iliamna, Alaska. The land is no longer needed for the purpose for which it was withdrawn. This action will also open the land for selection by the State of Alaska, if such land is otherwise available. If the land is not selected by the State, this order opens the land to metalliferous mining. The land has been and will remain closed to nonmetalliferous mining and mineral leasing pursuant to Public Land Order No. 5180, as amended.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 708 and 709; 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. The Departmental Order dated April 19, 1941, as amended, which

withdrew public land for Air Navigation Site No. 157 is hereby revoked insofar as it affects the following described land:

Iliamna, Alaska

Beginning at meander corner No. 4 of U.S. Survey 2644, proceed approximately N. 60° W., 925 feet, more or less, to the center of the approximately 12 ft. x 36 ft. concrete slab (formerly supporting a generator building), thence N. 5° W., 240 feet, more or less, to the centerline of the Iliamna Airport-Roadhouse Bay Road, to corner No. 1, the true point of beginning;

From corner No. 1 by metes and bounds,

N. 85° E., along the centerline of the Iliamna Airport-Roadhouse Bay Road, 267 feet, to corner No. 2;

S. 5° E., 390 feet, to corner No. 3;

S. 85° W., 533 feet, to corner No. 4;

N. 5° W., approximately 390 feet, to corner No. 5, a point on the centerline of the Iliamna Airport-Roadhouse Bay Road;

N. 85° E., 266 feet, to corner No. 1, the place of beginning.

The area described contains approximately 4.77 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 72 Stat. 339, *et seq.*; 48 U.S.C. prec. 21, or section 906(b) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, 2437–2438; 43 U.S.C. 1635.

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described above, for a period of ninety-one (91) days from the date of publication of this order, if the land is otherwise available. Any of the land described herein that is not selected by the State of Alaska will be subject to the terms and conditions of Public Land Order No. 5180, as amended, and any other withdrawal of record.

4. At 10 a.m. on December 6, 1989, the land will be opened to location and entry under the United States mining laws for metalliferous minerals, subject to valid existing rights, the provisions of existing withdrawals, and the requirement of applicable laws. Appropriation of any of the land described in this order under the general mining laws for metalliferous minerals prior to the date and the time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 22, 1989.

Frank A. Bracken,

Under Secretary of the Interior.

[FR Doc. 89–20862 Filed 9–5–89; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 42, 44, 45, 170, and 174

[CGD 76–080]

RIN 2115–AA11

Hopper Dredge Working Freeboard; Load Line and Stability Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The U.S. Coast Guard is amending the load line and stability regulations to allow self-propelled hopper dredges to obtain working freeboards. This rulemaking was initiated because of the interest of a segment of the dredging industry to load to a deeper draft (working freeboard) in order to carry more spoil per trip and this rule will allow the authorization of that carriage.

EFFECTIVE DATE: October 6, 1989.

ADDRESSES: 1. The comments and materials referenced in this rulemaking are available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G–LRA–2), U.S. Coast Guard Headquarters, Room 3600, 2100 Second Street SW., Washington, DC 20593–0001.

2. A Final Regulatory Evaluation is available for inspection or copying as explained in the preceding paragraph or by contacting the person listed below under **FOR FURTHER INFORMATION CONTACT.** The Categorical Exclusion from the requirements of the National Environmental Policy Act (NEPA) is available for inspection and copying at the same address or from the same person.

FOR FURTHER INFORMATION CONTACT: Dr. J.S. Spencer, Marine Technical and Hazardous Materials Division. Office of Marine Safety, Security and Environmental Protection, (202) 267–2988.

SUPPLEMENTARY INFORMATION: On August 2, 1976, the Coast Guard published in the **Federal Register** (41 FR 32237) an Advance Notice of Proposed Rulemaking (ANPRM) to consider developing damage stability standards for hopper dredges which elicited several responses. On December 10, 1979, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (44 FR 70791). On January 24, 1980, a Supplemental Notice of Proposed Rulemaking (SNPRM) was published (45 FR 5780) to insert some inadvertently omitted text. Eight comments were received after publication of the NPRM raising some additional technical questions. Because of the time elapsed since the NPRM and the reconstruction of the proposal due to the eight comments, the Coast Guard published a second SNPRM in the **Federal Register** (52 FR 47422 of December 14, 1987) for public comment. This SNPRM incorporated all but two of the comments received after publication of the NPRM and was a complete restatement of the proposed rules as changed by those comments. On February 22, 1988, the comment period was reopened and extended until March 23, 1988 (53 FR 5200).

Drafting Information.

The principal persons involved in drafting this document are Mr. William Hayden, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Mr. Stanley Colby, Project Counsel, Office of the Chief Counsel.

Discussion of Comments and Changes Made

Ten letters commenting on the proposed regulations were received. Eight letters were received following the publication of the NPRM in 1979 and some of the major comments from those were discussed in the December 14, 1987, SNPRM. The two other letters were received following the publication of that SNPRM. Of the ten letters, seven were from organizations having direct involvement in the dredging industry. Six letters were received from civilian dredge operators, one from an unidentified company, one from the Army Corp of Engineers, one from the Maritime Administration and one from a Goast Guard field office.

Several commenters questioned whether the proposed regulations applied to existing hopper dredges and to vessels which do not load their own hoppers yet still transport dredged material or processed sludge. One commenter requested that the definition of hopper dredge be clarified to reduce confusion.

The rules are applicable only to self-propelled dredges which have machinery permanently installed for the purpose of loading internal tanks

(hoppers) with dredge spoils. Also, the damage stability requirements are applicable only to those hopper dredges, both new and existing, for which a working freeboard assignment is desired. These regulations are not applicable to hopper barges, sludge barges or other vessels incapable of performing dredging functions. As such, the definition in § 44.310 has been clarified to avoid confusion.

Several commenters recommended, in response to the NPRM, to change the maximum specific gravity of the dredge spoils from 2.0 to 1.8. The SNPRM published on December 14, 1987, agreed with these comments and reduced the maximum specific gravity from 2.0 to 1.8. From the comments received in response to the second SNPRM, it appears that there is some disagreement as to what the maximum specific gravity of dredged spoils can be. In response to these comments, the Coast Guard is modifying § 174.210 (formerly § 174.830) to allow calculations to be performed at the highest specific gravity of dredge spoils the operator expects to encounter in the operation of the vessel. This maximum specific gravity will be stated on the load line certificate by the Assigning Authority.

Several commenters recommended that dumping of the spoils be allowed as one of the assumed situations to demonstrate compliance with the damage stability requirements. These commenters argue that the first action of the Master of a dredge after a casualty would be to dump the spoil.

The Coast Guard agrees with these commenters. Further, the Coast Guard agrees that the impact on the design and cost of a dredge resulting from the "no-dumping" assumption greatly exceeds the hazard that results from the few instances where the spoil may not be able to be dumpad after a casualty. Therefore, the proposed regulations contained in the SNPRM, § 174.845 (now § 174.330), were relaxed to permit the designer to assume that the spoil has been dumped immediately after damage provided the dredge meets certain operating requirements, such as the time required to open and the means of opening the bottom dump doors.

One commenter felt that the proposed requirement in § 174.843(a) (now § 174.325(c)) for maintaining at least 2 inches of positive metacentric height should be applied only in the case of symmetric flooding. The commenter proposed several other criteria for maintaining positive stability after cross flooding.

The Coast Guard believes that the maintenance of at least 2 inches of metacentric height after damage is necessary to provide for an acceptable amount of residual stability after damage and ensure that the righting arm curve is positive. This is also in keeping with the damage stability requirements of vessels that are not hopper dredges

One commenter questioned why the proposed regulations would require that the stability calculations take into account the spillage of the dredge spoils resulting from the changing heel and trim of the vessel. They felt that in order to meet the requirements of § 174.310 it would require a significant amount of calculations which would dramatically increase the amount of work and cost involved.

The Coast Guard agrees with this comment; by not accounting for the spillage of dredge spoils, a more conservative righting arm curve will result. Therefore, the word "must" has been replaced with the word "may" in § 174.310(d) (formerly § 174.820(e)). The provision to account for the spillage is retained to provide a means for the designer who wishes to account for the spillage of dredge spoils.

Several commenters questioned why the proposed discharge area in § 174.845 (now § 174.335) for the hoppers must be 30% of the vessel waterplane area rather than some percentage of the hopper area.

The Coast Guard intended, in the proposed rules, that the discharge area should be 30% of the maximum hopper waterplane area, not the vessel's waterplane area. This wording as proposed has been redrafted for the final rule to prevent confusion.

Several commenters questioned the proposed requirements in § 174.845 (now § 174.330) that the bottom doors or split hull actuating mechanism be able to dump the spoils in two minutes or less even if the vessel is damaged.

The Coast Guard intends that the actuating systems be designed to fail in the open position so that in the event of damage or loss of power the spoils can be easily jettisoned. This requirement is necessary to validate the assumptions made for damage stability calculations that the spoil is dumped.

One commenter questioned why no special mark will be placed on the vessel when issued a working freeboard.

The International Load Line Convention and U.S. laws require that only one freeboard mark may be visible on the vessel at any time. This means that vessels with multiple load line marks must paint out one mark while operating in accordance with the second. The Coast Guard felt that it would be an undue burden on the industry to require the load line marks to change from the working freeboard marks to the standard freeboard marks when the vessel changed service. Vessels meeting the requirements for the assignment of working freeboard marks will be issued a load line exemption certificate which will permit the operator to submerge the load line to the working freeboard. The Coast Guard expects the master will not load his vessel deeper than the authorized working freeboard but violations would subject the perpetrator to the penalty provisions of 46 U.S.C. 5116.

Several commenters felt that the requirements in proposed § 93.40.20 in the NPRM to demonstrate that the vessel would survive an assumed bottom damage would be overly burdensome to the industry.

This comment has been considered and the proposed calculation for bottom damage has been withdrawn.

During review of the comments on the SNPRM, the Coast Guard realized that some of the problems commenters found with the proposed regulations stemmed from its less than clear organization. In addition, much of the text of the proposed rules was not trenchantly stated. In order to assist readers in meeting these requirements, the Coast Guard has reorganized the final rule by combining material that was related, eliminating redundancies, and clarifying text when necessary. None of these editorial changes affect the substantive content of the proposal. The following table will help readers locate the proposed rules in the new system.

Section title	SNPRM sec.	Final rule sec.
Specific applicability	174.800	174.300
Definitions	174.810	174.305
Calculations (Renamed General)	174.820	174.310
Assumptions (Added to General)	174.830	174.310
Extent and character of damage	174.841	174.315
Permeability (Added to General)	174.842	174.310
Damage survival	174.843	174.320
Equalization	174.844	174.325
Jettisoning of spoil	174.845	174.330
Watertight doors	174.850	174.335
Collision bulkhead	174.860	174.340

RIN Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulation. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this

document can be used to cross reference this action with the Unified Agenda.

Regulatory Evaluation

This rule is considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 28, 1979).

The economic impact of this proposal would involve calculation hours spent by naval architecture and engineering firms hired by the dredge owners and operators. The dredge owners and operators would have to pay for the services of the naval architects and engineers but would recoup their costs quickly because they would be able to load to deeper drafts and carry more dredged spoil per trip to the dump site. Vessels which have been granted working freeboards during the past six years on a case by case basis already meet the damage stability requirements in the proposed rules. The proposed rules are not a requirement for all hopper dredges. Only those dredges desiring an increased capacity would be required to meet the requirements promulgated by this document.

Compared to the current procedure for obtaining a working freeboard, the procedures set out in these rules would cost dredge owners less money. This is because the necessary procedure would be clearly provided by the rules promulgated in this document. Costs are estimated at $5300 for each new hopper dredge built over the next 10 years which is estimated to be 10 vessels. For that period, the estimated costs for existing vsssels is $17,400. The estimated cost for industry for the next ten years would be $75,400.

Environmental Impact

It has been determined that this regulation is categorically excluded from further environmental documentation. The Categorical Exclusion for Hopper Dredge Working Freeboard, Load Line and Stability Requirements has been prepared and placed in the rulemaking docket (CGD 76.080). It is available for examination and copying as noted in the ADDRESSES above.

Federalism Implications

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

Paperwork Reduction Act

An increase in information collection requirements for the vessels under these rules would result to the extent that the industry chooses to utilize this voluntary rule. The OMB control number for this rulemaking is 2115–0565 which is approved through March 31, 1991.

Regulatory Flexibility Act

Based upon the information in the evaluation, the Coast Guard certifies, under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these regulations will not have a significant economic impact on a substantial number of small entities. For the purposes of this rulemaking, a small entity has been defined as a business with gross revenues less than $500,000 per year. The rules contained in this rulemaking are voluntary and provide an economic benefit to industry, therefore no further evaluation is necessary.

List of Subjects

46 CFR Part 42

Penalties, Reporting and record-keeping requirements, Vessels.

46 CFR Part 44

Reporting and record-keeping requirements, Vessels.

46 CFR Part 45

Great Lakes, Reporting and record-keeping requirements, Vessels.

46 CFR Part 170

Marine safety, Reporting and record-keeping requirements, Vessels.

46 CFR Part 174

Marine safety, Vessels.

In accordance with the foregoing, subchapters E and S of title 46, Code of Federal Regulations, are amended as follows:

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

1. The authority citation for part 42 continues to read as follows:

Authority: 46 U.S.C. 5115; 49 CFR 1.45, 1.46; sec. 42.01–5 also issued under the authority of 44 U.S.C. 3507.

2. Section 42.03–5 is amended by adding paragraph (e) to read as follows:

§ 42.03–5 U.S.-flag vessels subject to the requirements of this subchapter.

* * * * *

(e) Hopper dredges engaged in limited service domestic voyages. Self-propelled hopper dredges over 79 feet (24 meters) in length with working freeboards, on limited service domestic voyages within 20 nautical miles (37 kilometers) from the mouth of a harbor of safe refuge, are subject to the provisions of this subchapter that apply to a Type "B" vessel and to the provisions of Subpart E of Part 44 of this chapter.

3. Section 42.03–30 is amended by adding paragraph (b)(4) to read as follows:

§ 42.03–30 Exemptions for vessels.

* * * * *

(b) * * *

(4) For self-propelled hopper dredges engaged on international voyages or on limited service domestic voyages by sea. These vessels may be exempt from applicable hatch cover requirements of § 42.15–25 of this part by showing they meet the requirements in § 174.310 of this chapter. When a Load Line Exemption Certificate is issued for this exemption, it must have an endorsement that only seawater is allowed in the vessel's hoppers.

* * * * *

4. Section 42.20–5 is amended by revising the introductory text of paragraph (c) to read as follows:

§ 42.20–5 Freeboard assignment: Type "B" vessel.

* * * * *

(c) Any Type "B" vessel that is greater than 100 meters (328 feet) in length and any hopper dredge meeting the requirements in Subpart C of Part 44 of this chapter may have a reduced freeboard from that assigned under Table 42.20–15(b)(1) in accordance with paragraph (d) or paragraph (e) of this section if—

* * * * *

PART 44—VARIANCE FOR CERTAIN VESSELS

5. The authority citation for part 44 continues to read as follows:

Authority: 46 U.S.C. 5115; 49 CFR 1.46.

6. Part 44 is amended by revising its title to read as follows:

PART 44—SPECIAL SERVICE LIMITED DOMESTIC VOYAGES

7. Part 44 is amended by redesignating subpart 44.01 as subpart A while retaining the title, "Administration", and redesignating subpart 44.05 as subpart B and revising the title of the new subpart B to read as follows:

Subpart B—Rules for Assigning Special Service Load Lines

8. Part 44 is amended by adding a new Subpart C to read as follows:

Subpart C—Rules for Assigning Working Freeboards to Hopper Dredges

Sec.
44.300 Applicability.
44.310 Definitions.
44.320 Submission of plans and calculations.
44.330 Obtaining working freeboards for hopper dredges.
44.340 Operating restrictions.

Subpart C—Rules for Assigning Working Freeboards to Hopper Dredges

§ 44.300 Applicability.

This subpart applies to each self-propelled hopper dredge—

(a) For which a working freeboard assignment is desired after January 1, 1990; and

(b) That operates with a working freeboard assigned under this subpart.

§ 44.310 Definitions.

Hopper dredge means a self-propelled dredge with an open hold or hopper in the hull of the dredge that receives dredged material.

Working freeboard means one-half the distance between the mark of the load line assigned under this subchapter and the freeboard deck.

§ 44.320 Submission of plans and calculations.

To request a working freeboard, calculations, plans, and stability information necessary to demonstrate compliance with this subpart must be submitted to the:

(a) Commanding Officer, U.S. Coast Guard Marine Safety Center (G–MSC), 400 Seventh Street SW., Washington, DC 20590–0001; or

(b) American Bureau of Shipping, 45 Eisenhower Drive, Paramus, New Jersey 07652–0910.

§ 44.330 Obtaining working freeboards for hopper dredges.

A hopper dredge may be issued a working freeboard on a limited service domestic voyage load line certificate or a Great Lakes load line certificate if the following are met:

(a) The hopper dredge structure must have adequate strength for any draft up to the working freeboard draft. Dredges built and maintained in conformity with the requirements of a classification society recognized by the Commandant usually meet this requirement.

(b) The hopper dredge must—

(1) Meet subpart I of part 174 of this chapter; and

(2) Have on its bridge remote draft indicators that:

(i) Show the fore, aft, and mean draft of the dredge at all times while the dredge is operating; and

(ii) Have each indicator marked with the assigned freeboard and the working freeboard.

§ 44.340 Operating restrictions.

(a) Each hopper dredge assigned a working freeboard may be operated at drafts from the normal freeboard to the working freeboard if the—

(1) Seas are not more than 10 feet;

(2) Winds are not more than 35 knots;

(3) Area of operation is not more than 20 nautical miles (37 kilometers) from the mouth of a harbor of safe refuge; and

(4) Specific gravity of the spoil carried is not more than the highest specific gravity of spoil used in the stability calculations required by subchapter S of this chapter.

(b) The Assigning Authority designates on the face of the dredge's load line certificate—

(1) Each restriction contained in paragraph (a)(1) through (a)(3) of this section; and

(2) The maximum specific gravity of the spoils allowed to be carried.

PART 45—GREAT LAKES LOAD LINES

9. The authority citation for part 45 continues to read as follows:

Authority: 46 U.S.C. 5115; 49 CFR 1.46.

10. Section 45.9 is amended by revising paragraph (b) to read as follows:

§ 45.9 Seasonal application of load lines for vessels not marked under this part.

* * * * *

(b) Except for hopper dredges operating at working freeboards in accordance with subpart C of part 44 of this chapter, the Assigning Authority may not allow for lesser freeboards.

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

11. The authority citation for part 170 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C., 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

12. Section 170.110 is amended by adding paragraph (d)(16) to read as follows:

§ 170.110 Stability booklet.

* * * * *

(d) * * *

(16) For each self-propelled hopper dredge with a working freeboard, the maximum specific gravity allowed for dredge spoil.

* * * * *

13. Section 170.248 is amended in paragraph (a) by adding the words "or paragraph (c)" after the words "paragraph (b)" and adding paragraph (c) to read as follows:

§ 170.248 Applicability.

* * * * *

(c) A watertight door on a self-propelled hopper dredge with a working freeboard must comply with § 174.335 of this subchapter.

14. Part 170 is amended by adding § 170.300 to read as follows:

§ 170.300 Special consideration for free surface of spoil in hopper dredge hoppers.

The calculations required by this subchapter for each self-propelled hopper dredge must include—

(a) The free surface effect of consumable liquids and the free surface effect of the dredged spoil in the hoppers; and

(b) Either of the following assumptions when performing the calculations required by § 174.310(b) of this chapter:

(1) If the dredged spoil is assumed to be jettisoned, the free surface of the dredged spoil may be disregarded.

(2) If the dredged spoil is not assumed to be jettisoned. the free surface of the dredged spoil must be calculated.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

15. The Authority citation for part 174 continues to read as follows:

Authority: 42 U.S.C. 9118, 9119, 9153; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12334; 45 FR 58801. 3 CFR, 1980 comp. p. 277; 49 CFR 1.46.

16. Section 174.005 is amended by adding paragraph (f) to read as follows:

§ 174.005 Applicability.

* * * * *

(f) Self-propelled hopper dredge having an assigned working freeboard.

17. Part 174 is amended by adding subpart I to read as follows:

Subpart I—Hopper Dredges With Working Freeboard Assignments

Sec.
174.300 Specific applicability.
174.305 Definitions.

Calculations

174.310 General.
174.315 Extent and character of damage.
174.320 Damage survival.
174.325 Equalization.

Sec.
174.330 Jettisoning of spoil.

Design

174.335 Watertight doors.
174.340 Collision bulkhead.

Subpart I—Hopper Dredges With Working Freeboard Assignments

§ 174.300 Specific applicability.

This subpart applies to each self-propelled hopper dredge for which a working freeboard assignment is being sought under part 44, subpart C, of this chapter.

§ 174.305 Definitions.

Hopper dredge has the same meaning as contained in § 44.310 of this chapter.

Length has the same meaning as contained in § 42.13–15(d) of this chapter.

Working freeboard has the same meaning as contained in § 44.310 of this chapter.

Calculations

§ 174.310 General.

(a) Each hopper dredge under this subpart must be shown by design calculations based on the assumptions under paragraphs (b), (c), (d), and (e) of this section, that it meets—

(1) The requirements in §§ 170.170, 170.173, and 170.300 of this chapter in each condition of loading and operation; and

(2) The survival conditions of § 174.320 in each condition of loading and operation assuming the character and extent of damage specified in § 174.315.

(b) The calculations required by paragraph (a) of this section must assume:

(1) The hoppers are full of seawater;

(2) The permeability of flooded spaces is as provided by Table 174.310;

(3) The equalization provisions of § 174.325; and

(4) The jettisoning provisions of § 174.330.

(c) The calculations required by this section must take into account a sufficient number of loading conditions to identify the condition in which the vessel is least stable, including, but not limited to, the most severe loading condition, and the:

(1) Specific gravity of the dredge spoil, from 1.02 up to and including the maximum required by paragraph (e)(1) of this section; and

(2) Draft, up to and including the draft corresponding to the working freeboard for the full range of trim.

(d) The calculations required by this section for a dredge with open hoppers may include spillage of spoil from the hopper resulting from changing the angle of heel and trim.

(e) The following assumptions must be made when doing the calculations required by this section:

(1) Dredged spoil in the hopper is a homogeneous liquid with a maximum specific gravity for the areas of operation.

(2) When calculating the vessel's righting arm, it is assumed at each angle of heel that the vessel trims free and the trimming moment is zero.

TABLE 174.310—PERMEABILITY OF FLOODABLE SPACES

Spaces and tanks	Permeability
Storerooms	0.60
Accommodation spaces	0.95
Consumable liquid tanks	0.00 or 0.95—whichever results in the more disabling condition.
Machinery space	0.85—unless otherwise supported by calculations.
Cargo tanks	Determined from the actual density and amount of liquid carried in the tank.

§ 174.315 Extent and character of damage.

(a) The calculations required by § 174.310 must show that the dredge can survive damage at any location along the length of the vessel including at a transverse bulkhead in accordance with paragraph (b) of this section.

(b) The calculations required by paragraph (a) of this section must assume the most disabling side penetration with the damage collision penetration provided by Table 174.315, except that if the most disabling damage collision penetrations would be less than those provided by Table 174.315, the smaller damage collision penetration must be assumed.

TABLE 174.315—EXTENT OF DAMAGE COLLISION PENETRATION

Longitudinal extent	$0.495L^{2/3}$ or 47.6 feet. [$(\frac{1}{5})(L)^{2/3}$ or 14.5 meters] whichever is less.
Transverse extent [1]	B/5 or 37.7 feet. (11.5 meters), whichever is less.
Vertical extent	From the base line upward without limit.

[1] Damage applied inboard from the vessel's side at a right angle to the centerline at the draft corresponding to the working freeboard assigned under subchapter E of this chapter.

§ 174.320 Damage survival.

A hopper dredge survives assumed damage if it meets the following conditions:

(a) The maximum angle of heel in each stage of flooding must not exceed 30 degrees or the angle of downflooding whichever is less.

(b) The final waterline, taking into account sinkage, heel, and trim, must be below the lowest edge of each opening through which progressive flooding may take place.

(c) The righting arm curve calculated after damage must:

(1) Have a minimum positive range of 20 degrees beyond the angle of equilibrium; and

(2) Reach a height of at least 4 inches (100mm) within the 20 degree positive range.

(d) Each opening within, or partially within, the 20 degree range beyond the angle of equilibrium must be weathertight.

(e) After flooding or equalization as allowed by § 174.325, the hopper dredge's metacentric height must be at least 2 inches (50mm) when the dredge is in an upright position.

§ 174.325 Equalization.

When doing the calculations required by § 174.310 of this subpart—

(a) Equalization arrangements requiring mechanical aids, such as valves, may not be assumed to be effective in reducing the angle of heel; and

(b) Spaces joined by ducts may be assumed to be common spaces only if equalization takes place within 15 minutes after flooding begins.

§ 174.330 Jettisoning of spoil.

(a) When doing the calculations required by § 174.310 for a hopper dredge with bottom doors, it may be assumed that the spoil is jettisoned immediately after damage and that the bottom doors remain open if:

(1) The bottom doors are designed so that they may be fully opened from:

(i) The closed position within two minutes even if the main power source is lost or the bottom door actuating mechanism is damaged; and

(ii) The navigating bridge;

(2) The discharge area through the bottom doors is equal to or greater than 30 percent of the maximum cross sectional area of the hopper measured in a plane parallel to the waterline; and

(3) Asymmetrical jettisoning of the spoil is impossible.

(b) When doing the calculations required by § 174.310 for a hopper dredge with a split hull, it may be assumed that the spoil is jettisoned immediately after damage if—

(1) The hull is designed so that—

(i) The complete separation is effected within two minutes even if the main power source is lost or the actuating means is damaged; and

(ii) The actuating means can be operated from the navigating bridge;

(2) It is shown to the Commanding Officer, Marine Safety Center, either by calculations or by operational tests, that the hulls can separate sufficiently to allow the dredged material to dump without bridging; and

(3) Asymmetrical jettisoning of the spoil is impossible.

Design

§ 174.335 Watertight doors.

(a) Each hopper dredge must have sliding watertight doors (Class 3) approved under subpart 163.001 of this chapter if the sill for the door is—

(1) Installed below the bulkhead deck; and

(2) Less than 24 inches above the final waterline as shown by the calculations required by § 174.310 in each damage condition up to and including the maximum amount of assumed damage.

(b) Each hopper dredge must have sliding watertight doors (Class 3) approved under subpart § 163.001 of this chapter, or quick acting hinged watertight doors (Class 1) approved under the same Subpart if the sill of the watertight door is—

(1) Installed below the bulkhead deck; and

(2) Greater than 24 inches above the final waterline as shown by the calculations required by § 174.310 in each damage condition up to and including the maximum amount of assumed damage.

§ 174.340 Collision bulkhead.

Each hopper dredge must have a collision bulkhead that is located not less than 5 percent of the length abaft of the forward perpendicular.

Dated: August 11, 1989.

J.D. Sipes,

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

[FR Doc. 89-20817 Filed 9-5-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1515 and 1552

[FRL-3640-5]

Acquisition Regulation; Submission of General Financial and Organizational Information and Purchasing System Information by Offerors

AGENCY: Environmental Protection Agency.

ACTION: Provisional rule.

SUMMARY: This document establishes a provisional rule on the submission of general financial and organizational information and purchasing system information by offerors. This rule is necessary to permit a more thorough initial evaluation of proposals received from offerors, and to identify those contractors which the Environmental Protection Agency (EPA) has the responsibility for the conduct of Contractor Purchasing System Reviews (CPSR). The intended effect of this rule is to require offerors to submit information with their proposals to assist in the evaluation process and determination of CPSR responsibility.

EFFECTIVE DATE: October 15, 1989.

FOR FURTHER INFORMATION CONTACT: Edward N. Chambers, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone: (202) 382-5028.

SUPPLEMENTARY INFORMATION:

A. Background

The EPA currently requires general financial and organizational information only from offerors in the competitive range. This information is obtained by offerors' completion of the questions under Environmental Protection Agency Acquisition Regulation (EPAAR) 1552.215-76, or their certification or updating of previously submitted information as directed by EPAAR 1552.215-75. Pertinent general financial and organizational information has therefore not been available for the initial evaluation of proposals.

Federal Acquisition Regulation 44.302 requires that Contractor Purchasing System Reviews (CPSR) be conducted for each contractor whose qualifying sales to the Government are expected to exceed $10 million over the next 12 months. The cognizant contract administration agency conducts these reviews at least every three years for contractors that continue to exceed the $10 million threshold.

The general and organizational information prescribed under EPAAR 1552.215-76 does not include information concerning an offeror's purchasing system. The EPA attempts to identify contractors for which it has CPSR responsibility through its Contract Information System (CIS). The CIS is an automated tracking system of all contract actions processed by EPA. The CIS does not enable EPA to identify all contractors for which EPA has CPSR responsibility since the CIS does not contain information on subcontractors and contracts with other Government agencies.

Information to be provided by offerors under this rule will enable EPA to identify contractors with qualifying Government sales in excess of $10 million and to ascertain the cognizant contract administration agency for these contractors.

This rule was published as a proposed rule in the **Federal Register** on February 16, 1989. The Office of Federal Procurement Policy (OFPP) by letter of March 29, 1989, identified provisions of the rule as having potential government-wide application. In accordance with the OFPP letter, EPA has submitted a request to the FAR Councils for initiation of a FAR case. When a rule contains issues submitted to the FAR Councils for initiation of a FAR case, OFPP guidance permits publication of the rule as provisional. If the FAR Councils adopt a rule, EPA will rescind the provisional rule. If FAR coverage is determined to be unnecessary, EPA will publish this provisional rule as final, taking the FAR Councils' deliberations into account.

B. Executive Order 12291

Office of Management and Budget (OMB) Bulletin No. 85-7, dated December 14, 1984, establishes the requirements for OMB review of agency acquisition regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring review.

C. Paperwork Reduction Act

The information collection requirements contained in this provisional rule were approved by the Office of Management and Budget and have been assigned OMB Control Number 2030-0006.

D. Regulatory Flexibility Act

The provisional rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The information requested for submission is readily available and will require only a minimal effort for offerors to compile.

The EPA certifies that this provisional rule will not exert a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

E. Public Comments

No comments were received in response to the notice of proposed rule making.

List of Subjects in 48 CFR Parts 1515 and 1552

Government procurement.

For the reasons set out in the preamble, chapter 15 of title 48 Code of Federal Regulations is amended as set forth below.

1. The authority citation for 48 CFR Parts 1515 and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

PART 1515—[AMENDED]

2. Section 1515.407 is amended by revising paragraph (a)(3) to read as follows:

1515.407 Solicitation provisions.

(a) * * *

(3) 1552.215–76, General Financial and Organizational Information.

* * * * *

1515.407 [Amended]

3. In § 1515.407, paragraph (b) is deleted and paragraph (c) is redesignated as paragraph (b).

PART 1552—[AMENDED]

1552.215–75 [Removed and Reserved]

4. Section 1552.215–75 is removed and reserved.

5. Section 1552.215–76 is amended by revising the introductory paragraph and paragraph (q) to read as follows:

1552.215–76 General financial and organizational information.

As prescribed in 1515.407(a)(3), insert the following provisions:

* * * * *

(q) Purchasing System: FAR 44.302 requires EPA, where it is the cognizant Government agency, to conduct a Contractor Purchasing System Review for each contractor whose sales to the Government, using other than sealed bid procedures, are expected to exceed $10 million (annual billings) during the next twelve months. The $10 million sales threshold is comprised of prime contracts, subcontracts under Government prime contracts, and modifications (except when the negotiated price is based on established catalog or market prices or is set by law or regulation). Has your purchasing system been approved by a Government agency?

Yes _____ No _____

If yes, name and location of the Government agency:

_____

Period of Approval: _____

If no, do you estimate that your negotiated sales to the Government during the next twelve months will meet the $10 million threshold?

Yes _____ No _____

If you respond yes to the $10 million threshold question, is EPA the cognizant agency for your organization based on the preponderance of Government contract dollars?

Yes _____ No _____

If EPA is not your cognizant Government agency, provide the name and location of the cognizant agency _____

_____

Are your purchasing policies and procedures written?

Yes _____ No _____

* * * * *

Date: August 18, 1989.

Harvey Pippen, Jr.,

Acting Director, Office of Administration.

[FR Doc. 89–20761 Filed 9–5–89; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC–19 (Sub-No. 40)]

Return of Proportional Freight Charges by Motor Carriers of Household Goods

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of final rule.

SUMMARY: After review of the comments of the parties to this proceeding we adopt the revision of our rule at 49 CFR 1056.15 proposed in our Notice of Proposed Rulemaking previously entitled *Refund of Tariff Charges on Shipments With Less Than Total Loss or Destruction*, 53 FR 50270, published December 14, 1988. The docket number is also corrected in this notice and in our decision adopting the final rule from Ex Parte No. MC–19 (Sub–No. 39) to Ex Parte No. MC–19 (Sub–No. 40) because Docket No. Ex Parte No. MC–19 (Sub–No. 39) was used in another proceeding. The revised rule requires motor common carriers of household goods to refund proportional freight charges on shipments with less than total loss or destruction in transit at the time corresponding loss and damage claims are processed. We believe that the rule change will eliminate the difficulties the moving industry has experienced in complying with the present rule and, at the same time, will assure that shippers will be refunded appropriate tariff charges for articles lost or destroyed in transit.

EFFECTIVE DATE: The revised rule is effective October 6, 1989.

FOR FURTHER INFORMATION CONTACT: Heber P. Hardy (202) 275–7148 or John W. Fristoe (202) 275–7844, [TDD for hearing impaired (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call or pickup in person from Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), [assistance for the hearing impaired is available through TDD services (202) 275–1721].

Energy and Environmental Considerations

This action does not affect significantly either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

We certify that the adoption of this final rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1056

Advertising, Consumer protection, Freight, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

This action is taken under the authority of 49 U.S.C. 10321, 11109, 11110 and 5 U.S.C. 553.

Decided: August 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1056 of the Code of Federal Regulations is amended as follows:

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. The authority citation for Part 1056 continues to read as follows:

Authority: 49 U.S.C. 10321, 11109, 11110 and 5 U.S.C. 553.

2. Section 1056.15(b) is revised to read as follows:

§ 1056.15 Collection of freight charges on household goods shipments involving loss or destruction in transit.

* * * * *

(b) In the event that any portion, but less than all, of a shipment of household goods is lost or destroyed in transit, a motor common carrier of household goods in interstate or foreign commerce shall, at the time it disposes of claims for loss, damage, or injury to the articles in the shipment as provided in part 1005 of this chapter, refund that portion of its published freight charges (including any charges for accessorial or terminal services) corresponding to that portion of the shipment which is lost or destroyed in transit. To calculate the charges applicable to the shipment as delivered, the carrier shall multiply the percentage corresponding to the portion of the shipment delivered by the total charges (including accessorial and terminal charges) applicable to the shipment tendered by the shipper. If the charges computed in the manner set forth above exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges shall apply. The provisions of this paragraph shall apply only to the transportation of household goods as defined in § 1056.1(b)(1) of these rules. Notwithstanding any other provisions of this paragraph, a carrier shall collect, and the shipper shall be required to pay, that proportion of any charges for accessorial or terminal services rendered which corresponds to the proportion of the shipment not lost or destroyed in transit and any specific valuation charge that may be due. The provisions of this paragraph shall not be applicable to the extent that any such loss or destruction is due to the act or omission of the shipper. Carriers shall determine, at their own expense, the proportion of the shipment not lost or destroyed in transit.

* * * * *

[FR Doc. 89-20906 Filed 9-5-89; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States, Including Alaska, Puerto Rico and the Virgin Islands, for the 1989-90 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; amendment.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is amending the final rule prescribing the frameworks for early open seasons in Alaska that appeared in the Federal Register on August 11, 1989 (54 FR 32975). This amendment allows a season on canvasbacks in Alaska.

EFFECTIVE DATE: Effective on September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Byron K. Williams, Acting Chief, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Room 634—Arlington Square, Washington, DC 20240, (703) 358-1714.

SUPPLEMENTARY INFORMATION: In the August 11, 1989, Federal Register (54 FR 32975) the Service published a final rule prescribing the early open seasons, hunting hours, hunting areas, and daily bag and possession limits for certain migratory game birds in the United States, including Alaska, Puerto Rico and the Virgin Islands. In that rule, there was no open season on canvasbacks in Alaska. The rule was developed prior to complete information on the status of canvasbacks as measured by the Waterfowl Breeding Population Survey and presented in the "1989 Status of Waterfowl & Fall Flight Forecast," July 25, 1989. Following harvest guidelines in the "1983 Environmental Assessment on Canvasback Hunting," canvasbacks are managed as "western" and "eastern" populations, with 3-year average breeding populations of 140,000 and 360,000 canvasbacks, respectively, being thresholds below which no hunting would be considered. The populations have been below these thresholds, and the season was not open in any state in 1988. The 1989 index for the Western Population was 168,400 canvasback, 57 percent above that of last year and 28 percent above the 1955–88 average. The 1989 index increased the average index to 141,300, a level which could allow hunting. Therefore, this amendment allows a season on canvasbacks in Alaska, but with daily bag and possession limits more restrictive than those which had been permitted prior to the season closure.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1989–90 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–718h); the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712); and the Alaska Game Act (43 Stat. 739; as amended, 54 Stat. 1103–04).

The following amendment is made in Migratory Bird Hunting; Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States, Including Alaska, Puerto Rico and the Virgin Islands, for the 1989–90 Season published in the August 11, 1989, Federal Register (54 FR 32975).

On page 32983, under the heading "Final Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1989–90," bag limits are amended to read as follows:

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 5 and a possession limit of 15 ducks. Daily bag and possession limits in the North Zone are 8 and 24, and in the Gulf Coast Zone they are 6 and 18, respectively. The basic limits may not include more than 2 pintails daily and 6 pintails in possession, and 1 canvasback daily and 3 canvasbacks in possession. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Dated: August 30, 1989.

Richard N. Smith,

Acting Director.

[FR Doc. 89-20849 Filed 9-5-89; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 54, No. 171
Wednesday, September 6, 1989

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-89-206]

RIN 0581-AA19

Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products; Inspection and Certification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Certain Other Products by increasing the fees charged for the inspection of processed fruits and vegetables and certain other products. The proposed fees would recover the costs of performing inspection services, as authorized by the Agricultural Marketing Act of 1946.

DATES: Comments must be received on or before October 6, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090-6456. Comments should note the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Branch Chief during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Raymondo O'Neal, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090-6456, Telephone (202) 447-5021.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Public Law 96-354 (5 U.S.C. 601).

The proposed rule reflects fee increases needed to recover the costs of services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946. Furthermore, the inspection, grading and certification program for processed fruits and vegetables and related products is voluntary.

The AMA authorizes voluntary official inspection, grading, and certification on a user-fee basis, of processed food products including processed fruits, vegetables, and processed products made from them. The AMA provides that reasonable fees be collected from the user of the program services to cover as nearly as practicable the costs of services rendered. This proposal would amend the schedule for fees and charges for services rendered to the processed fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Since the last fee change June 5, 1986, (51 FR 20438), program operating costs have increased. The major contributing factors have been two salary increases for Federal employees—a 3-percent pay increase effective January 1, 1987, and a 2-percent pay increase effective January 1, 1988.

Employee salary and fringe benefits are major program costs that account for approximately 85 percent of the total operating budget. In fiscal year 1989, the following increases occurred in program operating expenses: (1) A Government-wide salary increase of 4.1 percent effective January 1, 1989; (2) a 28.3 percent increase in the Agency's contribution to the Federal Employees Health Benefits Program (applicable to all Government agencies) effective January 1, 1989; (3) a 10 percent Government-wide increase in travel entitlements effective in October 1988; and (4) a projected inflationary cost increase of 3.8 percent for fiscal year 1989. The Agency has determined that due to the aforementioned increases in program operating costs, these programs will incur over a $900,000 loss in fiscal year 1989.

Based on the Agency's analysis of increased costs since 1986, AMS proposes to increase the fees relating to such services. The following table compares current fees and charges with proposed fees and charges for processed fruit and vegetable inspection as found in 7 CFR 52.42-52.52. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 52.42:

Current	Proposed
$29.00 inspector hour, plus $5.50/hr. overtime.	$31.00 inspector hour, plus $7.00/hr. overtime.
Charges for copies of score sheets as found in § 52.49:	
Current	Proposed
$25.00/hr	$31.00/hr.
Charges for additional copies of inspection certificates as found in § 52.50:	
Current	Proposed
$25.00/hr	$31.00/hr.
Charges for travel and other expenses as found in § 52.51:	
Current	Proposed
$29.00/hr	$31.00/hr.
Charges for year-round in-plant inspection services on a contract basis as found in § 52.52(c):	

Current	Proposed
(1) For inspector assigned on a year-round basis:. $22.00/hr	(1) For inspector assigned on a year-round basis: $25.00/hr.

Current	Proposed
(2) For inspector assigned on less than a year-round basis:.	(2) For inspector assigned on less than a year-round basis:
Each Inspector $27.00/hr	Each inspector: $28.00/hr.
In-plant sampler— $14.00/hr	In-plant sampler— $14.00/hr.
(5) Overtime: All overtime hours charged at regular rate specified in (c) (1) and (2) plus $5.50 per hour.	(5) Overtime: All overtime hours charged at regular rate specified in (c) (1) and (2) plus $7.00 per hour

Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis as found in § 52.52(d):

Current	Proposed
(1) Each inspector $27.00/hr	(1) Each inspector: $28.00/hr.[1]

Current	Proposed
(2) In-plant sampler— $14.00/hr	(2) In-plant sampler— $14.00/hr.
(5) Overtime: All overtime hours charged at regular rate specified in (d) (1) and (2) plus $5.50 per hour.	(5) Overtime: All overtime hours charged at regular rate specified in (d) (1) and (2) plus $7.00 per hour.

[1] Except a minimum of 8 hours per day will be billed for intermittent type in-plant services in lieu of a minimum of 40 hours a week. Assignments in-plant for less than four weeks will be billed in accordance with § 52.42.

List of Subjects in CFR Part 52

Processed fruits and vegetables, Food grades, Standards.

Accordingly, for the reasons set forth in the preamble, it is proposed that the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (7 CFR 52.42, 52.49, 52.50, 52.51, 52.52c, 52.52d) would be amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090 as amended (7 U.S.C. 1622, 1624).

2. Section 52.42 would be revised to read as follows:

§ 52.41 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, shall be at the rate of $31.00 per hour plus an additional $7.00 per hour for all scheduled overtime hours. When work is performed on a holiday, an additional hour shall be charged at the regular hourly rate for each hour worked.

3. Section 52.49 would be revised to read as follows:

§ 52.49 Charges for copies of inspection documents and/or inspection data.

If the applicant for inspection service requests additional copies of inspection documents and/or inspection data referable to the processed product covered thereby, the applicant may obtain such copies from the supervisor in the office of inspection serving the area where the service was performed at a charge of ½ hour per copy in accordance with the rate in § 52.42: Provided, that no charge shall be made for one copy if requested at the time of the original request for inspection. Inspection certificates issued in accordance with § 52.21 may be supplied to any financially interested party at a charge of ½ hour per certificate for each seven (7), or fewer copies in accordance with the rate in § 52.42.

§ 52.50 [Removed]

§§ 52.51 and 52.52 [Redesignated as §§ 52.50 and 52.51]

4. Section 52.50 would be removed and §§ 52.51 and 52.52 would be redesignated as §§ 52.50 and 52.51 and newly redesignated § 52.50 would be revised to read as follows:

§ 52.50 Travel and other expenses.

Charges may be made to cover the cost of travel time incurred in connection with the performance of any inspection service, including appeal inspections, at the rate of $31.00 per hour. This includes time spent waiting for transportation as well as time spent traveling, but not to exceed eight hours of travel time for any one person for any one day: And provided further, that if travel is by common carrier, no hourly charge may be made for travel time outside the employee's official work hours.

5. Newly designated section 52.51 would be amended by republishing (c) introductory text and by revising paragraphs (c)(1), (c)(2), (c)(5), (d) introductory text, (d)(1), (d)(2), and (d)(5) to read as follows:

§ 52.51 Charges for inspection services on a contract basis.

* * * * *

(c) Charges for year-round in-plant inspection services on a contract basis will be billed to the applicant monthly for all hours worked with a minimum of 40 hours per week for each inspector assigned to perform the inspection services in accordance with the following schedule:

(1) For personnel assigned to a year-round basis:

Each inspector—$25.00 per hour.

(2) For personnel assigned on less than a year-round basis:

Each inspector—$28.00 per hour.

In-plant sampler—$14.00 per hour.

* * * * *

(5) Overtime. All overtime hours will be charged at the regular rates specified in paragraphs (c)(1) and (2) of this section plus $7.00 per hour.

(d) Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis will be billed to the applicant monthly for all hours with a minimum of 40 hours for each inspection assigned to perform the inspection services in accordance with the

following schedule: [1]

(1) Each inspector—$28.00 per hour.[2]

(2) In-plant sampler—$14.00 per hour.

* * * * *

(5) *Overtime.* All overtime hours will be charged at the regular rates specified in (d)(1) of this section plus $7.00 per hour.

* * * * *

Dated: August 30, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-20813 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 920

[FV-89-091]

Kiwifruit Grown in California; Proposed Rule To Establish an Interest Charge on Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish an interest charge for delinquent handler assessments. This action would encourage California kiwifruit handlers to pay their assessments in a timely manner so that the Kiwifruit Administrative Committee would be assured that there are adequate funds available to cover program expenses.

DATES: Comments must be received by October 6, 1989.

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 shall 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 proposed under Marketing Agreement No. 920 and Marketing Order No. 920 (7 CFR Part 920), regulating the handling of kiwifruit grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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 proposal 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 145 handlers of California kiwifruit subject to regulation under the marketing order and approximately 1,225 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The Kiwifruit Administrative Committee (committee), which is responsible for local administration of the marketing order, met on July 19, 1989, and recommended that an interest charge be established for delinquent handler assessments. Under § 920.40 of the marketing order, the committee is authorized to incur expenses that are reasonable and necessary to operate the program. Section 920.41 provides that handlers be assessed on a pro-rata basis to cover such costs. Further, § 920.41 authorizes the committee, with the approval of the Secretary, to establish an interest charge on assessments that are not paid within a time period prescribed by the committee.

The timely payment of assessments is important to the efficient functioning of the committee. The committee incurs expenses on a continuous basis and must be assured of a positive cash flow in order to meet its financial obligations, such as salaries and rent.

At its meeting on July 19, 1989, the committee recommended that handlers whose assessments were in arrears be subject to an interest charge of 18 percent per year or 1.5 percent per month on the balance owed. In order to give handlers ample time to make payment before being subject to this charge, assessments would not be considered subject to interest charges until 60 days after billing by the committee office. Interest would begin to accrue immediately following this 60-day grace period.

Therefore, it is proposed that a new § 920.112 be added to the rules and regulations under the kiwifruit marketing order which would specify that an interest charge of 18 percent per year or 1.5 percent per month will be charged on assessments not received 60 days after billing by the committee.

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

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

California, kiwifruit, marketing agreements and orders

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

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

2. Part 920 is amended by adding a new § 920.112 to read as follows:

§ 920.112 Late payments.

Pursuant to § 920.41(a), late payment of assessments shall be subject to an interest charge of 1-½ percent per month on the balance due. Assessments

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[1] Except a minimum of 8 hours per day will be billed in lieu of a minimum of 40 hours a week. Assignments in-plant for less than four weeks will be billed in accordance with § 52.42.

[2] See footnote 1 in introductory text of § 52.51(d).

shall be deemed late 60 days after the invoice date.

Dated: August 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-20814 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 932

[Docket No. FV-89-070]

Olives Grown in California; Change in Procedures for Nominating Producer Members To Serve on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the mail balloting procedure used to nominate producer members and alternate producer members to serve on the California Olive Committee (Committee). The change would allow producers who are interested in serving on the Committee, but are unable to attend meetings at which candidates are selected for nomination, to submit their names to the Committee to be included on the mail ballot. Thus, more producers would be able to participate in the nomination process.

DATES: Comments must be received by October 6, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Comments should reference the docket number and date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530-S, Washington, DC 20090-6456, telephone 202-475-3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 932 (7 CFR 932) regulating the handling of olives 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 proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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 proposed rule 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 seven handlers of California olives regulated under this marketing order each season, and approximately 1,390 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Most, but not all, of the olive producers and none of the olive handlers may be classified as small entities.

The Committee works with the Department in administering the marketing order. The Committee consists of 16 members and alternates. Eight members represent producers and eight members represent handlers. The producer members are apportioned among four districts within the State of California. Four handler members represent handlers who are cooperative handler organizations, and four represent handlers who are not cooperative handler organizations.

Sectioin 932.129 of Subpart-Rules and Regulations (7 CFR 932.108-932.161) specifies that producer members and alternates may be nominated by mail ballot or at nomination meetings as the Committee may determine. When mail ballot voting is used in lieu of nomination meetings, the Committee is required to schedule a meeting in each producing district for the purpose of selecting candidates for member and alternate member nominations. The mail ballot voting procedures set forth in paragraph (a)(1) of § 932.129 do not permit a producer who is not present at a candidate selection meeting and who is not recommended as a candidate by a producer in attendance at such a meeting to be included on a nomination ballot.

Experience has shown that there are instances where producers are unable to attend these meetings but would like to offer themselves as candidates for nomination. It is the Committee's view that all producers interested in serving on the Committee should be provided an opportunity to be considered by their fellow producers for nomination, and that circumstances preventing a producer from attending a meeting should not be cause for denying that producer a chance to be nominated to serve on the Committee.

At its June 6, 1989, meeting, the Committee unanimously recommended that provision be added to paragraph (a)(1) to allow producers who are unable to attend the candidate selection meeting in their respective districts to submit their name to the Committee office, no later than seven days after such meeting, to be placed on the ballot as a candidate for a member or an alternate member position. The proposed change would be made in § 932.129(a)(1) by redesignating paragraph (iv) as paragraph (v) and adding a new paragraph (iv) specifying that in the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district.

The proposed change would not impose any additional costs on producers or handlers. Furthermore, the change is for the benefit of producers and will provide an opportunity for greater producer participation in the Committee nomination process.

Based on the Committee's recommendation and other available information, the Administrator of the AMS has determined that this proposal would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 932

California, Marketing agreements and orders, Olives.

For the reasons set forth in the preamble, 7 CFR Part 932 is proposed to be amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 932 continues to read as follows:

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

2. Paragraph (a)(1)(iv) of § 932.129 is redesignated as paragraph (a)(1)(v) and

a new paragraph (a)(1)(iv) is added to read as follows:

§ 932.129 Nomination procedures for producer members.

(a) * * *

(1) * * *

(iv) In the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district and request that the producer's name be included on the ballot.

* * * * *

Dated: August 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-20810 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1106 and 1126

[Milk Order Nos. AO-231-A56 and AO-210-A48; DA-88-110]

Milk in the Texas and Southwest Plains Marketing Areas; Termination of Proceeding on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action terminates the current proceeding on proposals to amend the producer-handler definitions of the Texas and Southwest Plains Federal milk orders. A public hearing was held September 7-8, 1988, to consider proposals by three cooperative associations that represent a substantial number of the dairy farmers who supply the markets. On June 22, 1989, the Department issued its recommendation to deny the proposals. Subsequently, the cooperative associations have asked that the proceeding be terminated.

DATES: This withdrawal is effective September 6, 1989.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 10, 1988; published June 16, 1988 (53 FR 22499).

Notice of Rescheduled Hearing: Issued July 14, 1988; published July 19, 1988 (53 FR 27174).

Recommended Decision: Issued June 22, 1989; published June 28, 1989 (54 FR 27179).

Statement of Consideration

A public hearing was held to consider proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Texas and Southwest Plains marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), at Irving, Texas, on September 7-8, 1988, pursuant to notices issued June 10, 1988 (53 FR 22499) and July 14, 1988 (53 FR 27174).

The hearing was held to consider proposals by three cooperative associations (Associated Milk Producers, Inc., Mid-America Dairymen, Inc., and Southern Milk Sales, Inc.) to amend the producer-handler definitions of the two orders. A recommended decision, based on evidence presented at the hearing and the record thereof, , denying the proposals was issued on June 22, 1989 (54 FR 27179). The recommended decision concluded, in part, that there was insufficient evidence to demonstrate the existence of disorderly marketing conditions that could warrant the adoption of the proposals. Interested parties were afforded an opportunity to file written exceptions thereon by July 28, 1989.

Although no exceptions were filed to the recommended decision, the proponent cooperative associations requested that the proceeding be terminated. As a result of their withdrawal of support for this proceeding, there is no apparent support for a further consideration of the proposals by any party with respect to this proceeding. Since the recommended decision was to deny the adoption of the proposals, recognition should be given to the proponent's request to terminate the proceeding.

Termination Order

In view of the foregoing, it is hereby determined that the aforesaid proceeding with respect to proposed amendments to the tentative marketing agreements and to the orders should be and is hereby terminated.

List of Subjects in 7 CFR Parts 1106 and 1126

Dairy products, Milk, Milk marketing orders.

The authority citation for 7 CFR Parts 1126 and 1106 continues to read as follows:

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

Signed at Washington, DC, on: August 30, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-20815 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 85-061]

Horse Quarantine Facility Standards; Collection of Fees at Animal Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations concerning quarantine facilities for animals being imported into the United States. We propose: (1) To include requirements for approval of permanent, privately operated quarantine facilities for horses (there are currently no requirements in the regulations for these facilities); and (2) to add new requirements to those already in the regulations for approval of temporary, privately operated quarantine facilities for horses. We believe these amendments are needed to ensure that private facilities meet minimum standards for disease control. We are also proposing that the government collect payment from each privately operated quarantine facility for services the government provides at that facility. We believe this amendment is necessary to ensure that the government is fully reimbursed for services it provides at private facilities.

DATE: Consideration will be given only to comments received on or before November 6, 1989.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies of Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 85-

061. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC., between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT:

Dr. Harvey A. Kryder, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to help prevent the introduction into the United States of various diseases. The regulations require that some of these animals be quarantined upon arrival in the United States as a condition of importation. There are two types of quarantine facilities for animals being imported into the United States: government operated facilities and privately operated facilities. The regulations currently contain requirements for the approval of various privately operated quarantine facilities, including temporary, privately operated quarantine facilities for horses. (See 9 CFR 92.11(d) (2) and (3)).

Permanent, Privately Operated Quarantine Facilities

The regulations do not contain requirements for the approval of permanent, privately operated quarantine facilities for horses. There is occasional public demand for quarantine services for horses in excess of those available at existing federal facilities. This demand may not be able to be filled by temporary, privately operated quarantine facilities because such facilities are established, approved, and operated by importers to handle only their own horses or to handle only horses imported for one unique importation, race, or show. Only the importer's horses or the horses involved in the event are quarantined in a temporary, privately operated quarantine facility. Therefore, in order to meet unfilled demand for quarantine services, we are proposing to add a new § 92.11(e) [1] containing requirements for approval of permanent, privately operated quarantine facilities for horses. In conjunction with the addition of these regulations, the existing regulations concerning temporary, privately operated quarantine facilities for horses would be modified as appropriate (see explanation under "Temporary, Privately Operated Quarantine Facilities," below).

We are not proposing to apply the existing regulations concerning approval of temporary, privately operated quarantine facilities for horses to permanent, privately operated quarantine facilities for horses. Though most of the requirements would be the same for both types of facilities, there are basic differences between permanent and temporary quarantine facilities. The most important difference is that the risk of disease spread within and from permanent facilities is greater than similar risks at temporary facilities. A permanent facility would be occupied on a continuing basis by a large number of animals in different lots. Smaller numbers of animals, in a single group, are quarantined in a temporary facility, and temporary facilities are only in operation a short period of time before all the animals are removed and the facility closed. These differences in operation dictate that security measures must be tighter, and disease detection and prevention measures must be stricter at permanent facilities than at temporary facilities. The proposed requirements for permanent and temporary facilities would appropriately reflect the differences between the two types of facilities, as noted in the following discussion.

With respect to permanent, privately operated quarantine facilities for horses, the regulations would be amended to add a definition of "permanent, privately operated quarantine facility," and to add requirements concerning cooperative agreements; responsibility for costs of operating facilities; supervision of facilities; physical plant requirements, including location and construction; sanitation and security; operating procedures for personnel, handling of horses, cleaning and disinfecting, and recordkeeping; and environmental responsibilities. Information would also be added to the regulations concerning how to apply for approval of permanent, privately operated quarantine facilities for horses, and concerning denial and withdrawal of approval.

The proposed definition of "permanent, privately operated facility" would state that a permanent, privately operated quarantine facility is a facility that offers quarantine services for horses to the general public on a continuing basis, and that is operated by an entity other than the Federal government.

Proposed § 92.11(e)(1) would require that no facility shall operate as a permanent, privately operated quarantine facility for horses unless it is operated in accordance with a cooperative agreement executed by the operator or other representative of the facility and by the Administrator, and unless the cooperative agreement includes all the requirements of proposed § 92.11(e). This provision is necessary to ensure that permanent, privately operated quarantine facilities for horses operate only in accordance with the regulations. As discussed below, we are proposing to add this requirement to § 92.11(d)(2) to apply to temporary facilities.

Proposed § 92.11(e)(1) would also provide that the cost of the facility and all costs associated with its maintenance and operation must be borne by the operator of the facility in accordance with § 92.12 of the regulations. This requirement would be necessary to ensure that all costs associated with the facility, which is a private enterprise, are borne by the individuals responsible.

Under the proposed regulations, Animal and Plant Health Inspection Service (APHIS) personnel would provide services at permanent, privately operated quarantine facilities. Proposed § 92.11(e)(2) provides that facilities meet the minimum requirements detailed in paragraph (e) in order to be approved, but that approval of any permanent, privately operated quarantine facility for horses is contingent upon a determination by the Administrator that sufficient APHIS personnel are available to provide services at the facility. This requirement is necessary to ensure that APHIS has enough personnel to provide the inspection, testing, and other services that the regulations require for horses in quarantine. Assignment of APHIS personnel will be carried out on a "first-come-first served" basis—*i.e.*, if sufficient personnel are available, they will be assigned to a facility as soon as the facility meets all other requirements for approval in proposed § 92.11(e). Because the deployment of these personnel at one facility might result in another facility not being approved due to insufficient APHIS personnel, we would provide in proposed § 92.11(e)(2) that the operator of an approved facility be required to make its services available to the general public on an equitable basis.

Proposed § 92.11(e)(2)(i) requires that the facility be operated in the presence of an APHIS veterinarian. This proposed requirement is intended to ensure that

[1] Current § 92.11(e) would be redesignated § 92.11(f), and other redesignations would be made as needed, if this proposal is adopted.

the facility operates in accordance with all applicable rules and regulations.

Physical Plant Requirements—Permanent Facilities

Proposed § 92.11(e)(2)(ii) details the physical plant requirements necessary for approval of a permanent, privately operated quarantine facility for horses. The proposed requirements would ensure that the facility is capable of operating in accordance with the regulations, and of handling horses as the regulations require, to prevent the spread of diseases to horses in different lots or outside the facility. Under the proposed requirements, the facility must be located near enough to a port listed in § 92.3(a), or to any other port designated as an international port or airport by the U.S. Customs Service, to minimize the risk of imported horses introducing and disseminating diseases while moving from the port of entry to the quarantine facility. (See proposed § 92.11(e)(2)(ii)(A)). No similar provision exists with regard to temporary facilities. This is because in the case of temporary, privately operated quarantine facilities, APHIS personnel accompany the horses from the port to the quarantine facility. This could not be done with horses imported through permanent, privately operated quarantine facilities, because of the large number of shipments of horses into these facilities. Therefore, the requirement that permanent facilities be located near enough to the ports of entry to minimize disease risk while the animals are in transit is designed to offer the same degree of disease protection as that provided by APHIS personnel personally supervising the movement of horses to temporary facilities. Section 92.11(e)(2)(ii)(A) would also require that the quarantine facility be located at least ½ mile from any livestock. We have determined that disease agents for various infectious diseases of horses can travel in aerosol fashion, but are unlikely to do so for more than ½ mile.

The proposed requirements for permanent facilities also include construction requirements in proposed § 92.11(e)(ii)(B). The regulations would require that the facility be enclosed by a chain link security fence that is at least 8 feet high and that is made of a minimum of 11–½ gauge wire. A fence of this nature can reasonably be expected to prevent unauthorized persons, and horses and other animals from outside the facility, from having contact with horses quarantined in the facility. Also included would be requirements that all floors and the surfaces of that part of the walls with which the horses, their excrement or discharges have contact be constructed of materials that are impervious to moisture or than can undergo cleaning and disinfection between shipments without deterioration. The cleaning and disinfection of all of these surfaces would help ensure that disease agents would not be spread from one lot of horses to another. The surfaces most likely to be contaminated by disease agents would be those nearest the horses. The risk of surface contamination would decrease as the distance from the animals increased. For this reasons, the floors and lower part of the walls with which the horses, their excrement, or discharges would have contact, would need more frequent or more intensive cleaning and disinfection. The ceilings and the upper part of the walls would require considerably less maintenance to keep them clean and disinfected and would not need to be impervious to moisture. However, the regulations would require that they be able to undergo cleaning and disinfection between shipments without deterioration. Except in situations where the Administrator specifically approves alternative doors or openings, it would be required that all entryways be equipped with a series of two doors that are either solid or covered with double screening of 16-gauge or finer mesh, and that all other openings be covered with double screening of 16-gauge or finer mesh, to prevent disease-carrying insects or animals from entering or leaving the facility. Because we recognize that other methods of preventing the entry or exit of disease-carrying insects or animals might exist or might be developed, the proposed regulations would provide that the Administrator may approve alternative types of doors or openings if he or she determines that they are adequate to prevent the entry of insects that are vectors of diseases of horses.

It would also be required that the facility be constructed so that different lots of horses held at the facility at the same time are separated by physical barriers in such a manner that horses in one lot do not have physical contact with horses in another lot, or with their excrement or discharge. A "lot" of horses would be defined as a group of horses that, while being held on a conveyance or premises, have had opportunity for commingling (physical contact with other horses in the group or with their excrement or discharges) at any time during shipment to the United States. These provisions would help ensure that disease-affected or exposed horses in the facility do not spread that disease or expose other horses to it. Those horses that have already been commingled with other horses (and therefore are horses of the same lot) would be considered affected by a disease if any one horse in the lot has the disease. Therefore, it would not be necessary to separate horses within the same lot.

The proposed regulations also require that permanent facilities have ventilation capable of controlling moisture and odors and maintaining them at levels that are not injurious to the health of the horses in the facility. Those facilities that are approved to handle more than one lot of horses at a time would be required to have a separate, forced air ventilation system for each lot of horses that is housed in the facility, to prevent exposure of other lots of horses. No similar provision applies to temporary facilities. Unlike permanent facilities, temporary facilities cannot house more than one lot of horses. If an infectious disease is discovered, all horses in the temporary facility are considered to have been exposed to the disease. Ventilation would not be considered to be a contributing cause of further spread of the disease, since all the horses in the facility would be considered to have already been exposed.

The proposed regulations also require, for approval of permanent facilities, that certain areas, rooms and equipment necessary to conduct quarantine operations, to maintain the facility, and to keep it clean, are located within the facility. These include a vermin-proof feed storage area; enough office space to contain a chair, a desk, and a filing cabinet for recordkeeping; a storage area for equipment used in the facility; an area for washing clothes and equipment used in the facility; and a shower at the entrance to the necropsy area.

Showers would be required in the facility, to be located according to the configuration of the facility. To clarify these provisions regarding showers, we would add definitions for the terms "horse-holding area" and "horse-holding compound" to the regulations. A horse-holding area would be defined as that area in a privately operated quarantine facility in which a single lot of horses is held at one time. A horse-holding compound would be defined as that area in a permanent, privately operated quarantine facility that is comprised of all of the horse-holding areas in the facility. We would require that in those facilities where it is possible to move from each horse-holding area to a shower without passing through any

other horse-holding area, a shower be located at the entrance to the horse-holding compound. In those facilities where it is not possible to move from each horse-holding area to a shower without passing through any other horse holding area, the regulations would require that a shower be located at the entrance to each horse holding area. The regulations would require that a clothes storage and a clothes change area be located at each end of the shower areas. The regulations would also require that the facility contain a necropsy area that is at least 15' × 15' and that is illuminated by at least 70 footcandles—to provide sufficient space and light to conduct an adequate necropsy of a horse—and that is equipped with running water, a drain, a cabinet for storing instruments, and a refrigerator-freezer for storage of laboratory specimens. These requirements are all necessary to ensure that the facility is operated in a manner that will not spread disease into or out of the facility or among lots of horses in quarantine in the facility.

As noted above, the requirements for a permanent, privately operated quarantine facility would be more extensive than those for temporary facilities. Office space is not required at temporary facilities because they are not in operation long enough for paperwork to become a major concern for the APHIS veterinarian servicing the facility. A separate storage area for equipment for each lot of horses would be required at permanent, privately operated quarantine facilities. This would help ensure that equipment used on a horse in one lot does not come into contact with horses from another lot or with equipment used on those other horses. However, a separate storage area for equipment is not needed at temporary facilities. All horses in a temporary facility are considered to be one lot, and in the event that an infectious disease is discovered, all the animals are considered to have been exposed to the disease. A separate storage area would therefore not be effective in preventing further spread of disease in the temporary facility, since all the horses would be considered to have already been exposed.

A separate necropsy area is not required at temporary facilities, but would be required for permanent facilities. Based on our experience with regard to temporary facilities, we believe such a requirement would be impractical for those facilities, because they operate for only a short period of time and handle only a small number of horses. With regard to blood samples that must be drawn for all horses in quarantine, it has been our experience that this is less time-consuming to do at temporary facilities than at other facilities. Historically, there have been only a few horses in the temporary facility; therefore only a few samples need to be drawn. Because the horses are all in one lot, the APHIS veterinarians have been able to take all the samples during one visit. The number of samples is small; therefore, the APHIS veterinarian taking the samples has been able to carry the necessary equipment, supplies, and sample preparation and packaging materials with him or her. Because the number of samples is small, the APHIS veterinarian has also been able to retain duplicate samples under his or her supervision, and does not need a place to store them at the facility. This system has worked well at temporary facilities. However, we believe that at permanent facilities, with multiple lots of horses entering and leaving the facility on a continuing basis, this system would not be practical. Generally, many samples would have to be drawn, for numerous shipments, and it would be impractical for the veterinarian to carry the necessary equipment and supplies with him. Storage space for these items, work space for preparing and packaging samples for mailing, and storage space for duplicate samples, would be required.

With regard to examination of horses that have died in quarantine, temporary facilities are not required to have necropsy areas because, historically, they have not needed them. Temporary, privately operated quarantine facilities for horses have been operating for more than 15 years, and no horse has ever died while in quarantine at one of these facilities. The possibility of a horse dying while in quarantine at a temporary, privately operated quarantine facility is very low, because so few horses are imported through these facilities and they remain at the facilities for a very short time. However, we believe it is likely that some horses imported through permanent, privately operated quarantine facilities would die while in these facilities. We base this belief on the fact that some horses imported into the United States through Federally operated quarantine facilities, which are similar to the proposed permanent, privately operated quarantine facilities for horses in that they operate continuously and handle a large number of animals, have died while in quarantine in such facilities. Therefore, a necropsy area would be required at permanent, privately operated quarantine facilities for horses. Providing for necropsies within the facility would reduce the risk of spreading disease to horses outside the facility, by minimizing the transporting of the carcass of a horse that may have been diseased. The necropsy area would be necessary to perform post-mortem inspection of animals that die in the quarantine facility and to collect samples for laboratory diagnosis—actions that are taken to determine if the death of the horse was associated with a disease, of if it was caused by other factors, such as colic or physical injury.

The proposed regulations also specify additional sanitation and security requirements for permanent, privately operated quarantine facilities for horses. These appear at proposed § 92.11(e)(2)(ii)(C). These provisions include requirements that adequate equipment and supplies for cleaning, disinfecting, and maintaining the facility, and for controlling pests, be available. In addition, these provisions require that there be an adequate supply of potable water; that wastes be disposed of by either incineration or burial, or in a public sewer system; and that arrangements be made for carcasses to be disposed of by incineration, burial, or grinding and then heating for at least 1 hour at a temperature of not less than 265°F. Grinding and heating a carcass according to the time and temperature specified (also known as rendering) is effective in destroying any disease agents that might be present in the carcass. The proposed provisions also include a requirement that surface drainage into and out of the facility be controlled in such a manner that no agent of livestock diseases can be spread into or from the facility; that clean clothing and footwear, and receptacles for clothing that has been worn, be provided; and that feed and bedding for horses in quarantine be stored in the facility and originate in an area not under quarantine for cattle fever ticks. These requirements are all designed to ensure that disease is not spread into or out of an approved quarantine facility.

Personnel at Permanent Facilities

Specific regulations concerning personnel at permanent, privately operated quarantine facilities for horses are contained in § 92.11(e)(2)(iii)(A) of the proposed regulations. These requirements would restrict access to the facility to persons working at the facility or to persons specifically granted access by the APHIS veterinarian to perform veterinary

functions, and would require that a log be kept of all persons entering and leaving the facility. Such a log would not be required at temporary facilities, which historically have been small enough that APHIS personnel can exercise complete control over persons entering the facility. When APHIS personnel leave the facility, they seal it, making further access to the facility impossible until APHIS personnel return to break the seal. Because they already operate under high security, additional security provisions for temporary facilities appear unnecessary.

The regulations would also require that all individuals change into clean clothing and footwear when entering and leaving the horse-holding compound within the facility, and when moving from one lot of horses to another lot of horses within the horse-holding compound. The regulations would require that enough clothing and footwear be available at the facility to allow these individuals to change clothing and footwear when required. The regulations would also require that those individuals shower when entering and leaving the horse-holding compound, when moving from one lot of horses to another lot of horses in the horse holding compound, and when leaving the necropsy area after conducting a necropsy. At the end of each workday, the operator of the facility would be required to collect work clothing worn into the horse-holding areas and keep it in a bag until the clothing is washed. Used footwear would be required to be left in the clothes change area or cleaned with hot water (148 °F. minimum) and detergent, and disinfected with either a quaternary ammonia-based disinfectant or a phenolic-based disinfectant, applied in accordance with the label approved by the Environmental Protection Agency. Any vehicle entering the quarantine facility building would have to be cleaned and disinfected in the presence of an inspector before entering and leaving the facility. These requirements are all necessary to preclude transmission of any equine disease agent into or out of the facility.

Handling of Horses at Permanent Facilities

Along with location and construction of facilities and personnel within the facility, the proposed regulations would govern the handling of horses at the facility. These requirements are contained in § 92.11(e)(2)(iii)(B) of the proposed regulations. These requirements would provide that horses be handled by lot (which could include any number of animals), and that each lot of horses be quarantined on an "all-in, all-out" basis. Removing animals from the lot, except for diagnostic purposes, after the start of the quarantine period, and adding animals to the lot after the start of the quarantine period would be prohibited. The proposed provisions would also require that the portion of the facilities where a lot of horses has been quarantined must be cleaned and disinfected after the animals are released from quarantine, so that newly arriving horses are not exposed to any diseases carried by the previous lot of horses. This cleaning and disinfection would have to take place in the presence of an APHIS veterinarian. These requirements would ensure that animals are released into the United States only if quarantine requirements have been complied with. These requirements would also simplify management of horses in the facility and would minimize possible disease spread.

Recordkeeping at Permanent Facilities

Proposed § 92.11(e)(2)(iii)(C) would require that the supervisory APHIS veterinarian maintain a daily log. Basically, the log would record the health of each horse each day of the quarantine. Maintaining this log would act as a control, ensuring that all horses were accounted for, properly quarantined, and incompliance with all regulatory requirements before release from the quarantine facility. The log would also provide information needed to trace animal diseases to their country of origin. Information required for the daily log for each lot of horses would include: Individual identification of the horses, source of origin of the horses in the lot, total number of horses in the lot when imported, number of dead or injured horses when the lot arrived, the date the lot was placed into the facility, the number of deaths each day in the lot of horses during the quarantine period, necropsy results, laboratory findings on horses that died during the quarantine period, and date of prescribed tests and results. Other information required would be Department import permit numbers for each lot, the date the lot was removed from the facility, and any other observations concerning the general health of the horses in the lot. The supervisory APHIS veterinarian of the facility would also be required to make, at the time each horse is identified, an identification record containing the identification number or markings of each horse. These records would be required to be maintained at the facility for 12 months from the date the horses were released from quarantine, and would have to be made available to APHIS personnel on request. The records would be required to be kept for 12 months to facilitate any APHIS investigation into possible alleged violations of import requirements or disease traceback. It has been our experience that virtually all investigations and disease tracebacks are conducted in the 12 months following importation. Similar information and recordkeeping requirements do not exist for temporary facilities. Temporary facilities operate only for a short period of time and then close. Frequently, there is no facility remaining where records can be maintained or inspected. In many cases, the operators of the facilities are not citizens of the United States, and return to their homeland after the temporary facilities close. However, all horses that will be quarantined at a privately operated quarantine facility must enter the United States under a permit. That permit provides identification and other information on the health, source, and owner of each animal. Permits are issued by APHIS, and APHIS maintains records of all permits issued.

Compliance With Environment Regulations

We are also proposing to require that each permanent, privately operated quarantine facility for horses be certified as complying with all applicable environmental regulations by a Federal or State government official responsible for ensuring compliance with those regulations. This requirement, which would appear at proposed § 92.11(e)(2)(iv), is necessary to provide us with documentation that all environmental requirements are met.

Additional Requirements

To allow adjustments for unanticipated circumstances, the regulations would provide, at § 92.11(e)(2)(v), that additional requirements could be imposed by the Administrator in specific cases in order to assure that the quarantine of horses in permanent, privately operated quarantine facilities is adequate "to enable determination of their health status, prevent spread of disease among horses in quarantine, and prevent escape of equine disease agents from the facility."

Approval of Permanent Facilities

The proposed regulations include procedures to request approval of permanent, privately operated quarantine facilities for horses. One of the proposed requirements is that

applications for approval be submitted to the Administrator no less than 90 days prior to the proposed date of entry of the first lot of horses in the facility. This is in contrast to the 15 days required for applications for approval of temporary facilities. This time is needed to inspect and approve the facility, then to arrange for personnel to provide services at the facility. The amount of time needed to make personnel arrangements so that services can be provided at the different kinds of facilities differs. Temporary facilities operate only for a short period of time. Therefore, all personnel arrangements that have to be made to provide services at such facilities can be made on a temporary basis, and they are relatively easy and quick to arrange, even if personnel must be detailed from other jobs. However, permanent facilities operate on a long-term basis. Long-term personnel plans and arrangements must be made, including the possible hiring of personnel or the permanent transfer of existing personnel. The time needed to make these arrangements is much longer than the time needed to make arrangements to provide services at temporary facilities.

The proposed regulations also include procedures for denying or withdrawing approval of permanent, privately operated quarantine facilities for horses if any provision of the proposed regulations is not met. The regulations would also establish due process procedures regarding a denial or withdrawal of approval and an opportunity for a hearing when there is a dispute of material fact regarding the denial or withdrawal. In addition to denial or withdrawal of approval when the requirements for approval are not complied with, approval would automatically be withdrawn by the Administrator when the operator notifies the Area Veterinarian in Charge for the state in which the facility is located, in writing, that the facility is no longer in operation.

Temporary, Privately Operated Quarantine Facilities

This document also proposes to make several amendments to the regulations concerning approval of temporary, privately operated quarantine facilities for horses. Certain of the provisions are also required for the approval of permanent, privately operated quarantine facilities, and would make requirements for both types of privately operated facilities more consistent.

The regulations would be amended to add a definition of "Temporary, privately operated quarantine facility." The definition would state that a temporary, privately operated quarantine facility is a facility that offers quarantine services for one lot of horses at a time, and that is owned and operated by any entity other than the Federal government.

In current § 92.11(d), various functions at temporary, privately operated quarantine facilities are referred to as being carried out by the importer of the horses, rather than by the operator of the facility. In actual practice, however, it is the operator of the facility who carries out these functions, and the operator is not necessarily the importer. For this reason, we are proposing to change references to "importer" in § 92.11(d) to "operator."

We are proposing to amend the regulations to add, at § 92.11(d)(2), a requirement that no facility operate as a temporary, privately operated quarantine facility for horses unless it is operated in accordance with a cooperative agreement executed by the operator or other designated representative of the facility and by the Administrator, and unless the terms of the cooperative agreement require compliance with § 92.11(d) (2) and (3) (requirements for approval of temporary, private facilities). This provision is necessary to ensure that temporary, privately operated quarantine facilities for horses operate only in accordance with the regulations.

Physical Plant Requirements—Temporary Facilities

The proposed amendments would include specific construction requirements for temporary facilities, at § 92.11(d)(3)(ii)(B). To ensure against absorption and retention of disease agents, all walls, floors, and ceilings would be required to be constructed so that the floors and surfaces of that part of the walls with which the horses, their excrement, or discharges have contact are impervious to moisture and can undergo cleaning and disinfection between shipments without deterioration. The cleaning and disinfection of all these surfaces would help ensure that disease agents would not be spread to animals that might be quarantined at the temporary facility at some future date. The surfaces nearest the horses would be most likely to be contaminated by disease agents, with the risk of surface contamination decreasing with distance from the animals. For this reason, the floors and lower part of the walls, with which the horses, their excrement, or their discharges would have contact, would need more frequent or more intensive cleaning and disinfection. The ceilings and the upper part of the walls would require considerably less maintenance to keep them clean and disinfected and would not need to be impervious to moisture. They would, however, be required to be able to undergo cleaning and disinfection between shipments without deterioration.

The quarantine facility would have to be constructed with each entryway equipped with a series of two doors that are either solid or equipped with double screening of 16-gauge of finer mesh, and with other openings covered with double screening of 16-gauge or finer mesh, unless the Administration specifically approves other types of doors and openings as adequate to prevent the entry of insects that are vectors of diseases of horses.

We are also proposing to amend the regulations to require that surface drainage into and out of temporary facilities be controlled in a manner adequate to prevent any agent of livestock diseases from being spread into or from the facility. This requirement would appear in § 92.11(d)(3)(ii)(B)(*3*).

We are also proposing to amend § 92.11(d)(3)(ii)(B) to add a new paragraph (*4*) to require that temporary, privately operated quarantine facilities for horses provide a shower and clothes storage and change area. Unlike the proposed regulations for permanent, privately operated quarantine facilities, we are not proposing to require that the shower and clothes storage and change area for a temporary facility be in any specific location. Temporary facilites have historically been small facilities, and the APHIS personnel supervising activities there have been able to monitor the entire facility at one time. Therefore, it appears that APHIS personnel can ensure personally that the clothes changing and showering requirements proposed in this document are met.

Section 92.11(d)(3)(iii)(C)(*7*) would require that arrangements be made for carcasses to be disposed of by incineration or burial, or by grinding and then heating the carcass for at least 1 hour at a temperature of not less than 265° F. (also known as rendering).

Proposed new paragraph § 92.11(d)(3)(iii)(F) would require that temporary, privately operated quarantine facilities for horses have equipment and supplies available for clearing, disinfecting, and maintaining the facility, and for controlled pests. Although the current regulations address cleaning, disinfecting, and pest control, the proposed new paragraph would clarify that such basic equipment and supplies must be available.

It is proposed to amend the regulations to add, at § 92.11(d)(3)(iii), a new paragraph (G) to require that temporary, privately operated facilities for horses have a vermin-proof feed storage area. This would ensure that feed for horses in quarantine at such facilities is not contaminated by vermin, which could carry disease.

Sanitation Procedures at Temporary Facilities

The regulations would also be amended to add requirements, at new § 92.11(d)(3)(iii)((H), (I), and (J), that the operator of the facility provide enough clean clothing and footwear to ensure that workers at the facility have clean clothing and footwear at the start of each workday. At the end of each workday, the operator would be required to collect all work clothing worn into the horse-holding area and keep it in a bag until the clothing is washed. The facility would be required to have a receptacle for soiled and contaminated clothing in the clothes storage and change area. The regulations would require that used footwear either be left in the clothes change area or be cleaned with hot water (148° F. minimum) and detergent and disinfected with either a quaternary ammonia-based disinfectant or a phenolic-based disinfectant, applied in accordance with the label approved by the Environmental Protection Agency. All persons granted access to the facility would be required to wear clean protective clothing and footwear upon entering the horse-holding area, and to shower and change their clothing and footwear when entering and leaving the facility. (See proposed § 92.11(d)(3)(iv)(A)(*4*) and (*5*)). These proposed amendments are all necessary to ensure that the facility is operated in a manner that will not spread disease into or out of the facility. No amendments are proposed to require personnel to shower or change while in the facility. Such provisions, though proposed for permanent facilities, as explained above, are not necessary at temporary facilities. The horses in a temporary facility are considered to be one lot, and in the event that an infectious disease is discovered, all the animals are considered to have been exposed to the disease. Showering and changing requirements for personnel already in the facility would therefore not be effective in preventing further spread of the disease in the facility, since all the horses would already have been exposed.

It is also proposed to amend the regulations at § 92.11(d)(3)(iv) to add a new paragraph (C) to require that the facility be throughly cleaned and disinfected with a disinfectant authorized in § 71.10(a)((5) of title 9, CFR, after the horses are released from quarantine and before the facility is used for any other purpose. The disinfectants authorized in § 71.10(a)(5) have proven to be effective, and appropriate for use in an animal facility. This proposed requirement is to ensure that there is no risk of disease contamination or spread.

APHIS Services

We are also proposing to amend the provisions of § 92.12(a), regarding APHIS's services and costs at privately operated quarantine facilities for horses and other types of animals, to make the operators of the facilities responsible for requesting and paying for services provided by APHIS. Because, under the proposed regulations, the operator of the facility would be responsible for ensuring that it is operated and maintained according to the regulations, we believe that it is appropriate for the operator to deal directly with APHIS in requesting necessary services. Additionally, while APHIS personnel have no direct or continuing contact at private facilities with individual importers or their agents, private quarantine facilities do have direct contract with importers or their agents, and are equipped and experienced in billing and collecting for services provided to those importers. Under these circumstances, it appears it would be more efficient and practical for APHIS to collect payments for Federal government-provided services from the private facility involved, rather than from individual importers.

Miscellaneous

We are also proposing to amend the regulations to clarify that quarantine facilities provided by other than the Federal government are "privately operated" quarantine facilities.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the proposed regulations, fees for Federal-government provided services would not be increased. At this time, there is one permanant, privately operated quarantine facility used for horses in the United States, and it is a small entity. Over the period of a year, approximately 10–25 temporary privately operated quarantine facilities, all of which are small entities, are used by importers of horses. The amendments to the regulations proposed by this document would not require significant construction changes to either the one permanent, privately operated facility for horses currently in use, or to the design of temporary privately operated facilities for horses.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 0579–0040.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, it is proposed to amend 9 CFR part 92 as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would continue to read as set forth below:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 92.1 would be amended by adding, in alphabetical order, the following new definitions:

§ 92.1 Definitions.

* * * * *

Horse-holding area. That area in a privately operated quarantine facility in which a single lot of horses is held at one time.

Horse-holding compound. That area in a permanent, privately operated quarantine facility that is comprised of all of the horse-holding areas in the facility.

* * * * *

Permanent, privately operated quarantine facility. A facility that offers quarantine services for horses to the general public on a continuing basis and that is owned and operated by an entity other than the Federal Government.

* * * * *

Temporary, privately operated quarantine facility. A facility that offers quarantine services for one lot of horses at a time, and that is owned and operated by an entity other than the Federal government.

* * * * *

§ 92.3 [Amended]

3. In § 92.3, the heading to paragraph (g) would be revised to read as follows:

(g) *Ports and privately operated quarantine facilities for horses.* * * *

4. In § 92.3, paragraph (g) would be amended by removing the words "U.S. Customs Service and quarantined at quarantine facilities provided by the importer" and adding in their place the works "U.S. Customs Service and quarantined at privately operated quarantine facilities", and by removing the phrase "§§ 92.2(i), 92.4(a), 92.8(a), 92.11(d), and 92.17 are met." and adding in its place the phrase "§§ 92.2(i), 92.4(a), 92.8(a), 92.17, and either §§ 92.11(d) or 92.11(e) as appropriate, are met."

§ 92.11 [Amended]

5. In § 92.11, paragraph (d)(2), the first sentence would be revised to read as follows: "Horses presented for entry into the United States as provided in § 92.3(g) of this part for quarantine in temporary facilities provided by the importer shall be quarantined in facilities approved by the Administrator."

6. In § 92.11, the last word in the last sentence in paragraph (d)(2) would be changed from "importer" to "operator".

7. In § 92.11(d), the following sentence would be added to the end of paragraph (d)(2): * * * "No facility shall operate as a temporary, privately operated quarantine facility for horses unless it is operated in accordance with a cooperative agreement executed by the operator or other designated representative of the facility and by the Administrator, and unless such cooperative agreement includes all the applicable requirements of this section and includes a requirement that the cost of the facility and all costs associated with the maintenance and operation of the facility shall be borne by the operator in accordance with the provisions of § 92.12 of this part."

8. In § 92.11, paragraph (d)(3), the heading and introductory text would be revised to read as follows:

(d) * * *

(3) *Standards and handling procedures for approval of temporary, privately operated quarantine facilities.* To qualify for designation as a temporary privately operated quarantine facility for horses, the facility shall be maintained and operated in accordance with the following standards:

* * * * *

9. In § 92.11, paragraph (d)(3)(i), the words "by the importer of his agent" would be removed and the words "by the operator of the facility" would be added in their place.

10. In § 92.11, paragraph (d)(3)(ii)(B) would be revised to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(B) *Construction.* (*1*) The quarantine facility shall be constructed so that the surfaces of the floors and the surfaces of that part of the walls with which the horses, their excrement, or discharges have contact are constructed of materials that are impervious to moisture and that can undergo cleaning and disinfection between shipments without deterioration. The ceiling and that part of the walls with which the horses, their excrement, or discharges do not have contact shall be constructed so that they can undergo cleaning and disinfection between shipments without deterioration.

(*2*) The quarantine facility shall be constructed with each entryway equipped with a series of two doors that are either solid or covered with double screening of 16-guage or finer mesh, and with other openings covered with double screening of 16-gauge or finer mesh, unless the Administrator specifically approves other types of doors and openings as adequate to prevent the entry of insects that are vectors of diseases of horses.

(*3*) Surface drainage into or from the facility shall be controlled in a manner adequate to prevent any agent of livestock diseases from being spread into or from the facility;

(*4*) There shall be a shower and a clothes storage and change area in the facility.

* * * * *

11. In § 92.11, paragraph (d)(3)(iii)(C), the first sentence would be revised to read as follows: "Upon the death or destruction of any horse, the operator must arrange for disposal of the carcass, in conformance with all applicable environmental quality control standards, by incineration or burial, or by grinding and then heating any carcasses for at least one hour at a temperature of not less than 265 °F."

* * *

12. In § 92.11, paragraphs (d)(3)(iii)(A), (d)(3)(iii)(C), and (d)(3)(iv)(A)(*2*) would be amended by removing the words "the importer", the one time they appear in each of those paragraphs, and adding in their place the words "the operator".

13. In § 92.11, new paragraphs (d)(3)(iii) (F), (G), (H), (I), and (J); and (d)(3)(iv)(A) (*4*) and (*5*) would be added, to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(d) * * *

(3) * * *

(iii) * * *

(F) The facility shall have available equipment and supplies to maintain the facility in clean and sanitary condition, including insect and pest control equipment and supplies.

(G) The facility shall have a vermin-proof feed storage area.

(H) The operator of the facility shall provide enough clean clothing and footwear to ensure that workers at the facility have clean clothing and footwear at the start of each workday.

(I) The facility shall have a receptacle for soiled and contaminated clothing in the clothes storage and change area.

(J) At the end of each workday, the operator shall collect all work clothing worn into the horse-holding area and keep it in a bag until the clothing is washed. Used footwear shall either be left in the clothes change area or cleaned with hot water (148°F minimum) and detergent and disinfected with either a quaternary ammonia-based disinfectant or a phenolic-based disinfectant, applied in accordance with the label approved by the Environmental Protection Agency.

(iv) * * *

(A) * * *

(*4*) Persons granted access to the quarantine facility shall wear clean protective clothing and footwear upon entering the horse-holding area.

(*5*) Persons granted access to the quarantine facility shall shower when entering and leaving the horse-holding area.

* * * * *

14. In § 92.11, paragraph (d)(3)(iv)(B) would be amended by removing the words "in an approved quarantine facility provided by the importer" and adding, in their place, the words "in an approved temporary, privately operated quarantine facility".

15. In § 92.11, a new paragraph (d)(3)(iv)(C) would be added to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(d) * * *

(3) * * *

(iv) * * *

(c) *Facility.* The facility shall be thoroughly cleaned and disinfected in the presence of an APHIS veterinarian with a disinfectant authorized in § 71.10(a)(5) of this chapter, after the horses are released from quarantine and before the facility is used for any other purpose.

* * * * *

16. In § 92.11, paragraphs (e) (f), and (g) would be redesignated paragraphs (f), (g), and (h) and footnotes 3, 4, and 5 would be redesignated as footnotes 5, 6, and 7.

17. In § 92.11, redesignated paragraph (f) would be amended by changing the reference to "paragraph (f)", wherever it appears, to read "paragraph (g)", and by changing the reference to "paragraph (f)(7)" to read "paragraph (g)(7)".

18. In § 92.11, redesignated paragraph (g), the introductory text would be amended by changing the reference to "paragraph (f) (1) through (6)" to read "paragraphs (g) (1) through (6), and by changing the reference to "§ 92.11(g)" to read "§ 92.11(h).

19. In § 92.11, redesignated paragraph (g)(3)(ii)(A) would be amended by changing the reference to "paragraph (e)" to read "paragraph (f)".

20. In § 92.11, redesignated paragraph (g)(5)(vi) would be amended by changing the reference to "paragraphs (f)(6)(ii)(B) or (f)(6)(ii)(C)" to read "paragraphs (g)(6)(ii)(B) or (g)(6)(ii)(C)".

21. In § 92.11, redesignated paragraph (g)(6)(i) would be amended by changing the reference to "paragraph (f)(6)(ii)" to read "paragraph (g)(6)(ii)".

22. In § 92.11, redesignated paragraph (g)(6)(ii) would be amended by changing the reference to "paragraph (f)(6)(iv)" to read "paragraph (g)(6)(iv)".

23. In § 92.11, redesignated paragraph (g)(7)(i) would be amended by changing the reference to "paragraph (e)" to read "paragraph (f)", and by changing the reference to "paragraph (f)(7)(iii)" to read "paragraph (g)(7)(iii)".

24. In § 92.11, redesignated paragraph (g)(7)(ii) would be amended by changing the reference to "paragraph (f)(7)(iii)" to read "paragraph (g)(7)(iii)".

25. In § 92.11, redesignated paragraph (g)(7)(iii), paragraph (A)(5) "Cooperative and Trust Fund Agreement" would be amended by changing the reference to "§ 92.11 (f)" to read "§ 92.11(g)".

26. In § 92.11, redesignated paragraph (g)(7)(iii), paragraph (A)(13) of the "Cooperative and Trust Fund Agreement" would be amended by changing the reference to "§ 92.11(f)(3)(ii)(C)" to read "§ 92.11(g)(3)(ii)(C)".

27. In § 92.11, redesignated paragraph (g)(7)(iii), paragraph (C)(2) of the "Cooperative and Trust Fund Agreement" would be amended by changing the reference to "paragraph (f)(7)(iii)(A)(16)" to read "paragraph (g)(7)(iii)(A)(16)".

28. In § 92.11, redesignated paragraph (h) would be amended by changing the reference to "paragraph (f)" to read "paragraph (g)".

29. In § 92.11, a new paragraph (e) would be added to read as follows:

§ 92.11 *Quarantine requirements.*

* * * * *

(e) *Standards for approval of permanent, privately operated quarantine facilities for horses, and handling procedures for importation of horses.*— (1) *Cooperative agreement.* No facility shall operate as a permanent, privately operated quarantine facility for horses unless it is operated in accordance with a cooperative agreement executed by the operator or other designated representative of the facility and by the Administrator, and unless such cooperative agreement includes all the requirements of paragraph (e) of this section and includes a requirement that the cost of the facility and all costs associated with the maintenance and operation of the facility shall be borne by the operator in accordance with the provisions of § 92.12.

(2) *Approval of facilities.* To quality for designation as a permanent, privately operated quarantine facility for horses,[3] and to retain such approval, the facility and its maintenance and operation must meet the minimum requirements of paragraph (e) of this section. Approval of any quarantine facility shall be contingent upon a determination made by the Administrator that sufficient personnel are available to provide services required by the facility if approved. In the event that more than one facility requests approval, the facilities shall have APHIS personnel assigned to them in the order that they meet all other criteria for approval. The operator of the facility shall make its services available to the general public on an equitable basis. The cost of the facility and all costs associated with the maintenance and operation of the facility shall be borne by the operator in accordance with the provisions of § 92.12 of this part.

(i) *Supervision of the facility.* The facility shall be operated in the presence of an APHIS veterinarian.

(ii) *Physical plant requirements.* The facility shall comply with the following requirements:

(A) *Location.* The quarantine facility shall be located close enough to one of the ports listed in § 92.3(a) of this part, or at any other port designated as an international port or airport by the U.S. Customs Service, to minimize the possibility of introduction and dissemination of diseases by the imported horses while in transit from the point of entry to the quarantine facility, and shall be located at least one-half mile from any livestock.

(B) *Construction.* The quarantine facility building shall:

(*1*) Be surrounded by a chain link security fence that is at least 8 feet high and that is made of a minimum of 11½ guage wire;

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[3] Information as to the location of such facilities may be obtained from the Administrator, c/o Import Export Animals Staff, VS, APHIS, USDA, Room 765, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

(2) Be constructed so that the surfaces of the floors and the surfaces of that part of the walls with which the horses, their excrement, or discharges have contact that constructed of materials that are impervious to moisture and that can undergo contained cleaning and disinfection between shipments without deterioration;

(3) Be constructed so that the ceiling and that part of the walls with which the horses, their excrement, or discharges do not have contact can undergo cleaning and disinfection between shipments without deterioration;

(4) Be constructed so that each entryway is equipped with a series of two doors that are either solid or covered with double screening of 16-gauge or finer mesh, and so that other openings are covered with double screening of 16-gauge or finer mesh, unless the Administrator specifically approves other types of doors and openings as adequate to prevent the entry of insects that are vectors of diseases of horses;

(5) Be constructed so that different lots of horses in the facility at the same time are separated by physical barriers in such a manner that horses in a given lot do not have physical contact with horses in another lot, or with their excrement, or discharge (for the purposes of this section a "lot" shall mean a group of horses that, while being held on a premises or conveyance, have had opportunity for commingling (physical contact with other horses in the group or with their excrement or discharges) at any time during shipment to the United States);

(6) Have a ventilation capacity sufficient to control moisture and odor and maintain them at levels that are not injurious to the health of the horses in quarantine;

(7) Have a separate, controlled, forced air ventilation system for each lot of horses that is housed in the facility, to prevent exposure to airborne diseases of other lots of horses in the facility, if the facility is approved to handle more than one lot of horses at a time;

(8) Have a separate, vermin-proof, feed storage area, if feed is stored in the facility;

(9) Have office space for recordkeeping that is of sufficient size to contain a chair, a desk, and a filing cabinet;

(10) Have a necropsy area that is at least 15'×15', that is illuminated with at least 70 footcandles of light, and that is equipped with running water, a drain, a cabinet for storing instruments, and a refrigerator-freezer for storing specimens for laboratory examination;

(11) Have an area for washing clothes and equipment used in the facility;

(12)(i) In facilities where it is possible to move from each horse-holding area to a shower without passing through any other horse-holding area, have a shower at the entrance to the horse-holding compound; or

(ii) In facilities were it is not possible to move from each horse-holding area to a shower without passing through any other horse-holding area, have a shower at the entrance to each horse-holding area;

(13) Have a shower at the entance to the necropsy area;

(14) Have a clothes storage and change area at each end of each shower area; and

(15) Have a storage area for hoses, brooms, shovels, soaps, and disinfectants.

(16) Have a separate storage area for equipment and supplies for each lot of horses.

(C) *Sanitation and security.* Arrangements shall exist for:

(1) Equipment and supplies necessary to maintain the facility in clean and sanitary condition, including insect and pest control equipment and supplies;

(2) A supply or portable water adequate to meet all watering and cleaning needs.

(3) Power cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment;

(4) Stocks of a disinfectant authorized in § 71.10(a)(5) of this chapter sufficient to disinfect the entire facility;

(5) Disposal of wastes, other than dead horses, by burial or incineration, or in a public sewer system in compliance with all applicable environmental quality control standards;

(6) Upon the death or destruction of any horse, disposal of the carcass, in conformance with all applicable environmental quality control standards, by incineration or burial, or by grinding and then heating any carcasses for at least one hour at a temperature of not less than 265 °F.

(7) Control of surface drainage into or from the facility in a manner adequate to prevent any agent of equine diseases from being spread into or from the facility;

(8) Enough clothing and footwear to ensure that workers at the facility have clean clothing and footwear at the start of each workday and when they move from one lot of horses to another lot of horses;

(9) A receptacle or receptacles situated so that clothing that has been worn into a horse holding area can be deposited in the receptacle after workers leave the horse holding area and before they enter the shower;

(10) Feed and bedding for horses in quarantine that originates in an area not under quarantine because of cattle fever ticks (see part 72 of this chapter) and that is stored in a manner that protects these supplies from being spoiled or infested by vermin.

(iii) *Operational procedures.* To retain designation as an approved quarantine facility, the following procedures shall be observed at the facility at all times:

(A) *Personnel.* Access to the facility shall be granted only to persons working at the facility or to persons specifically granted such access by the APHIS veterinarian in order to conduct veterinary functions. A daily log shall be maintained to record the entry and exit of all persons entering the facility.

(1) All personnel granted access to the horse-holding compound shall:

(i) Change into clean clothing and footwear when entering and leaving the horse-holding compound, and when moving from one lot of horses to another lot of horses in the horse-holding compound;

(ii) Shower when entering and leaving the horse-holding compound, and when moving from one lot of horses to another lot of horses within the horse-holding compound; and

(iii) Shower when leaving the necropsy area after conducting a necropsy;

(2) At the end of each workday, the operator of the facility shall collect work clothing worn into each horse-holding area and keep it in a bag until the clothing is washed. Used footwear shall be either left in the clothes change area or cleaned with hot water (148 °F. minimum) and detergent and disinfected with either a quaternary ammonia-based disinfectant or a phenolic-based disinfectant, applied in accordance with the label approved by the Environmental Protection Agency.

(3) Any vehicle entering the quarantine facility building shall be cleaned and disinfected in the presence of an inspector with a disinfectant authorized in § 71.10 of the regulations immediately before entering and before leaving the facility.

(B) *Handling of the horses in quarantine.* The horses in the quarantine facility shall be handled in compliance with the following requirements:

(1) Each lot of horses to be quarantined shall be placed in the facility on an "all-in, all-out" basis. No horse shall be taken out of the lot while it is in quarantine except for diagnostic purposes and no horse shall be added to a lot while the lot is in quarantine.

(2) The portion of the quarantine facility from which a lot of horses has been released shall be thoroughly cleaned and disinfected, in the presence of an inspector, with a disinfectant authorized in § 71.10(a)(5) of this chapter, before a new lot is placed in that portion of the facility.

(C) *Records.* It shall be the responsibility of the supervisory APHIS veterinarian to maintain a current daily log for each lot of horses. The supervisory APHIS veterinarian shall make an identification record containing the identification number or markings of each horse, and shall record such information as the general condition of the horses each day, source or origin of the horses in the lot, total number of horses in the lot when imported, number of dead or injured horses when the lot arrived, the date the lot was placed into the facility, the general condition of the horses each day, every medication administered to the horses, number of deaths in the lot each day during the quarantine period, necropsy results, laboratory findings on horses that died during the quarantine period, date of prescribed tests and results, Department import permit numbers of each lot, the date the lot was removed from the facility, and any other observations pertinent to the general health of the horses in the lot. The operator of the facility shall hold the log for 12 months following the date or release of the horse from quarantine and shall make it available to APHIS personnel upon request.

(iv) *Environmental requirements.* It shall be the responsibility of the operator of the facility to provide a certification that the facility complies with all applicable environmental regulations. The certification must be executed by a State or Federal government official responsible for ensuring compliance with those regulations.

(v) *Additional requirements.* Additional requirements as to location, security, physical plant and facilities, sanitation, and other items may be imposed by the Administrator in each specific case in order to assure that the quarantine of the horses in such facility will be adequate to enable determination of their health status, prevent spread of disease among horses in quarantine, and prevent escape of animal disease agents from the facility.

(3) *Request for approval.* Requests for approval may be made by writing to the Administrator, c/o Import-Export Animals Staff, VS, APHIS, USDA, Room 765, 6505 Belcrest Road, Hyattsville, MD 20782. The application should include the full name and mailing address of the applicant and the location and street address of the facility for which approval is sought. Requests for approval and plans for permanent proposed facilities shall be submitted no less than 90 days before the proposed date of entry of the first lot of horses into the quarantine facility.

(4) *Withdrawal or denial of approval.* Approval of any facility may be refused or withdrawn at any time by the Administrator, if any of the provisions of paragraph (e) of this section are not met. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action. If there is a conflict as to any material fact, the operator shall be afforded an opportunity for a hearing to resolve such conflict, in accordance with rules of practice, which shall be adopted for the proceeding by the Administrator. However, such withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, written confirmation shall be given to the operator of the facility as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review, unless otherwise ordered by the Administrator. In addition to withdrawal or denial of approval when the requirements for approval are not complied with, approval will be automatically withdrawn by the Administrator when the operator of any approved facility notifies the Area Veterinarian in Charge for the state in which the facility is located in writing, that the facility is no longer in operation.[4]

§ 92.12 [Amended]

30. In § 92.12, paragraph (a), the seventh sentence would be revised to read as follows: "The operator of the privately operated quarantine facility shall request in writing such inspection and other services as may be required, and the importer, or his agent, shall waive all claim against the United States and Veterinary Services or any employee of Veterinary Services for damages that may arise from such services."

31. In § 92.12, paragraph (a), the ninth sentence would be amended by removing the words "the importer, or his agent," and by adding in their place the words "the operator of the privately operated quarantine facility".

Done in Washington, DC, this 30th day of August 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-20736 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-34-M

[4] The name and address of the Veterinarian in Charge of any State are available from the Administrator, c/o Import-Export Animals Staff, VS, APHIS, USDA, Room 765, 6505 Belcrest Road, Hyattsville, MD 20782.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-ACE-22]

Proposed Alteration of VOR Federal Airways; Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Federal Airways V-14 and V-88 located in the vicinity of St. Louis, MO. The proposed realignment would provide published airways in areas where aircraft are usually radar vectored. This action would reduce controller workload.

DATES: Comments must be received on or before October 16, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ACE-500, Docket No. 89-ACE-22, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on their notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ACE-22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The prosposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemkaing will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of VOR Federal Airways V-14 and V-88 located in the vicinity of St. Louis, MO. The realignments would provide published airways in an area where aircraft are normally radar vectored. This action would reduce controller workload. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291d; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evalaution as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the critiera of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-14 [Amended]

By removing the words "Foristell, MO; St. Louis, MO;" and substituting the words "INT Vichy 067°T(061°M) and St. Louis, MO, 225°T(220°M) radials;"

V-88 [Amended]

By removing the words "INT Vichy 091° and St. Louis, MO, 171° radials." and substituting the words "to Troy, IL."

Issued in Washington, DC, on August 24, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89-20851 Filed 9-5-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-ASW-19]

Proposed Alteration of VOR Federal Airways; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several VOR Federal Airways located in the Austin and San Antonio, TX, areas. These airway changes would improve the flow of traffic in the Austin and San Antonio terminal areas. The Houston Air Route Traffic Control Center (ARTCC) is presently undergoing a resectorization plan and these airway changes are necessary to support that plan. This action would aid flight planning and reduce controller workload.

DATES: Comments must be received on or before October 16, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW-500, Docket No. 89-ASW-19, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be

submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ASW-19." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign VOR Federal Airways V-68, V-558, V-565, V-574, and V-583 located in the vicinity of Austin and San Antonio, TX. These airway changes would improve traffic flow in the Austin and San Antonio terminal areas. The Houston, TX, Air Route Traffic Control Center (ARTCC) is presently undergoing a resectorization plan and these airway changes are necessary to support that plan. This action would aid flight planning and reduce controller workload. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-68 [Amended]

By removing the words "Junction, TX; San Antonio, TX;" and substituting the words "Junction, TX; Center Point, TX; San Antonio, TX;"

V-558 [Amended]

By removing the words "INT Austin 090°M(097°T) and Industry, TX, 310°M(316°T) radials; Industry;" and substituting the words "Industry, TX;"

V-565 [Amended]

By removing the words "to Austin" and substituting the words "Austin; College Station, TX; to Lufkin, TX"

V-575 [Amended]

By removing the words "From Navasota, TX, via" and by substituting the words "From Austin, TX; INT Austin 102°M(109°T) and Navasota, TX, 251°M(259°T) radials; Navasota;"

V-583 [Revised]

From Austin, TX; INT Austin 055°M(062°T) and College Station, TX, 262°M(270°T) radials; College Station; Leona, TX; Frankston, TX; to Quitman, TX.

Issued in Washington, DC, on August 23, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89-20852 Filed 9-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 89-AEA-12]

Proposed Alteration and Revocation of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Jet Route J-6 and eliminate Jet Route J-228. Jet Route J-6 would be extended from Lancaster, PA, to Plattsburg, NY, along the present route of J-228. Concurrent with the extension of J-6, Jet Route J-228 would be eliminated. The route along J-6 and J-228 is a heavily traveled route which requires the filing and issuance of more than one airway. This proposed action would reduce controller and pilot workload and improve flight planning.

DATES: Comments must be received on or before October 16, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AEA-500, Docket No. 89-AEA-12, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-AEA-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-20, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of J-6 and to eliminate J-228. Jet Route J-6 would be extended from Lancaster, PA, to Plattsburg, NY, along the present route of J-228. Concurrent with the extension of J-6, Jet Route J-228 would be eliminated. The route along J-6 and J-228 is a heavily traveled route which requires the filing and issuance of more than one airway. This action would reduce controller and pilot workload by facilitating air to ground communications as well as improve flight planning. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore; (1) is not a "major rule" under Executive Order 12201; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. § 75.100 is amended as follows:

J-6 [Amended]

By removing the words "to Lancaster, PA." and substituting the words "Lancaster, PA; Broadway, NJ; Sparta, NJ; Albany, NY; to Plattsburg, NY."

J-228 [Removed]

Issued in Washington, DC, on August 24, 1989.

Richard Huff,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-20853 Filed 9-5-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 26001; Notice No. 89-22; Special Federal Aviation Regulation No. 47-3]

Special Flight Authorization for Noise Restricted Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to extend the Special Federal Aviation Regulation (SFAR) which provides for limited issuance of special flight authorizations to conduct certain nonrevenue operations that are otherwise prohibited by the noise restrictions found in the general operating rules of the Federal Aviation Regulations (FAR). The current rule terminates on December 31, 1989. This proposal, if adopted, would extend SFAR 47 through December 31, 1991, to provide the time to install Stage 2 or Stage 3 hushkits on non-compliant Stage 1 aircraft.

DATES: Comments must be received on or before September 25, 1989.

ADDRESSES: Comments on the proposal are to be marked "Docket No. 26001" and mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 26001, 800 Independence Ave., SW., Washington, DC 20591; or delivered in duplicate to Room 916, 800 Independence Ave., SW., Washington, DC. Comments may be inspected in Room 916 on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mrs. Laurette Fisher, Policy and Regulatory Division (AEE-300), Office of Environment, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, telephone: (202) 267-3561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments and by commenting on the possible environmental, energy, or economic impacts of this proposal. Comments should contain the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the

docket. The docket is available for public inspection both before and after the closing date for comments. Before taking any final action on the proposal, the Administrator will consider the comments made on or before the closing date, and the proposal may be changed in light of the comments received. The FAA will acknowledge receipt of a comment if the commenter submits a self-addressed, stamped postcard with the comment and on the postcard the following statement is made: "Comments to Docket No. 26001." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the customer.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future notices of proposed rulemaking should also request a copy of Advisory Circular No. 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Synopsis of the Proposal

Under Part 91 of the Federal Aviation Regulations (FAR), on or after January 1, 1985, no person may operate a civil subsonic turbojet airplane with maximum weight of more than 75,000 pounds to or from an airport in the United States unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under part 36. This restriction applies to U.S. registered aircraft that have standard airworthiness certificates and foreign registered aircraft that would be required to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane were it registered in the United States. SFAR 47 was adopted February 26, 1985 (50 FR 7751, February 26, 1985), to permit certain operations of noise restricted aircraft without a formal grant of exemption under FAR part 11. These operations included (a) flying the airplane to an airport where alterations are to be performed to achieve compliance with Stage 2 or Stage 3 noise levels under part 36; (b) exporting the airplane, including flights through U.S. airport(s) necessary for the aircraft to leave this country; (c) operations deemed necessary by the FAA for the sale, lease, or other disposition of the airplane; and (d) flight to a storage facility. SFAT 47 has been extended twice since December 31, 1986 (51 FR 47219, 12/31/86 and 52 FR 35052, 9/16/87). The SFAR extensions limited operations to hushkitting, scrapping, or exporting of Stage 1 aircraft. SFAR 47 expires on December 31, 1989.

When SFAR 47 was originally adopted, the FAA believed that most non-compliant Stage 1 aircraft would either be modified to meet Stage 2 noise standards or be removed from service. During the period of January 1, 1985, through July 20, 1989, the FAA issued 591 Special Flight Authorizations for purposes of hushkitting, exporting, scrapping, or storing Stage 1 aircraft. Over 80% of the special flight authorizations were issued between 1985 and 1987, with the remaining 20% issued from January 1, 1988, to July 20, 1989. Since 1987, SFAR extensions have limited operations to hushkitting, exporting, or scrapping Stage 1 aircraft. From January 1, 1989, to July 20, 1989, 32 requests were received for special flight authorizations and all were for hushkitting purposes only. There were no applications for exporting or scrapping aircraft. Therefore, the FAA originally questioned the need to extend the SFAR 47 date, since there has been a significant decline in the number of requests to hushkit Stage 1 aircraft.

However, information now available to the FAA through applications for Supplemental Type Certificates indicates that manufacturers are developing Stage 3 hushkits for non-complying Stage 1 aircraft. Airport operators and the public are demanding more Stage 3 aircraft operations at their airports, as shown by the number of new orders of Stage 3 aircraft to replace existing Stage 2 aircraft. With the continuing demand for quieter aircraft, the SFAR extension would allow operators to convert their non-complying aircraft from Stage 1 to Stage 2 or Stage 3 at their discretion. The demand for quieter aircraft is also spreading to other countries, as evidenced by the increasing number of special flight authorizations requested for foreign aircraft. This NPRM proposes to extend the FAA's authority to issue a special flight authorization for a Stage 1 airplane to operate in the United States in order to be modified to Stage 2 or Stage 3. Therefore, the FAA is soliciting information to determine whether the demand by interested operators for these Stage 2 or Stage 3 hushkits for Stage 1 airplanes warrants extending SFAR 47 again to allow transport of such aircraft to be hushkitted. Without such an extension, operators of aircraft that do not comply with FAR Part 91, for which hushkitting is desired after January 1, 1990, would have to use the FAR Part 11 exemption process.

If there is sufficient support for the extension of SFAR 47 to 1991, special flight authorizations would be limited to hushkitting efforts only, based on the requests for special flight authorizations received in 1989, as noted above. Consequently, the FAA proposes to amend SFAR 47 by deleting paragraphs 2 (b) and (c) which respectively allow exporting and scrapping the airplane.

Economic/Regulatory Impact Evaluation

This proposed rule would have negligible economic impact. Adoption of the proposal would allow an alternative from the exemption process for certain operations, reducing the administrative costs of both operators and the FAA. While the operations are not without some noise costs, these costs can be characterized as trivial, since the number of operations at any one local airport will be extremely low in number.

For the same reasons, the FAA certifies that the SFAR extension, if adopted, is not likely to have significant economic impact upon a substantial number of small entities. The basis for this is the very low number of requests which FAA foresees as a result of the adoption of this proposal. The FAA does not expect this number to exceed fifty over the life of the regulation. Accordingly, preparation of a full regulatory evaluation is not required.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), a draft Finding of No Significant Impact has been prepared and is available to the public. The changes proposed in this rule would not significantly affect the quality of the human environment.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 was enacted to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The Act requires a Regulatory Flexibility Analysis if a rule has a significant economic impact, either detrimental or beneficial, on a large number of small business entities. As noted above, the extension of SFAR 47 for hushkitting purposes will not have any economic impact on the affected operators. Consequently, the FAA determines that, under the criteria of the Regulatory Flexibility Act of 1980, a regulatory flexibility analysis is not required.

Conclusion

Accordingly, for reasons stated above, the FAA has determined that: (1) The amendment does not involve a major rule under Executive Order 12291; (2) the amendment is not significant nor does it require a Regulatory Evaluation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) it is certified that under the criteria of the Regulatory Flexibility Act that the amendment would not have significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted would have little or no impact on trade opportunities for U.S. firms doing business overseas, or for foreign firms doing business in the United States.

Lists of Subjects

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Air traffic control, Airspace, Air transportation, Airworthiness directives and standards.

The Proposed Amendment

Accordingly, the FAA proposes to amend part 91 of the Federal Aviation Regulations (14 CFR part 91) by amending Special Federal Aviation Regulation 47 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 State 1180); 42 U.S.C. 106(g) [Revised Pub. L. 97–449, January 12, 1983.]

Special Federal Aviation Regulation 47—[Amended]

2. By deleting from paragraph 2 subparagraphs (b) and (c).

3. By deleting from paragraph 5 the year "1989" and substituting the year "1991."

Issued at Washington, DC on August 29, 1989.

J.E. Densmore,

Director, Office of Environment.

[FR Doc. 89–20856 Filed 9–5–89; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Service on Self-Regulatory Organization Governing Boards or Committees by Persons With Disciplinary Histories

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing a new Regulation 1.63 which would prohibit persons with certain disciplinary histories from serving on any self-regulatory organization's ("SRO") disciplinary committees, arbitration panels or governing board, and which would require each SRO to implement rules in this regard. Regulation 1.63 also would require each SRO to provide both notice to the public of what SRO rule violations would result in such a prohibition and certification to the Commission of compliance with Regulation 1.63.

DATE: Comments on the proposed rule must be received by November 6, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2933 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

Currently, the Commission's regulations do not restrict persons with disciplinary histories from sitting on SRO disciplinary committees, arbitration panels or governing boards. In general, those SROs which have rules in this regard indirectly prohibit committee participation by persons with disciplinary histories by prohibiting expelled or suspended SRO members from committee service.[1]

The Commission believes that the probity of the self-regulatory process requires that SRO bodies which establish and enforce an SRO's rules be impartial and free from the potential for and even the appearance of impropriety. The Commission further believes that the actual and perceived integrity with which an SRO operates is largely determined by the character and experience of the persons who serve on the SRO's rule-making and rule-enforcing bodies. The Commission is concerned, for instance, that a person found to have acted in contravention of an SRO's rules or to have acted dishonestly in other areas may be or may be perceived as being unwilling to formulate or enforce an SRO's rules in a fully principled manner. The Commission also believes that the persence of such a person on an SRO disciplinary committee, arbitration panel or governing board could diminish public confidence in that SRO as a self-regulator of its respective marketplace.

The Commission's proposed Regulation, therefore, would address these concerns and perceptions by establishing a minimum qualification standard for persons serving on certain SRO bodies charged with the responsibility of either disciplining SRO members or making the rules of the SRO. The Commission has designed proposed Regulation 1.63 to enhance the self-regulatory process without unduly hindering the ability of the SROs to conduct their business through a committee system.[2] The goal of its present proposal is to establish an industry-wide standard for eligibility for certain SRO committee service.

II. Proposed Regulation 1.63

As previously stated, the Commission believes that the integrity of the self-regulatory process requires that SRO

[1] See, e.g., Chicago Board of Trade Rule 561.00 and Chicago Mercantile Exchange Rule 435.

[2] For instance, "governing boards" would be the only class of SRO bodies affected by Regulation 1.63 whose functions would include the formulation and establishment of SRO rules. There are, of course, other permanent and temporary SRO bodies which have responsibilities and duties similar to those of governing boards. The Commission believes, however, that since final decisions by an SRO governing board are usually the decisions which, excepting Commission approval, alter the rules of the SRO, the application of Regulation 1.63 to governing boards alone would have a beneficial impact on the SRO rule-making process.

bodies which make and enforce an SRO's rules be impartial and free from the potential for an even the appearance of impropriety. Proposed Regulation 1.63 is structured so that a person who has been found to have committed certain acts which would call into question his personal integrity or willingness to comply with an SRO's rules would be barred from assuming a position in which he would either help formulate an SRO's rules or judge others accused of violating an SRO's rules. Accordingly, proposed Regulation 1.63 would prohibit persons with disciplinary histories, as identified in the Regulation, from serving on any SRO's disciplinary committees, arbitration panels or governing board, and would require each SRO to adopt rules in this regard.[3]

A. Proposed Regulations 1.63(b)(1) Through (4)

Under SRO rules required to be implemented pursuant to Commission Regulations 1.63(b) (1) and (3), a person [4] who was found by an SRO [5] to have committed a disciplinary offense [6] would be barred from serving [7] on any SRO's disciplinary committee,[8] arbitration panel [9] or governing board for a period of three years after final adjudication by the SRO or the length of any resultant expulsion, suspension, or failure to pay a disciplinary fine, whichever was longer.[10] Similarly, under proposed Commission Regulations 1.63(b) (2) and (4) any person who either was at that time subject to sanctions consented to in a settlement agreement with an SRO or had entered into such a settlement agreement in the previous three years, would be required to be prohibited by SRO rules from serving on any SRO's disciplinary committees, arbitration panels or governing board.[11] With these provisions, the Commission's proposed Regulation should ensure that a person violating SRO rules, with certain limited exceptions described above, would be ineligible to serve on the indicated SRO bodies for a substantial minimum period irrespective of the actual severity of the underlying disciplinary sanction.

Notably, the bar upon serving on an SRO rule-making or rule-enforcing body would be contingent upon the disciplinary action of or a settlement agreement with any SRO. Therefore, there would be no difference in the length of the bar dependent on whether the disciplinary sanction or settlement agreement arose at the SRO where the relevant body was located or at some other SRO. In this regard, the Commission believes that since the purpose of the proposal is that SROs should avoid the appearance of allowing rule violators to make rules or sit in judgment of other rule violators, there is no reason to distinguish between rule violators based upon which SRO disciplined them.

B. Proposed Regulations 1.63(b) (5) and (6)

Commission Regulations 1.63(b) (5) and (6) would require that SROs also impose restrictions on committee service for sanctions imposed as a result of Commission enforcement actions. Regulation 1.63(b)(5) would require SROs to impose a three-year committee service ban on those persons found to have violated the Commodity Exchange Act ("Act") or the Commission's regulations by administrative law judges, the Commission, or the courts where such findings has not been overturned or stayed. It also would imose such a ban where an individual has entered into a settlement agreement with the Commission in which any of the charges indentified include a violation of the Act or the Commission's regulations. Additionally, proposed Regulation 1.63(b)(6) would require each SRO to similarly bar SRO committee service for as long as a person was subject to an agreement with the Commission not to apply for registration or membership with any SRO.

Proposed Regulation 1.63(b)(6) also would require SROs to implement rules making persons ineligible to serve on any SRO disciplinary committee, arbitration panel or governing board whenever they are subject to an agreement with any contract market, clearing organization or registered futures association not to apply to that respective SRO for membership. This provision would not overlap with Regulation 1.63(b)(4) and its prohibition

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[3] Under proposed Regulation 1.63, an implementing SRO rule would make ineligible those committee members sitting at the time of the rule's implementation who had disciplinary histories in violation of the implementing SRO rule. While the Commission does not believe that this circumstance should cause any undue disruption to the SROs' committee systems, it specifically requests comment as to whether this proposed implementation schedule would cause undue disruption.

[4] Although the term "person" could encompass member firms, the Commission's understanding is that service on SRO boards and committees is limited to natural persons serving in an individual capacity. That is, member firms are not elected to seats which they can fill with a representative of their choosing. The Commission invites comment on whether there are any circumstances under which sanctions imposed on a firm should bar individuals associated with that firm from serving on a board or committee.

[5] For the purposes of this proposed Regulation, "SRO" would be defined to include designated contract markets, registered futures associations and futures clearing organizations (Proposed Commission Regulation 1.63(a)(1)).

[6] Proposed Commission Regulation 1.63(a)(4) would define "disciplinary offense" to mean committing or having supervisory responsibility for any act which violated an SRO's rules with exclusions for minor recordkeeping and trade timing violations as well as decorum and attire violations. In defining what constitutes a minor recordkeeping and trade timing violations, the Commission believes that such a violation usually receives a fine of $750 or less. Any such violation receiving either a fine larger than this or some period of suspension indicates a more grievous offense. Consequently, the Commission proposal excludes from the definition of "disciplinary offense" those recordkeeping or trade timing violations which incur fines less than $750 and no period of suspension. The Commission intends the decorum and attire exclusion to encompass fighting, cursing, spitting, dress code and other similar violations.

Under Regulation 1.63(a)(4), "disciplinary offense" is defined in terms of types of acts which violate an SRO's rules and is intended to include offenses identified in settlement agreements as well as findings following a final adjudication. Thus, a disciplinary offense could become the basis for committee disqualification under proposed Regulation 1.63 in two types of circumstances: (1) when it had "been found by the final adjudication of [an SRO's] disciplinary committee" (Regulation 1.63(b)(1) and (3)); or, (2) when it had been "identified in [a] settlement agreement" (Regulation 1.63(b)(2) and (4)).

[7] Proposed Regulation 1.63(b) also would prohibit persons with disciplinary histories from "seek[ing] election to" any SRO disciplinary committee, arbitration panel or governing board. The Commission believes that since persons with disciplinary histories would, under this proposal, be ineligible to serve on these SRO bodies, such persons should not be permitted to seek election to those SRO bodies when popular election is required.

[8] Proposed Commission Regulation 1.63(a)(2)'s definition for "disciplinary committee" would include bodies which commence disciplinary proceedings, impose sanctions, or hear appeals thereof. Therefore, the definition would cover probable cause committees, floor committees, disciplinary committees and boards of directors (who sit in appellate review of disciplinary actions). This definition thus should ensure that persons found to have acted in contravention of an SRO's rules or to have acted dishonestly in other areas would not be in a position to serve on any disciplinary committee in judgment of others accused of violating an SRO's rules.

[9] Proposed Commission Regulation 1.63(a)(3) would define "arbitration panel" to mean "any person or panel empowered by [an SRO] to arbitrate disputes involving either customers or the [SRO's] members." The proposed definition would make clear that such panels would include any body empowered to arbitrate any type of dispute under the SRO's rules.

[10] Under the Commission's proposal, a final SRO disciplinary decision which was no longer subject to any appeal under the SRO's appeal and review process would constitute an SRO finding of a disciplinary offense (Proposed Regulation 1.63(a)(5) and (b)). Therefore for the purposes of this proposal, any bar period would run from the point in time of the SRO's final decision even if the respondent decided to appeal the SRO decision to the Commission. Of course, if the Commission or a court overturned or stayed the SRO decision, the bar would be lifted.

[11] Warning letters would not qualify as either a settlement agreement (Regulation 1.63(a)(6)) or as an SRO finding of a disciplinary offense (Regulation 1.63(a)(5)).

on committee service for persons subject to SRO suspension or expulsion pursuant to a settlement agreement. Instead, Regulation 1.63(b)(6) is intended to cover the circumstance where a person with SRO membership commits some rule violation, ceases to be a member, is subsequently charged with the rule violation by the SRO and, as a sanction, agrees with the SRO not to reapply for SRO membership for some length of time.

C. Proposed Regulation 1.63(b) (7) and (8)

Under SRO rules adopted pursuant to the Commission's proposed Regulation 1.63(b) (7) and (8), a person whose trading privileges have been revoked or suspended or whose Commission registration in any capacity was revoked or suspended for any reason would be barred from serving on any SRO's rule-making or rule-enforcing body for a period of three years or the length of the revocation or suspension, whichever was longer. The Commission believes that it is appropriate that the bases for the restrictions of proposed Regulation 1.63 include trading prohibitions and registration revocations and suspensions in view of the serious nature of the acts on which such revocations and suspensions are predicated. For example, registration revocations and suspensions due to statutory disqualification under sections 8a(2) and (3) of the Act are based upon a list of activities which indicate that a person is not fit to handle customer funds.[12]

D. Proposed Regulation 1.63(c)

Proposed Regulation 1.63(c) would make it a direct violation of the Regulation for any person to seek election to or serve on any SRO's disciplinary committees, arbitration panels or governing board if his disciplinary history included any of the conditions set forth in Regulation 1.63(c).[13] Regulation 1.63(c) thus would enable the Commission to enforce the requirements of this provision directly, if necessary. The Commission believes that this reservation of enforcement power for itself is appropriate given the import of Regulation 1.63 and its purpose of upholding the integrity of the self-regulatory process. Of course, each SRO would continue to have a responsibility under section 5a(8) of the Act and Commission Regulation 1.51 to enforce any of its own rules implemented pursuant to Regulation 1.63(b).

E. Proposed Regulation 1.63(d)

Under proposed Regulation 1.63(b), each SRO would be required to implement and maintain in effect rules which were consistent with the Regulation and which had been submitted to the Commission pursuant to section 5a(12) of the Act and Commission Regulation 1.41 or, in the case of a registered futures association, pursuant to section 17(j) of the Act. In addition, each SRO would be responsible under section 5a(8) of the Act and Commission Regulation 1.51 for taking whatever steps may be necessary to ensure that persons selected to the SRO's disciplinary committees, arbitration panels or governing board were in compliance with those SRO rules.

In order to facilitate each SRO's ability to enforce effectively any rules implemented pursuant to proposed Commission Regulation 1.63, Regulation 1.63(d) would require each SRO to establish, maintain and make available to the general public a notice of all those rules of the SRO which if violated would constitute a "disciplinary offense" under Regulation 1.63. This procedure would enable any person who had been found to have committed a rule violation by an SRO to determine whether that violation was in fact a "disciplinary offense" for the purposes of Regulation 1.63 and whether he would be disqualified from future SRO committee service. Also, an SRO upon ascertaining that a potential committee selectee had violated some rule at another SRO, could review that other SRO's listing of "disciplinary offenses" to determine whether the potential selectee should be disqualified from committee service.

F. Proposed Regulation 1.63(e)

Under proposed Regulation 1.63(e), each SRO would be required to certify to the Commission on an annual basis that the SRO had complied with the requirements of Regulation 1.63. Additionally, Regulation 1.63(e) would require each SRO to submit to the Commission annually a list of any persons who had been removed from the SRO's committees during the previous year in accordance with the requirements of Regulation 1.63. The Commission believes that its receipt of this information would facilitate its ability to monitor each SRO's compliance with Regulation 1.63.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 604 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). Furthermore, the Chairman of the Commission previously has certified on behalf of the Commission that comparable rule proposals effecting clearing organizations and registered futures associations, if adopted, would not have had a significant economic impact on a substantial number of small entities. 51 FR 44866 (December 12, 1986). Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 et. seq., imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In reviewing this proposed rule the Commission has determined that it does not impose any information collection requirements as defined by the PRA.

Persons wishing to comment on this determination of no information collection burden should contact Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581; and The Office of Management and Budget, Paperwork Reduction Project (3038–XXXX), Washington, DC 20503.

[12] These proscribed activities include: (1) having been enjoined by a Commission order or settlement from acting as a futures commission merchant, introducing broker, associated person, commodity trading advisor, commodity pool operator, etc. (section 8a(2)(C)); (2) having been convicted of a felony involving commodity transactions, embezzlement, fraud, theft, misappropriation, etc. (section 8a(2)(D)); (3) having been found by a competent tribunal to have been involved in various securities law violations (section 8a(2)(E)); (4) willfully filing false information with the Commission (section 8a(3)(G)); (5) being subject to an order denying or suspending membership from some contract market, registered futures association, or SRO (e.g., national securities exchange, registered securities association or clearing agency, or the Municipal Securities Rulemaking Board) (section 8a(3)(J) and appendix A to part 3 of the Commission's Regulations—Interpretative Statement With Respect to section 8a(2) (C) and (E) and section 8a(3) (J) and (M) ("Interpretative Statement")); and, (6) being subject to an order revoking a state real estate or insurance license (section 8a(3)(M) and Interpretative Statement).

[13] Regulation 1.63(c) incorporates by reference the conditions listed in Regulations 1.63(b) (1) through (8). See infra section II. A through C for a description of those relevant conditions.

List of Subjects in 17 CFR Part 1

Contract markets, Clearing organizations, Registered futures associations, Members of contract markets.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, sections 3, 4b, 5, 5a, 6, 6b, 8, 8a, 9, 17, and 23(b) thereof, 7 U.S.C. 5, 6b, 7, 7a, 8, 13a, 12, 12a, 13, 21 and 26(b) the Commission is proposing to amend title 17, chapter I, part 1 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 USC 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Section 1.63 is proposed to be added to read as follows:

§ 1.63 Service on self-regulatory organization governing boards or committees by persons with disciplinary histories.

(a) *Definitions.* For the purposes of this section:

(1) *Self-regulatory organization* means "self-regulatory organization" as defined in § 1.3(ee), and includes the term "clearing organization" as defined in § 1.3(d).

(2) *Disciplinary committee* means any person or panel empowered by a self-regulatory organization to commence disciplinary proceedings, to impose disciplinary sanctions or to hear appeals thereof.

(3) *Arbitration panel* means any person or panel empowered by a self-regulatory organization to arbitrate disputes involving either customers or members of the self-regulatory organization.

(4) *Disciplinary offense* means

(i) Any act which violates a self-regulatory organization's rules, excluding those acts which violate rules regarding recordkeeping or trade timing for which a fine of less than $750 and no suspension or expulsion was imposed, or decorum or attire;

(ii) Any failure to exercise supervisory responsibility diligently which failure results in any of the acts described in paragraph (a)(4)(i) of this section.

(5) *Final adjudication* means an adjudication which is no longer subject to appeal under the self-regulatory organization's appeal and review process, is not subject to a Commission stay, and has not been reversed by the Commission or any court of competent jurisdiction.

(6) *Settlement agreement* means any agreement that either a self-regulatory organization or the Commission enters into with a person wherein such person consents to the imposition of sanctions by the self-regulatory organization or the Commission.

(b) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(12) of the Act and § 1.41 or, in the case of a registered futures association, pursuant to section 17(j) of the Act, that make a person ineligible to seek election to or to serve on the self-regulatory organization's disciplinary committees, arbitration panels or governing board if he:

(1) Has been found by the final adjudication of any self-regulatory organization's disciplinary committee within the prior three years to have committed a disciplinary offense under that self-regulatory organization's rules;

(2) Has entered into a settlement agreement with any self-regulatory organization within the prior three years in which any of the charges identified in the settlement agreement include a disciplinary offense under that self-regulatory organization's rules;

(3) Is currently subject to a trading or membership suspension or expulsion or owes any portion of a fine imposed for having committed a disciplinary offense under any self-regulatory organization's rules based upon the final adjudication of that self-regulatory organization's disciplinary committee;

(4) Is currently subject to a trading or membership suspension or expulsion or owes any portion of a fine imposed pursuant to a settlement agreement with any self-regulatory organization in which any of the charges identified in the settlement agreement include a disciplinary offense under that self-regulatory organization's rules;

(5) Was found to have violated any provision of the Act or the Commission's regulations by an administrative law judge, the Commission or a court in a Commission enforcement proceeding within the prior three years, and such finding has not been overturned or stayed, or has entered into a settlement agreement with the Commission within the prior three years in which any of the charges identified include a violation of the Act or the Commission's regulations;

(6) Is currently subject to an agreement with the Commission, or any self-regulatory organization not to apply for either registration or membership in any self-regulatory organization;

(7) Was subject to a Commission trading prohibition, registration revocation or suspension in any capacity for any reason within the prior three years; or,

(8) Is currently subject to a Commission trading prohibition, registration revocation or suspension in any capacity for any reason.

(c) No person may seek election to or serve on any self-regulatory organization's disciplinary committees, arbitration panels or governing board if he is subject to any of the conditions in paragraphs (b)(1) through (b)(8) of this section.

(d) Each self-regulatory organization shall establish, maintain and make available to the general public a notice of all those rules of the self-regulatory organization which if violated would constitute a disciplinary offense under this regulation.

(e) Each self-regulatory organization shall submit to the Commission within thirty days of the end of each calendar year:

(1) A certification that the self-regulatory organization has complied with the requirements of this regulation during the prior year; and

(2) A certified listing of all those persons who have been removed from the self-regulatory organization's disciplinary committees, arbitration panels or governing board pursuant to the requirements of this regulation during the prior year.

Issued in Washington, DC on August 29, 1989, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–20602 Filed 9–5–89; 8:45 am]

BILLING CODE 6351-01-M

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17 CFR Part 1

Trading Errors, Unmatched Trades, and Outtrades

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of agency interpretation.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is issuing this interpretation to reemphasize the need for maintaining complete information on trading errors, unmatched trades, and outtrades and conducting thorough surveillance of such activities.

FOR FURTHER INFORMATION CONTACT: Shauna L. Turnbull, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission ("Commission") is issuing this interpretation to reemphasize that the obligation of exchange members, exchanges, and their clearing organizations to maintain adequate audit trail records includes the requirement that they maintain complete records for trading errors, unmatched trades, and outtrades. The Commission also reemphasizes that the surveillance of this information for the detection of trading abuses must be a regular, integral part of the affirmative compliance programs of exchanges and clearing organizations.

In past oversight reports and as part of its enforcement activities, Commission staff has noted that trading errors, unmatched trades, and outtrades are susceptible to abuse.[1] The recent indictments and Commission administrative actions against futures brokers and traders in Chicago for alleged trading abuses further illustrate the possibility that trading errors can provide opportunities for, mask, or involve violations.

The Commission, therefore, is issuing this interpretation of sections 4(a), 4g, and 5a of the Commodity Exchange Act ("Act") and Commission Regulations 1.31, 1.35, and 1.51. Commission Regulation 1.35(a) requires every member of a contract market to "keep full, complete, and systematic records * * * of all transactions relating to its business of dealing in commodity futures, commodity options, and cash commodities." Under Commission Regulation 1.31, these records must be retained for five years. Commission Regulation 1.35(e) requires that exchanges must maintain a trade register of transaction data. In addition, Commission Regulation 1.51 requires that exchanges must conduct effective surveillance of trading practices, including the examination of members' books and records. Pursuant to these regulations and the Act, information on the chronology of trading errors, unmatched trades, and outtrades must be kept and reviewed for possible violations. By maintaining complete data on the correction of trading errors, unmatched trades, and outtrades as part of the audit trail [2] and by closely monitoring these audit trail data, the exchanges should be able to reduce the susceptibility of such activity to abuse.

I. Interpretation

Although certain exchanges currently are capable of reconstructing an audit trail for trading errors, unmatched trades, and outtrades, in order to comply with audit trail and other recordkeeping requirements as set forth in Commission Regulations 1.31 and 1.35 the Commission believes that it is essential that all exchanges have methods for identifying outtrades, unmatched trades, and errors that may occur throughout the data submission and clearing process. This audit trail should be complete and enable the exchanges to reconstruct the chronology of the resolution of errors, unmatched trades, and outtrades. Also, clearing firms and members must keep all records related to errors, unmatched trades, or outtrades for a minimum of five years, pursuant to Commission Regulations 1.31 and 1.35. The Division has delegated authority, under Commission Regulation 1.35(i), to request special reports concerning trade data accuracy.

Exchanges have taken steps in the past to expedite the resolution of outtrades. The Commission believes that exchanges should continue to explore and implement ways to process outtrades in the most efficient manner possible. By reducing the time taken to resolve outtrades, the exchanges can reduce the opportunity for "floating" trades or engaging in other abuses.

Exchanges should monitor the available data related to trading errors, unmatched trades, and outtrades, in conjunction with other transaction data, where appropriate, for the types of abuses described below, as well as other violations. The Commission recognizes that exchanges already conduct reviews of outtrade data; however, the Commission emphasizes that, in order to satisfy the requirements regarding the maintenance of their affirmative compliance programs under section 5a(8) and Commission Regulation 1.51, exchanges must integrate regular reviews of errors during the trading session, unmatched trades, and outtrades into these programs. Exchange personnel also may be employed to conduct floor surveillance or supervise activities related to the resolution of trading errors, unmatched trades, and outtrades. Exchanges should consider requiring additional supervisory procedures for the correction of such trades.

All exchanges first need to ensure that they have access to complete information about errors, unmatched trades, and outtrades and then need to integrate such data into their surveillance systems. Those exchanges that use computerized surveillance systems should design programs or software to identify readily such trades for further investigation. The remaining exchanges should develop routine capabilities for reviewing a sampling of documents used to resolve trading errors, unmatched trades, and outtrades.

II. Background

A. Trading Errors, Unmatched Trades, and Outtrades and Procedures for Their Resolution

Trading errors, unmatched trades, and outtrades can arise in a number of ways. A floor broker may err in filling a customer's order by failing to purchase or sell the specified quantity or commodity; failing to execute the order at a specified price, during a specified time, or in a specified manner; buying when he should be selling or selling when he should be buying; failing to record correct trade information; or in other ways.[3] Similarly, a floor trader or "local" who executes trades primarily for his own account may record incorrect information or fail to record information about completed trades. An error also can occur when a broker or local claims to have executed a transaction that is disavowed by an opposite trader.

Some errors may be detected soon after the trades are executed; these may not become part of the matching and clearing processes. Other errors will be discovered in the matching and clearing processes. Errors that can cause unmatched trades may be resolved before the matching and clearing process concludes for that trading day.

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[1] As evidence of the concern about trading errors, unmatched trades, and outtrades, Commission staff, for example, reviewed actions taken by the Commodity Exchange, Inc. in 1987 and the Chicago Mercantile Exchange in 1986 and 1987 to resolve outtrade problems. In addition, the Division of Trading and Markets ("Division") has made numerous recommendations to several exchanges on outtrade and error resolution procedures in rule enforcement reviews. Most recently, the Division recommended that the Coffee, Sugar & Cocoa Exchange, Inc. should broaden its review of outtrades that have been resolved after the date of execution ("as ofs"), that the New York Cotton Exchange should discontinue use of toleration factors for errors that result in late and missing offset tickets, and that the New York Mercantile Exchange should improve its system for accepting late trade data. *See also In the Matter of Wilkens and Pesek*, CFTC Docket No. 87-13, slip op. (initial decision Jan. 26, 1989) (involving, among other charges, allegations that trades had been prearranged to cover losses sustained through outtrades).

[2] As used herein, the term "audit trail" refers to the chronology of documents generated by traders and brokers and submissions made to exchanges or their clearing organizations for the purpose of correcting trading errors, unmatched trades, and outtrades. Such data, depending on the exchange system currently in place, may be maintained in hard copy, electronically, or both.

[3] Other sources for errors are clearing members, which process trade data, and data entry personnel, who enter such data.

If they are not so resolved, they become outtrades.

Once a member discovers that he has committed an error, including one that has resulted in an unmatched trade,[4] futures exchanges provide various methods for resolving the error, which may vary depending upon the type of error or the state in the matching and clearing process in which it is discovered. Generally, if a member discovers the error prior to the end of the trading session, exchanges require the member to notify the opposite party of the error and attempt to resolve it. When resolving an error, a member cannot change data that relate to a trade except to correct an actual error. As a general practice, in cases where members are unable to resolve the error, they "bust" the trade, that is declare it null and void. As necessary, members re-enter the market promptly to establish the correct position.

When a broker or clearing firm makes an error in connection with a customer's order, the position reflecting the error may be placed in an error account. Any loss as a result of the error generally must be made up to the customer through a cash payment from the broker or clearing firm.[5] In addition, a broker or clearing firm must provide certain profits made from the corrected trade to the customer, unless the customer agrees to other arrangements. Exchange floor committees or designated officials may be used to resolve disputes over the correction of trading errors. At certain exchanges, trade dispute resolutions are recorded on forms provided by the futures exchange.[6] Subsequently, exchanges generally provide that the matter can be brought before an arbitration committee.

If a member discovers the error after the trades from the relevant session have been cleared, the trade may become an outtrade.[7] For purposes of this interpretation, an outtrade is defined as a transaction for which a floor member(s) or clearing member(s) submits insufficient, erroneous, or unmatched data or fails to submit data to the clearing member, exchange, or clearing organization for the purpose of reporting, matching, or clearing a trade. All exchanges have procedures for the correction or late submission of data submitted for reporting or clearing purposes.[8] Futures exchanges generally require that members use their best efforts to resolve outtrades promptly. A member resolves an outtrade by discussing the error with the opposite party and agreeing to corrections of data submitted to clearing. Futures exchanges and the Commission prohibit members from executing a noncompetitive trade as a means of resolving an error.[9]

When members cannot resolve an outtrade, the trade is broken. In that case, members reenter the market, as necessary, to cover their positions. When such an outtrade involves a customer's order, the broker or clearing firm generally must enter the market as soon as possible to establish the customer's correct position. As with errors made during the trading session, the broker or clearing member generally must reimburse any loss to a customer that results from an outtrade. Further, the broker or clearing member must offer certain profits made from the resolution of a customer's outtrade to that customer, unless the customer agrees to other arrangements. Under these circumstances, the profit owed to a customer generally is that profit earned when a trader executes a corrected trade at a better price for the customer. When members resolve outtrades, the corrected outtrades are made "as of" the original trading day and then included on the exchange's trade register. For this reason, outtrades that are resolved after the date of execution usually are called "as ofs."

B. Potential Abuses Related to Outtrades, Unmatched Trades, and Errors

Although the occurrence of outtrades, unmatched trades, and errors need not be illegal and the process of resolving them is necessary, they are susceptible to abuse. Losses incurred through the correction of errors can provide an incentive for attempting to recoup those losses through later violations.

Various types of violations can be associated with errors, unmatched trades, and outtrades. For example, a member may execute an error-free transaction but intentionally create an outtrade to escape or avoid payment of margin for the trade. When a member intentionally creates an outtrade to delay payment of margin he is said to "float" the trade. A member also may commit a legitimate error but resolve his mistake in an illegal manner. For example, the member may attempt to execute a noncompetitive trade during or after trading hours to correct his error. Additionally, he may arrange to have another member take the loss on an error, unmatched trade, or outtrade through a noncompetitive trade(s), with the understanding that that member would be reimbursed with cash or through later illegal trades. Such illegal trades may be to the detriment of customers other than the one(s) involved in the error, unmatched trade, or outtrade. In addition, the member may resolve an error, unmatched trade, or outtrade in a legitimate manner but, thereafter, arrange illegal, noncompetitive trades that are intended to reimburse both himself and any other members for losses attributable to the error, unmatched trade, or outtrade.

C. Exchange Systems for Maintaining Information Regarding Outtrades, Unmatched Trades, and Errors

Deterrence, detection, and prosecution of abuses related to errors, unmatched trades, and outtrades can be improved by enhanced recordkeeping and surveillance techniques. Such improved recordkeeping should include an audit trail for the resolution of errors, unmatched trades, or outtrades. This audit trail should be a complete record of data reflecting such activities. From this audit trail, an exchange should be able to reconstruct the steps taken to address the errors, unmatched trades, and outtrades. At a minimum, exchanges currently should be able to identify all pertinent aspects of the error, unmatched trade, or outtrade (*e.g.*, parties, price, quantity, clearing firms, and customer type indicators); all

[4] Errors that involve critical matching data such as contract, price, or opposite firms, if undetected, will result in an unmatched trade, which must be corrected before the trade can clear. Other errors which involve only edit criteria, such as execution time/bracket, card/order number, or account number, will not cause an unmatched trade, and such trades may be cleared even if such data are erroneous.

[5] *See, e.g.*, Chicago Board of Trade Rule 350.04A; New York Mercantile Exchange Rule 6.17; New York Futures Exchange Rule 430; and New York Cotton Exchange Rule 1.09–B.

[6] *See, e.g.*, Commodity Exchange, Inc. Rule 4.28.

[7] In cases where a member discovers an error after the trading session and the transaction has matched or cleared, the error generally still may be resolved through exchange procedures for the correction of matched or cleared data. *See, e.g.*, Chicago Board of Trade Rules 350.04 (Errors and Mishandling of Orders) and 350.04A (Errors and Mishandling of Orders); Chicago Mercantile Exchange Rule 526 (Errors Discovered During Trading Session and Errors Discovered After a Trading Session); and New York Mercantile Exchange Rule 6.17 (Errors and Omissions in Handling Orders). Usually, however, when members commit errors involving critical matching data and do not correct the errors prior to the clearing of trade data, the trade does not clear.

[8] *See, e.g.*, Chicago Board of Trade Rules 350.04 (Errors and Mishandling of Orders) and 350.04A (Errors and Mishandling of Orders); Chicago Mercantile Exchange Rule 526 (Errors Discovered During Trading Session and Errors Discovered After a Trading Session); Commodity Exchange, Inc. Rules 4.28 (Disputes Discovered During Trading Session), 4.29 (Errors Discovered After Trading Session), and 4.30 (Unacknowledged Transactions); and New York Mercantile Exchange Rule 6.17 (Errors and Omissions in Handling Orders).

[9] *See, e.g.*, 17 CFR 1.38; Commodity Exchange, Inc. Rule 4.29.

changes in trade data originally and subsequently made; the time of the original transaction; and the results (*e.g.*, whether the trade was broken or corrected and, if corrected, the way in which it was changed).

Futures exchanges use various methods for tracking the resolution of errors, unmatched trades, and outtrades. For errors discovered prior to the end of the trading session, most exchanges require the members to resolve the dispute between themselves, with the assistance of a floor committee, if necessary. The resolution of errors such as these may be indicated on pit cards, order tickets, trading cards, floor committee minutes, or exchange forms.[10] It is important that futures exchanges ensure that they have an audit trail of such errors. As noted above, errors may be corrected in an illegal manner, and losses associated with errors can provide a motive for subsequent noncompetitive trades. To detect such violations, exchanges need to have access to all information about the parties involved in an error; the trade information, including the price, quantity, commodity, clearing firms, and customer type indicators; the approximate amount of the profit or loss at the time of the rectification of the error; the time of the original transaction; and steps taken to correct or break a trade.

For errors discovered after the trading session, the various systems used by exchanges to process trades result in different data sources for the review of unmatched trades and outtrades. Certain exchanges use on-line, computerized systems for the submission of all or some trade data and for the matching and clearing of trades.[11] Trade data are given to clearing members or the exchange, and the clearing member of exchange enters the data for processing by the computer. The computer generally assigns unique trade identification numbers to each trade submission.

Trades are matched at designated times during the trading day and afterwards. Among exchanges with on-line data submission systems, unmatched trade runs are provided to members. At these exchanges, members generally have access to trade matching information through computer terminals and printers located on the exchange floor. After each trade matching run, referred to as "reconciliations" by some exchanges, members have an opportunity to correct errors or break trades during the trading session or afterwards. Any re-submission of data on a trade generally would receive the same trade identification number. Thus, a trade could be tracked throughout the resolution process. In addition, the exchange may require that traders submit forms that contain information about corrections or deletions of trade data.

Other exchanges use trade clearing or matching systems that do not include the on-line submission of trade data to the exchange or a clearing house for some or all trades. With these systems, trade data are given to the exchange or clearing firms on written forms. The exchange or clearing firm then either enters data into a computer system and sends incomplete forms back to the traders for additional trade information or completes new forms and sends these to the exchange or clearing house for matching or clearing.

For the New York Mercantile Exchange, which uses a pit-card and Transfer Form system, any errors in trade data are corrected on Trade Data Correction Forms during the trading day and Transfer Forms after 5:00 p.m. that day. Once completed, these forms are submitted to the clearing house where information is entered into the computer. Although this system does not generate unmatched trades, errors could occur when incorrect information is reflected on the Transfer Form. In addition, outtrades could occur when the selling member fails to submit trade data to the exchange on the day of execution and the buying member fails to verify his transaction.[12] In cases where the selling member fails to submit trade data and the trade is not verified, the exchange requires that the members submit forms the following day with pertinent trade information.

For exchanges that use a matching process and do not use an on-line data entry system, unmatched trade runs are provided to members for the purpose of resolving errors in data submission. Any re-submission of trade data may or may not be recorded as being related to the original trade. In addition, certain exchanges require that a member or clearing firm record information on corrections and deletions on slips provided by the exchange.

In sum, the exchanges provide a variety of methods for tracking and reviewing errors, unmatched trades, and outtrades. As a result of the regular surveillance of activities related to errors, unmatched trades, and outtrades, trading abuses should be diminished.

Issued in Washington, DC, on this 29th day of August, 1989.

Lynn K. Gilbert,

Deputy Secretary to the Commission.

[FR Doc. 89-20801 Filed 9-5-89; 8:45 am]

BILLING CODE 6351-01-M

[10] For example, Commodity Exchange, Inc. Rule 4.28 provides that disputes during the trading day over the price or quantity of any transaction, among other items, must be resolved by decision of a majority of the members of the Exchange Floor Committee then present in the ring in which the transaction occurred. Any such resolution must be recorded on forms provided by the Exchange for that purpose.

[11] These include the Chicago Board of Trade, Chicago Mercantile Exchange, Commodity Exchange, Inc., Kansas City Board of Trade, and New York Futures Exchange.

[12] At the New York Mercantile Exchange, this situation is called an "as of."

RAILROAD RETIREMENT BOARD

20 CFR Part 332

RIN 3220-AA76

Mileage or Work Restrictions and Stand-By or Lay-Over Rules

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to amend part 332 of its regulations to redefine what is meant by the phrase "equivalent of full-time work" for railroad train and engine service employees who do not have regular assignments. The non-work days of an employee who has the equivalent of full-time work are not considered to be "days of unemployment" for which benefits otherwise might be payable under the provisions of section 2(a) of the Railroad Unemployment Insurance Act.

DATES: Comments must be received on or before October 6, 1989.

ADDRESSES: Office of Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, General Attorney, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611; (312) 751-4513, (FTS) 386-4513.

SUPPLEMENTARY INFORMATION: Part 332 of the Board's regulations relates to the eligibility for unemployment benefits of railroad employees in train and engine service and other similar types of service who work under collective bargaining agreements that impose work restrictions and stand-by or lay-over rules. Part 332 is based upon the third proviso of section 1(k) of the Railroad Unemployment Insurance Act. Section 1(k) defines what is meant by the phrase "day of unemployment" and provides, in part, that a day of unemployment means

a calendar day with respect to which no remuneration, as defined in section 1(j) of the Act, is payable or accrues to the employee. However, under the third proviso of section 1(k), if no remuneration is payable or accrues to an employee for any calendar day solely because of the application to the employee of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because the employee is standing by for or laying over between regularly assigned trips or tours of duty, such calendar day shall not be considered as a day of unemployment for such employee.

Under current regulations, if, under his or her applicable agreement, an employee is getting 14 basic work days in a registration period, the employee is, in effect, employed full-time and not eligible for unemployment benefits for his or her non-work days. The Board considers that the employee's non-work days result from the operation of the extra board and the work restrictions relating thereto. Under this proposed rule, the Board would consider an employee to be fully employed if he or she gets 10 basic work days in a registration period.

The 14-day test for full-time work set forth in the present § 332.5 has become obsolete in light of modern day rail industry practices recognized by rail labor and management in their agreements. In recent years, collectively-bargained rules regarding train and engine crew changes have been relaxed to permit a train crew to travel substantially more miles on a given assignment. Such assignments are referred to as being in "interdivisional pool service." An employee who is a crew member on such an assignment may now travel in one day the same number of miles that previously required two or more work days, with the result that the employee has more than the usual number of non-work days between such assignments.

Whereas an employee in pool service formerly might work as many as 10 days out of 14 in order to be credited with a certain number of miles, he or she may now be able to work the same number of miles in only 8 days with the result that he or she has 6 rest days, rather than 4, in a two-week period and no loss of income. However, under present regulations, as long as such employee does not earn at least 14 basic days, as defined in the applicable agreement, he or she may receive unemployment benefits for two of the six rest days, since the RUIA provides for the payment of such benefits for all days of unemployment in excess of four in a 14-day registration period.

Indeed, the above example has become quite common since under current industry practices most employees in pool service will not earn 14 basic days in a two-week period, yet, as may be seen from the above example, such employees from an economic standpoint have suffered no loss of income and have the additional advantage of having more rest days than employees who may have regular hours and assignments.

The proposed rule recognizes this change in rail industry practices by decreasing what is regarded as the equivalent of full-time work from 14 basic work days to 10. Thus, in the example above, if the employee had earned 10 basic days through service on just 8 days, as may often be the case, he or she will not be held eligible for unemployment benefits for his or her six non-work days. In addition, to prevent avoidance of this rule, the proposed regulation provides that in determining whether an employee has earned 10 basic days, an employee who misses his or her turn to work will be credited with the number of miles or hours he or she would have been credited with had he or she not missed the turn.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no regulatory analysis is required. The information collection required by part 332 has been approved by the Office of Management and Budget under control number 3220–0022.

List of Subjects in 20 CFR Part 332

Railroad employees, Railroad unemployment benefits.

For the reasons set out in the preamble, title 20, chapter II, part 332 of the Code of Federal Regulations is proposed to be amended as follows:

PART 332—MILEAGE OR WORK RESTRICTIONS AND STAND-BY OR LAY-OVER RULES

1. The authority citation for Part 332 is revised to read as follows:

Authority: 45 U.S.C. 362(1).

2. Section 332.5 is revised to read as follows:

§ 332.5 Equivalent of full-time work.

An employee who has the equivalent of full-time work with respect to service on days within a registration period is not eligible for unemployment benefits for any non-work days within such registration period. In determining whether an employee has the equivalent of full-time work, the Board will consider the provisions of labor-management agreements that prescribe the number of miles or hours of credit constituting a basic work day, week, or month in the employee's occupation or service. The Board will consider that an employee had the equivalent of full-time work if the number of miles or hours credited to the employee for service in the registration period is at least 10 times the number of miles or hours constituting a basic day in the employee's occupation or service. For this purpose, any miles or hours of credit not earned because the employee missed his or her turn and any penalty miles assessed to the employee shall be added to the miles or hours of credit actually earned on the basis of service on days within the registration period.

Dated: August 28, 1989.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 89–20853 Filed 9–5–89; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–74–86]

RIN 1545–AJ74

Untimely Filing of Income Tax Returns by Nonresident Alien Individuals and Foreign Corporations; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the **Federal Register** publication for Monday, July 31, 1989, at 54 FR 31545 of the notice of proposed rulemaking. The proposed rules relate to denial of deductions and credits to nonresident alien individuals and foreign corporations that did not file true and accurate income tax returns by the time limits set forth in the proposed regulations.

FOR FURTHER INFORMATION CONTACT: Richard Chewning of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, telephone (202) 566–6384, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 874 and 882 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking contains a typographical error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed rules which was the subject of FR Doc. 89–17725, is corrected as follows:

§ 1.874–1 [Corrected]

In § 1.874–1(c)(2), on page 31546, column 3, line 8, the language "§ 301.7605–2(a)" is corrected to read, "§ 301.7605–1(a)".

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate)

[FR Doc. 89–20803 Filed 9–5–89; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AMS–FRL–3640–9]

Performance Warranty Regulations and the Voluntary Aftermarket Part Certification Program: Proposed Alternative Short Test Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: This notice announces a public hearing regarding the notice of proposed rulemaking (NPRM) for a proposed alternative short test procedure in the voluntary aftermarket part certification program (54 FR 32598, August 8, 1989). The public comment period is being extended to a date 30 days after the comment period.

DATES: The public hearing will be held Tuesday, October 10, 1989, beginning at 9:00 a.m. The public comment period is being extended to November 10, 1989.

ADDRESSES: The public hearing will be held in the conference room of the EPA Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Parties wishing to present oral testimony at the public hearing should notify in writing, prior to the hearing, Mr. Michael Sabourin, Certification Division, U.S. EPA, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

Any party may also submit written comments regarding the NPRM to the EPA, Air Docket, Room M–1500 (LE–131), Waterside Mall, 401 M Street SW., Washington, DC 20460, ATTENTION: Docket No. A–88–31. Copies of material relevant to the NPRM in this docket will be available for public inspection from 8:00 a.m. to 12:00 noon and from 1:30 p.m. to 3:30 p.m. on weekdays. A reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Michael Sabourin, Certification Division, U.S. EPA, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668–4316.

SUPPLEMENTARY INFORMATION: On August 8, 1989, EPA promulgated a final rule revising the voluntary aftermarket part certification program regulations (54 FR 32566). Under these revised regulations, whenever a manufacturer is required to perform emissions testing as part of its demonstration requirement for certification of an emission-related part, it must use the Federal Test Procedure (FTP).

In the same **Federal Register**, EPA published a notice of proposed rulemaking (NPRM) proposing an alternative test procedure for the certification of aftermarket parts (54 FR 32598). The alternative test is comprised of the first 505 seconds of the FTP and is known as the cold 505 test procedure.

In the NPRM, EPA specifically requested comments in two areas. First, EPA requested comments on the appropriate level of the cold 505 standards. Second, EPA requested comments on whether it is inappropriate to certify certain aftermarket parts using the cold 505 procedure. Interested parties should address these topics as well as any other issues raised in the NPRM.

Persons wishing to present their views at the public hearing are requested to notify the EPA contact identified above by no later than October 2, 1989, of their intention to make a statement. On the day of the hearing presenters are requested to bring sufficient copies of their oral presentation to distribute to EPA panel members, and to industry attendees. Persons who have not given notice of their intent to speak will be heard as time permits following the scheduled statements.

Dated: August 30, 1989.

William G. Rosenberg,

Assistant Administrator for Air and Radiation.

[FR Doc. 89–20867 Filed 9–5–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 8E3682 and 9E3715/P488; FRL–3641–3]

Pesticide Tolerance for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for the combined residues of the herbicide glyphosate and its metabolite in or on the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables and in or on the raw agricultural commodities longan, mamey sapote, lychee, sapodilla, and passion fruit. The proposed regulation to establish maximum permissible levels for residues of the herbicide in or on the crop group and raw agricultural commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 8E3682 and 9E3715/P488], must be received on or before October 6, 1989.

ADDRESSES: By mail, submit written comments to: Public Information Branch, 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 22202.

Information submitted as a comment concerning this document 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. All written comments will be available for public inspection in Rm. 246 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: Hoyt Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions (PP) 8E3682 and 9E3715 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the named Agricultural Experiment Stations. The petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine), and its metabolite aminomethylphosphnonic acid (AMPA) in or on certain raw agricultural commodities.

1. *PP 8E3682.* Petition submitted on behalf of the Agricultural Experiment Stations of California, Florida, Michigan, and New York in or on the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables at 0.2 part per million (ppm). The proposed tolerance for the *Brassica* (cole) leafy vegetables crop group replaces, in part, the existing glyphosate tolerance for leafy vegetables at 0.2 ppm. The *Brassica* (cole) leafy vegetable group consists of the raw agricultural commodities broccoli, Chinese broccoli, broccoli raab, Brussels, sprouts, cabbage, Chinese cabbage, Chinese mustard cabbage, cauliflower, collards, kale, kohlrabi, mustard greens, and rape greens.

The term "leafy vegetables" is a crop group designation that was used prior to the revision of 40 CFR 180.34(f), the Crop Group Regulations, which was published in the **Federal Register** of June 29, 1983 (48 FR 29855). Establishment of the proposed tolerance for *Brassica* (cole) leafy vegetables partially replaces, but does not allow the deletion of, the already established crop grouping "leafy vegetables"; the *Brassica* (cole) leafy vegetable crop group does not include all members of the leafy vegetable crop group.

2. *PP 9E3715.* Petition submitted on behalf of the Agricultural Experiment Station of Florida in or on the raw agricultural commodities longan, mamey sapote, lychee, sapodilla, and passion fruit at 0.2 ppm.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 10 milligrams (mg) per kilogram (kg) per day.

2. A chronic feeding-oncogenicity study in rats with a systemic NOEL of 31 mg/kg/day, which was negative for oncogenic potential under the conditions of the study at all feeding levels tested (0, 3, 10, and 31 mg/kg/day). Although the rat study meets the requirement for a chronic feeding study, it does not satisfy guideline requirements for an oncogenicity study. There is no evidence that the highest dose tested (31 mg/kg/day) was a toxic or maximum tolerated dose (MTD).

3. A 1-year dog feeding study with a systemic NOEL of 500 mg/kg/day (highest dose tested).

4. A rat teratology study, negative for teratogenic effects at 3,500 mg/kg/day (highest dose tested), with maternal and developmental toxicity NOELs of 1,000 mg/kg/day.

5. A rabbit teratology study, negative for teratogenic effects at 350 mg/kg/day (highest dose tested), with a maternal NOEL of 175 mg/kg/day and a developmental toxicity NOEL of 350 mg/kg/day.

6. Mutagenicity studies as follows: chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with or without S–9 activation); DNA repair in rat hepatocytes (negative); *in vivo* bone marrow cytogenic in rats (negative); rec-assay with *B. subtilis* (negative up to 2,000 micrograms of test material per disk); reverse mutation with *S. typhimurium* (negative); Ames test with *S. typhimurium* (negative); and a dominant lethal test in mice (negative).

Additionally, a 2-year oncogenicity study in CD–1 mice has been completed and reviewed by the Agency. Feeding levels in this study were 1,000, 5,000 and 30,000 ppm (equivalent to 150, 750 and 4,500 mg/kg/day, respectively). The NOEL for nonneoplastic chronic effects was established at 5,000 ppm. In this study, glyphosate produced an equivocal oncogenic response, possibly causing a slight increase in the incidence of renal tubular adenomas (a benign tumor of the kidney) in male mice at the highest dose tested (30,000 ppm). Because of the equivocal nature of the oncogenic response in mice and the lack of an acceptable oncogenicity study in rats, the Agency referred the issue to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Science Advisory Panel (SAP) for a "Weight-of-Evidence" recommendation. After reviewing all available evidence, the SAP concluded that the oncogenic potential of glyphosate could not be determined from the available information and recommended that the mouse and/or rat studies be repeated to clarify unresolved questions. Subsequently, the Agency classified glyphosate as a "Category D Oncogen" (inadequate evidence of oncogenicity) and requested repeat oncogenicity studies in both mice and rats. The rat oncogenicity study is due in 1990, and a repeat study in male mice is due in 1992.

Current Agency policy is to establish tolerances for significant new uses of glyphosate on a case-by-case basis. Tolerances which change the theoretical maximum residue contribution (TMRC) by more than 1 percent are generally considered significant.

The acceptable daily intake (ADI), based on the NOEL of 10 mg/kg/day from the rat reproduction study and using a 100-fold safety factor, is calculated to be 0.1 mg/kg of body weight (bw)/day. The TMRC from existing tolerances for a 1.5-kg daily diet is calculated to be 0.005095 mg/kg/day. The tolerance for *Brassica* (cole) leafy vegetables will not result in an increase in the TMRC because of the already established tolerance on the leafy vegetable crop group. The tolerances for longan, lychee, mamey sapote, sapodilla, and passion fruit will result in an increase in the TMRC of less than 0.000001 mg/kg/day, an inconsequential increase in the ADI.

The established tolerances for meat, milk, poultry, or eggs are adequate to cover any secondary residues from feed use of the *Brassica* (cole) leafy vegetable crop group commodities and longan, lychee, mamey sapote, sapodilla, and passion fruit are not considered livestock feed commodities. The nature of the residues is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. An analytical enforcement method is currently available in the *Pesticide Analytical Manual* (PAM), Volume II. There are currently no actions pending against the continued registration of this chemical.

Based on the data and information considered, the Agency concludes that the tolerances proposed would protect the public health. Therefore, it is

proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8E3682 and 9E3715/P488]. All written comments filed in response to this petition will be available in the Public Information Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: August 28, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR 180 be amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.364(a) is amended by adding and alphabetically inserting the commodity crop group *Brassica* (cole) leafy vegetables and the raw agricultural commodities longan, lychee, mamey sapote, passion fruit, and sapodilla, to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Longan	0.2
Lychee	0.2
Mamey sapote	0.2
* * * * *	
Passion fruit	0.2
* * * * *	
Sapodilla	0.2
* * * * *	
Vegetables, leafy, *Brassica* (cole)	0.2
* * * * *	

[FR Doc. 89-20864 Filed 9-5-89; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 54, No. 171
Wednesday, September 6, 1989

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

Office of the Secretary

State of Ohio Multiflora Rose Control Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all State cost-share payments made under the Ohio Multiflora Rose Control Program are primarily for the purposes of soil and water conservation and protecting or restoring the environment. This determination is in accordance with section 126 of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients to exclude these payments from gross income to the extent allowed by the Internal Revenue Service (IRS).

FOR FURTHER INFORMATION CONTACT: Lawrence G. Vance, Chief, Division of Soil and Water Conservation, Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224; or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, (202) 382–1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 126, provides that certain payments made to persons under State conservation programs may be excluded from the recipient's gross income for Federal income tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forest, or providing a habitat for wildlife * * *." The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR part 14 and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made to a person under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

One of the State conservation programs is the Ohio Multiflora Rose Control Programs authorized by Ohio Revised Code chapters 1511 and 1515. It is funded by annual State appropriations providing financial assistance to private land owners to help them maintain various conservation practices on their land. Cost-share payments minimize the loss of crop and pasture land to brush infestation.

Procedural matters: The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. An Ohio Multiflora Rose Control Program, "Primary Purpose Determination for Federal Tax Purposes," Record of Decision, has been prepared and is available upon request from Chief, Division of Soil and Water Conservation, Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224; or the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013.

Determination: As required by section 126 of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures of the Ohio Multiflora Rose Control Program. In accordance with the criteria set out in 7 CFR part 14, I have determined that all cost-share payments made under this program are primarily for the purposes of soil and water conservation and protecting or restoring the environment. Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such payments made under the Ohio Multiflora Rose Control Program.

Signed at Washington, DC, on August 30, 1989.

Clayton Yeutter,

Secretary.

Ohio Multiflora Rose Control Program

Record of Decision

Primary Purpose Determination for Federal Tax Purposes

Introduction

The Secretary of Agriculture is authorized by section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126), to determine whether payments under certain Federal and State cost-sharing programs are made for the primary purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination identifies payments that are eligible for exclusion from the recipient's gross income for Federal tax purposes to the extent allowed by the Internal Revenue Service.

Basis for Determination

The U.S. Department or Agriculture (USDA) determination is made in accordance with 7 CFR part 14 by reviewing authorizing legislation, regulations, and operating policy and procedures to identify the purposes for which cost-share payments are made. Final determinations are made on the basis of program, category of practices, or individual practices and are published in the **Federal Register.**

Statement of Findings

The Ohio Multiflora Rose Control Program is authorized under the Ohio

Revised Code, sections 1511 and 1515. Ohio law states the Chief of the Division of Soil and Water Conservation of the Ohio Department of Natural Resources shall specify the multiflora rose control practices eligible for State cost sharing and determine the conditions for eligibility, standards and specifications, the maintenance requirements, and the limits of cost sharing for such practices.

The main objective of the program is to control multiflora rose, therefore, retaining the land's productivity.

The landowner must enter into an agreement with the local Soil and Water Conservation District which provides for cost-share assistance and requires the landowner to continue the control two years after the initial treatment.

Summary

The purpose of the program is to preserve and protect Ohio's land. Cost sharing is limited by law or policy and is consistent with other similar programs. Priority for assistance is given to those projects providing the greatest public benefit.

Determination

It is determined that all cost-share payments for multiflora rose control made by landowners, occupiers, and operators under the Ohio Multiflora Rose Control Program are for the purpose of soil and water conservation and protecting or restoring the environment.

[FR Doc. 89-20870 Filed 9-5-89; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

(1) Bryant Benton
(2) William P. Butz
(3) Charles D. Jones
(4) Roland H. Moore
(5) Charles A. Waite
(6) Katherine K. Wallman

Dated: August 30, 1989.

C.L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 89-20888 Filed 9-5-89; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-559-804]

Initiation of Countervailing Duty Investigation: Certain Computer Aided Software Engineering Products From Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Singapore of certain computer aided software engineering products (CASE software), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If this investigation proceeds normally, we will make our preliminary determination on or before November 2, 1989.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Cotjanle or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3534 and (202) 377-3217.

SUPPLEMENTARY INFORMATION:

The Petition

On August 9, 1989, we received a petition in proper form from Visible Systems Corporation, of Waltham, Massachusetts on behalf of the U.S. industry producing CASE software. In compliance with the filing requirements of § 355.12 of the Commerce Department Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.12), the petition alleges that manufacturers, producers, or exporters of CASE software in Singapore receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable. Therefore, section 303(b) of the Act applies to this investiation. Accordingly, petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise from Singapore materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged that it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of the U.S. industry producing the products that are subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce officials cited in the "**FOR FURTHER INFORMATION CONTACT**" section of this notice.

Initiation of Investigation

The Department is limited by section 303 of the Act to the imposition of a countervailing duty upon a class or kind of article or merchandise that is imported into the United States. In its consideration of the petition submitted by Visible Systems Corporation, the Department has had to examine the complex issue of whether the software product described in the petition constitutes merchandise subject to the Act, *i.e.*, whether the software in question is a "good" or a "service." The countervailing duty law provides no direct guidance on this question. However, since the filing of the petition, the Department has conducted considerable research into this issue. We have found that in other contexts software has been classified as either a good or a service because it has both tangible and intangible characteristics and manifestations. The different classifications of software appear to depend on the circumstances under which it is analyzed.

Although no single universally accepted definition of software exists, software is generally defined as a set of statements or instructions to be used directly or indirectly in a computer to perform a desired task or set of tasks. Software does not generally include procedures which are external to computer operations.

CASE software is sold pre-packaged and is not created pursuant to a service contract between a software producer and an end-user. Rather, it is pre-written and copyrighted with no one particular end-user in mind, can be purchased "off-the-shelf," and is usable, without further intervention by the seller of the software, by a broad range of customers. Moreover, pre-packaged software is marketed in commerce as merchandise;

vendors maintain inventories of it just as with any other similar merchandise; and manufacturers generally provide product warranties enabling customer returns for refunds.

Several state courts have held that software on carrier media constitutes a good because the carrier media cannot be severed from the software, *i.e.*, the carrier media is essential for customer usage. These courts have also held that software is subject to sales tax. Furthermore, section 2–105 of the Uniform Commercial Code (UCC) defines goods as "all things (including specially manufactured goods) which are movable at the time of identification to the contract * * *." Software contained on a carrier media is movable. Additionally, software has been classified by some states as a good under their commercial codes.

The General Agreement on Tariffs and Trade (GATT) has determined that there are two accepted methods for the assessment of duties on software. Under GATT, duties on software can either be assessed on the basis of the recording area on the carrier media or on an *ad valorem* basis by reference to the value of the software contained on the carrier media (*see*, GATT, Committee on Customs Valuation; Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment Adopted By the Committee on Customs Valuation on September 24, 1984 (VAL/8), 31 *Supp. GATT Basic Instruments and Documents*, 274 (1985)). U.S. Customs has chosen to assess duties solely on the basis of the recording area of the carrier media (*see, U.S. Valuation of Imported Carrier Media Bearing Data or Instructions for Use in Data Processing Equipment*, T.D. 85–124, 50 FR 30558 (July 26, 1985)). However, U.S. Customs does distinguish between recorded and non-recorded carrier media in the calculation of duties, imposing a slightly higher rate of duty on recorded carrier media. The higher duty for recorded media implies that the data recorded on the media is both of value and is dutiable. The different treatment of recorded and non-recorded media by the Customs Service and the GATT's declaration of accepted methods of duty assessment on software is consistent with the classification of software as dutiable merchanise.

Base on information available to the Department and presented in the petition, we have determined that CASE software is (1) a pre-packaged software product which can be purchased off-the-shelf, (2) typically contained on a carrier media, (3) a pre-written product with broad application, which does not need additional servicing by the seller of the software prior to use by the end-user, (4) marketed similarly to other types of merchandise, (5) maintained in inventory by vendors, and (6) treated differently than non-recorded carrier media by the U.S. Customs Service. Therefore, for purposes of determining whether to initiate this investigation, we have focused on the tangible aspects of software products and have determined that CASE software is a good, and thus, merchandise subject to the countervailing duty law.

Under section 702(c) of the Act, we must make the determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on CASE software from Singapore and have found that it meets these requirements.

Therefore, since (1) CASE software is merchandise subject to the Act, and (2) the petition meets the statutory requirements regarding the alleged bounties or grants, we are initiating an investigation pursuant to section 702(c) of the Act.

If our investigation proceeds normally, we will make our preliminary determination on or before November 2, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s). The HTS item number(s) are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The products covered by this investigation are "front-end" Computer Aided Software Engineering (CASE) tools, including all updated versions, which have been imported from Singapore, whether labelled or unlabelled. These software products are personal computer-based tools which run in the Disk Operating System (DOS) environment and are designed to automate the various stages of the software development tasks of defining user requirements, conducting system analysis activities, and creating a detailed design specification for the software system under development. There are a number of standardized engineering techniques which front-end CASE tools are designed to automate. These include techniques of "structured analysis", "structured design", and "data modeling", among others. All front-end CASE tools are designed to produce logically validated and documented systems specifications, which in turn are used as detailed "blueprints" for the actual writing of application codes. These front-end stages of the software development life cycle are contrasted with the "back-end" lifecycle stages of coding, testing, and maintenance. Back-end CASE tools are not covered by this investigation.

Although front-end CASE tools generally are imported on recorded floppy disks, they may also be imported on other carrier media. All such dutiable imports are covered by the scope of this investigation. Petitioner has indicated that CASE software may be imported packaged ready for sale; as a master disk for duplication purposes within the United States; or via electronic transmission. The subject merchandise is currently classifiable under HTS item numbers 8524.21.30.80, 8524.22.20.00, 8524.23.20.00, and 8524.90.40.80. Merchanise which is imported duty-free is not included in the scope of this investigation.

Allegations of Subsidies

Petitioner lists a number of practices by the Government of Singapore which allegedly confer bounties or grants on manufacturers, producers, or exporters of CASE software. We are initiating an investigation of the following programs:

- *Double Deduction of Research and Development Expenses*
- *Expansion of Established Enterprises*
- *Investment Allowance*
- *Initiatives in New Technologies*
- *Software Development Assistance Scheme*
- *Product Development Assistance Scheme*
- *Capital Assistance Scheme*
- *Research and Development Assistance Scheme*
- *Skills Development Fund*
- *Information Technology Institute Development of CASE Products*

- *OHQ Operational Headquarters Program*
- *Double Deduction for Export Promotion Expenses*
- *Production for Export*
- *Warehousing and Servicing Incentives*
- *Operational Subsidy*
- *Small Industries Assistance Scheme*
- *Small Industries Finance Scheme*
- *Accelerated Depreciation*

This notice is published pursuant to section 702(c)(2) of the Act.

Dated: August 29, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-20904 Filed 9-5-89; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended export trade certificate of review.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the California Cherry Export Association of San Joaquin County. Notice of issuance of the Certificate was published in the **Federal Register** on September 3, 1987 (52 FR 33465).

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 87-00009 was issued to the California Cherry Export Association of San Joaquin County (CCEA) on August 27, 1987. Notice of issuance of the Certificate was published in the **Federal Register** on September 3, 1987 (52 FR 33465).

The California Cherry Export Association of San Joaquin County (CCEA) has amended its Certificate to:

1. Revise the name of the Certificate holder from the "California Cherry Export Association of San Joaquin County" to the "California Cherry Export Association" to reflect its statutory name change of September 19, 1988.

2. Add the following additional companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Churchill Nut Company, Hollister, California; Dole Bakersfield, Inc., Victor, California; and Blue Anchor, Inc., Sacramento, California.

EFFECTIVE DATE: May 31, 1989.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: August 30, 1989.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-20905 Filed 9-5-89; 8:45 am]

BILLING CODE 3510-DR-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7-189,037, "Cockroach Growth Regulating Composition and Method" to University of Florida, having a place of business at 223 Grinter Hall, Gainesville, Florida 32611. The patent rights in this invention have been assigned to the United States of America as represented by the Secretary of Agriculture and the Secretary of the Army, and to the University of Florida.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487-4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Charles A. Bevelacqua, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-20863 Filed 9-5-89; 8:45 am]

BILLING CODE 3510-04-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements—Requirements for Full-Size Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through August 31, 1992, of information collection requirements in the safety regulations applicable to full-size cribs codified at 16 CFR 1500.18(a)(13) and part 1508. These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration and other injuries associated with full-size cribs. (A full-size crib is a crib having an interior length dimension ranging from 51¾ inches to 53 inches; and an interior width ranging from 27⅝ inches to 28⅝ inches.) The regulations prescribe performance, design, and labeling requirements for non-full-size cribs. They also require manufacturers and importers of those products to maintain

sales records for a period of three years after the manufacture or importation of non-full-size cribs. If any full-size cribs subject to the provisions of 16 CFR 1500.18(a)(13) and Part 1508 fail to comply in a manner severe enough to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Recordkeeping Requirements for Full-Size Baby Cribs—16 CFR 1508.12.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of products manufactured, imported, or sold.

General description of respondents: Manufacturers and importers of non-full-size cribs.

Estimated number of respondents: 55.

Estimated average number of hours per respondent: 5 per year.

Estimated number of hours for all respondents: 275 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable

Dated: August 31, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89–20901 Filed 9–5–89; 8:45 am]

BILLING CODE 6355–01–M

Notification of Request for Extension of Approval of Information Collection Requirements—Procedures for Export of Noncomplying Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through August 31, 1992, of information collection requirements in regulations codified at 16 CFR part 1019, which establish procedures for export of noncomplying products. These regulations implement provisions of the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act which require persons and firms to notify the Commission before exporting any product which fails to comply with an applicable standard or regulation enforced under provisions of those laws. The Commission is required by law to transmit the information relating to the proposed exportation of noncomplying products to the government of the country of intended destination.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Procedures for Export of Noncomplying Products.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of noncomplying products exported.

General description of respondents: Exporters of products which fail to comply with standards or regulations enforced under provisions of the Consumer Product Safety Act, the Federal Hazardous Substances Act, or the Flammable Fabrics Act.

Estimated number of respondents: 100.

Estimated average number of hours per respondent: 1.5 per year.

Estimated number of hours for all respondents: 150 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 31, 1989.

Sadye E. Dunn, Secretary,

Consumer Product Safety Commission.

[FR Doc. 89–20902 Filed 9–5–89; 8:45 am]

BILLING CODE 6355–01–M

Notification of Request for Extension of Approval of Information Collection Requirements—Requirements for Non-Full-Size Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through August 31, 1992, of information collection requirements in the safety regulations applicable to non-full-size cribs codified at 16 CFR 1500.18(a)(14) and part 1509. These regulations were issued to reduce hazards of strangulation, suffocation, pinching, bruising, laceration and other injuries associated with non-full-size cribs. (A non-full-size crib is a crib having an interior length dimension either greater than 55 inches or smaller than 49¾ inches; or an interior width either greater than 30⅝ inches or smaller than 25⅝ inches; or both.) The regulations prescribe performance, design, and labeling requirements for non-full-size cribs. They also require manufacturers and importers of those products to maintain sales records for a period of three years after the manufacture or importation of non-full-size cribs. If any non-full-size cribs subject to the provisions of 16 CFR 1500.18(a)(14) and part 1509 fail to comply in a manner severe enough to warrant a recall, the required records can be used by the manufacturer or importer and by the Commission to identify those persons and firms who should be notified of the recall.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Recordkeeping Requirements for Non-Full-Size Baby Cribs—16 CFR 1509.12.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of products manufactured, imported, or sold.

General description of respondents: Manufacturers and importers of non-full-size cribs.

Estimated number of respondents: 50.

Estimated average number of hours per respondent: 4 per year.

Estimated number of hours for all respondents: 200 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Pamela Barr, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 31, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89–20903 Filed 9–5–89; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

August 29, 1989.

The USAF Scientific Advisory Board Strategic Cross-Matrix Panel will meet on 20–21 Sep 89, from 8:00 a.m. to 5:00 p.m., at ASD, Wright-Patterson AFB OH.

The purpose of this meeting will be to gather information on space technologies related to the National Aero-Space Plane as requested by CINCSAC. The meeting at ASD will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liasion Officer.

[FR Doc. 89–20843 Filed 9–5–89; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Record of Decision Chemical Stockpile Disposal Program; Tooele Army Depot

AGENCY: Department of the Army, DOD.

ACTION: Availability of record of decision (ROD).

SUMMARY: This announces the availability of the Record of Decision regarding the destruction of the stockpile of lethal unitary chemical agents and munitions stored at Tooele Army Depot (TEAD), Utah. The Army has decided to construct and operate a full-scale disposal facility at TEAD using the Johnston Atoll Chemical Agent Disposal System (JACADS) reverse assembly and incineration technology.

SUPPLEMENTARY INFORMATION: Title 14, part B, section 1412 of Public Law 99–145 and subsequent legislation requires destruction of the U.S. stockpile of lethal unitary chemical agents and munitions by April 1997, in conjunction with the acquisition of the new binary chemical weapons. To implement the Congressional directive, the Department of Army conducted a programmatic environmental review consistent with the National Environmental Policy Act and governing Council on Environmental Quality Regulations (40 CFR Parts 1500–1508). A Final Programmatic Environmental Impact Statement (FPEIS) was issued in January 1988.

The FPEIS addressed five alternatives: (1) Continued storage of the stocks at their present locations; (2) on-site disposal of the stocks at their present storage locations; (3) relocation of the stocks to regional disposal centers at Anniston Army Depot, Alabama, and TEAD for destruction; (4) relocation of the stocks to a national disposal center at TEAD for destruction; and (5) relocation of the inventories at some specific sites to alternative sites, with the remainder destroyed at their present storage locations. The FPEIS identified the on-site disposal option as the environmentally preferred alternative and concluded that the stockpile of chemical agents and munitions stored in the continental U.S. can be destroyed in a safe, environmentally acceptable manner.

In its programmatic Record of Decision (53 FR 5816, February 26, 1988), the Department of Army selected on-site incineration as its preferred alternative. In making that decision, the Army noted that environmental impacts, including the hazards and risk analyses presented in the FPEIS, were a contributing but not determining factor in the decision. Other factors considered included the feasibility and effectiveness of emergency response measures, vulnerability to terrorism and sabotage, and logistical complexity. In addition, incineration was endorsed by the National Research Council as the best and safest means of destroying these lethal chemical agents.

Subsequent to issuance of the FPEIS and the attendant Record of Decision, the validity of the programmatic decision for on-site disposal of the TEAD stockpile was given further consideration in a Phase I Environmental Report, issued in September 1988. The report used recently collected site-specific data to examine the suitability of on-site disposal of agents and munitions stored at TEAD. The report also examined resource data for the TEAD vicinity to determine whether significant resources are present that could affect implementation of on-site disposal at TEAD. No new or unique site-specific information was found that would change or contradict the conclusion of the FPEIS for TEAD.

On February 8, 1989, the findings and conclusions of the Phase I Environmental Report and an independent review (which concurred with the findings of the report) were certified to Congress by then Assistant Secretary of the Army (Installations and Logistics) John W. Shannon. This certification initiated the preparation of the Final Environmental Impact Statement, July 1989. As presented in the Final EIS, the Department of Army's proposed action is to implement the programmatic decision of on-site destruction of the lethal unitary chemical agents and munitions stockpiled at the Tooele Army Depot. This action entails construction and operation of a destruction facility based on the JACADS incineration technology and experience. The alternatives considered in the site-specific EIS, based on the information and conclusions presented in the Programmatic EIS and the Phase I reports, included on-site locations for the destruction facility and the "no action" alternative of indefinite storage of the TEAD stockpile. Because of the Congressional directive to destroy the stockpile and hazards associated with continued storage, the "no action" alternative is not a viable long-term option.

The ROD selected the site located near the center of the TEAD-South area adjacent to the southeast corner of the existing chemical munitions storage

area for the construction of the chemical disposal facility at TEAD. This site was both the Army preferred site and also the environmentally preferred alternative because it best meets the criteria of safety to the off-post communities, minimizes the transportation distance from the storage area, minimizes exposure to potential earthquakes, and minimizes interferences with other activities at the Depot. Construction of the disposal facility is expected to begin in September 1989 and will take about 30 months to complete.

The Army will adopt all practicable means to avoid or minimize environmental harm from the alternative selection. Measures to mitigate both the likelihood and consequence of severe accidents will be incorporated in the facility design and operating procedures as delineated in the Final EIS for Tooele. A major program is also under way to enhance emergency preparedness at TEAD and contiguous areas. The program is intended to mitigate the human health impacts of catastrophic accidents from both storage and disposal operations.

Before operations begin, a four-month design and procurement verification period will be included in the program to incorporate changes resulting from the JACADS program. Prior to toxic operations, there will be a period of preoperational checkout, training, and integrated systems operation under mock conditions with simulant munitions (without agent). All state and federal regulations will be complied with before and during disposal operations. Once toxic agent operations are initiated, destruction of the stockpile is expected to take approximately four years based on a 24-hour day, five-day per week schedule. CONCLUSION: The Department of Army has weighed the costs, benefits, schedule, and environmental impacts in its decision to destroy the stockpile of lethal unitary chemical agents and munitions stored at TEAD. Through this analysis, the Department of Army has selected construction and operation of a JACADS-type reverse assembly and incineration facility at TEAD. This alternative is the best choice from a public health and environmental perspective.

Interested individuals may obtain copies of the Record of Decision by contacting the Program Manager for Chemical Demilitarization, ATTN: SAIL-PMI (Ms. Marilyn Tischbin), Aberdeen Proving Ground, Maryland 21010-5401.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I&L).

[FR Doc. 89-20857 Filed 9-5-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before October 6, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 30, 1989.

George Sotos,

Acting Director for Office of Information Resources Management.

Office of Planning, Budget, and Evaluation

Type of Review: New
Title: A Descriptive Study of the Chapter 1 Migrant Education Program
Frequency: One time only
Affected Public: Individuals or households; State or local governments
Reporting Burden: Responses: 3,517
Burden Hours: 2,644
Recordkeeping Burden: Recordkeepers: 0
Burden Hours: 0
Abstract: This study will collect, analyze and report on a nationally-representative sample of the program operations, administration, and staffing for the Chapter 1 Migrant Education Program—the Department will use this information for program management and refinement of policy.

[FR Doc. 89-20818 Filed 9-5-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to Texas A&M University

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award under Grant Number DE-FG01-89CE21038 to Texas A&M University.

Scope: The funding for this grant will allow the grantee to perform the first step in measuring the energy impact of infiltration on test cells and building components.

The purpose of this project is to conduct a set of experiments which will quantify the heat transfer/heat exchange processes in test cells and a set of building components present in a

test cell. This will be accomplished through steady-state measurements made on components, combinations of components and complete test cells as well as through dynamic measurement of complete test cells. These measurements will determine the extent of the heat exchange which occurs in key building components and assemblies and will test measurement techniques which can be used to measure the infiltration load in houses and other buildings.

Eligibility: Based on receipt of an unsolicited application, eligibility of this award is being limited to Texas A&M University. This project represents a unique idea for which a competitive solicitation would be inappropriate. This project is meritorious in that it will increase the knowledge base available to private sector building designers and provide tehcnical information on the accurate determination of the energy requirement associated with infiltration.

The proposal submitted by Texas A&M outlines a well conceived and systematic approach, beginning with simple test cell measurements and evolving into a detailed experimentation and analysis leading to the development of an "infiltration/heat exchange" model.

The combination of Texas A&M's well-suited research facilities, the expertise of the project director, and the preliminary work, which has already been done by Texas A&M, is indicative of a high probability of achieving the objectives stated in the grantee's proposal.

The term of this grant shall be six (6) months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Kristin Wright, MA–453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 89–20830 Filed 9–5–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 10113–000]

Perpetual Storage, Inc.; Availability of the Environmental Assessment

August 29, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing reviewed the application for exemption from licensing for the proposed Whitmore Hydropower Project, located on Little Cottonwood Creek in Salt Lake County, Utah, and prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff analyzes the potential environmental impacts of the proposed project and concludes that, with appropriate mitigation measures, approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89–20822 Filed 9–5–89; 8:45 am]

BILLING CODE 6717–01–M

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration

Puerto Rican Referendum Legislative Activities—Availability of Funds

AGENCY: Executive Office of the President, Office of Administration.

ACTION: Notice of funds availability.

SUMMARY: In the matter of funds made available to political parties in Puerto Rico, as described in Pub. L. 101–45: availability of funds.

The Office of Administration, Executive Office of the President, announces its policies and application procedures for funds available under Public Law 101–45, to the Popular Democratic, New Progressive, and Puerto Rico Independence political parties of the Commonwealth of Puerto Rico for participation in the legislative process involving the future political status of Puerto Rico. The purpose of this announcement is to communicate to the potential grantees the policies and procedures that will be used in administering this program.

Eligible Applicants

The following organizations are eligible to apply for funds under this notice: the Popular Democratic Party of Puerto Rico; the New Progressive Party of Puerto Rico; and the Puerto Rican Independence Party of the Commonwealth of Puerto Rico.

Program Objective

The primary objective of this program is to implement the statutory mandate of Pub. L. 101–45 appropriating $1.5 million to the Office of Administration of the Executive Office of the President for three equal grants to the above-mentioned political parties to enhance their participation in the legislative process involving the future political status of Puerto Rico. Funds may be used for travel and transportation of persons; services as authorized by section 3109 of title 5, United States Code; communications, utilities; printing and reproduction; supplies and materials; administrative costs; and other related services. No funds may be used for any expenses for declared candidates for political office or any employees of campaigns for political office. No funds may be used for entertainment expenses. Other prohibited or restricted uses of funds will be listed in the grant agreement.

Available Funds

$1.5 million is available for grants of $500,000 to the three eligible applicants. Funds may be used to cover necessary expenses incurred after March 1, 1989, and will remain available until the sine die adjournment of the 101st Congress, which shall be no later than the end of calendar year 1990.

Application Procedures

Prior to receipt of any funds, each eligible applicant must submit an application for funding. This application must identify the name and address of the official in the party responsible for and authorized to enter into a grant agreement between the party and the U.S. Government. The application will also contain a proposed budget outlining, by month, how these funds will be spent, what internal controls will be used to ensure that the funds are spent for the purposes stated, and the name of a person who will serve as administrative officer for the grant. The applications shall be sent to Mr. Hector F. Irastorza, Jr., Special Assistant to the President and Deputy Director of the Office of Administration, Old Executive Office Building, Washington, DC 20500 (202) 456–6226, who shall serve as the grant officer. Applications are due sixty days from the date of publication of this notice. The applicant may be required to submit any other information deemed necessary prior to approval of the grant.

Funding Mechanism and Restrictions

Upon receipt and approval of the application, the grantee and the government will execute grant

agreements specifying the mechanism for receipt of funds and the conditions attendant to initial and continued receipt of these funds. The applicant will be expected to comply with the following conditions before any funds can be spent: all travel funded must be in accordance with published U.S. Government travel regulations; any consultant contract over $50,000 funded under this contract must be approved as to funding eligibility by the government's grant officer prior to being entered into by the grantee; all pertinent information regarding the grant must be made available to the public; applicable civil rights and anti-discrimination statues must be adhered to; accounting systems and records shall be such that the Comptroller General of the United States shall be able to audit the uses of the grant funds. Other conditions regarding expenditure of grant funds and grantee performance shall be specified in the terms and conditions of the grant that must be executed before any funds may be received.

After execution of the grant agreement, award payments shall be made by the letter-of-credit method. In accordance with appropriate regulations and relevant OMB and Department of Treasury guidelines, the recipient shall: (1) Maintain procedures for fund control to ensure that any drawdowns on the letter-of-credit are requested only when actually needed for its immediate disbursement needs; (2) comply with timely reporting of cash disbursements and balances as required. If the recipient does not adhere to these provisions, the Government may revoke the letter-of-credit and institute reimbursement of costs incurred by treasury check.

For any expenditures incurred after March 1, 1989 but prior to execution of the grant agreement, detailed transaction records must be submitted along with evidence supporting that the expenditures were for the purposes stated in the legislation. The grant officer will have to approve reimbursement for these expenditures before they can be considered eligible grants costs.

Further information may be received by contacting the grant officer.

Dated: August 23, 1989.

Paul W. Bateman,

Deputy Assistant to the President for Management and Director of the Office of Administration.

[FR Doc. 89-20823 Filed 9-5-89; 8:45 am]

BILLING CODE 3115-01-M

FEDERAL ELECTION COMMISSION

[Notice 1989-15]

Filing Dates for Mississippi Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Mississippi special election.

SUMMARY: Mississippi has scheduled a special election in the 5th Congressional District of Mississippi to fill the seat that was held by Larkin Smith. There are two possible elections, but only one may be necessary.

- Special Election: October 3, 1989. If no candidate wins a majority of votes in the Special Election, the two top vote-geters, regardless of party affiliation will participate in a Special Runoff.
- Special Runoff Election: October 17, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E St., NW., Washington, DC 20463, Telephone: (202) 376-3120; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Principal campaign committees of candidates who participate in the Mississippi Special Election must file reports according to the schedules given in Charts 1 through 3. The committee treasurer should consult the chart that corresponds to the candidate's situation. Party committees and PACs that make contributions or expenditures in connection with the Special Elections during the coverage dates listed in the charts must file the appropriate reports. Monthly filers, however, do not file special Pre- and Post-Election reports.

Calendar of Reports for Mississippi Special Election

Chart 1: If only one election is held; Special (10/3/89)

Report	Period covered[1]	Reg./cert mailing date[2]	Filing date
Pre-Special	07/01/89-09/13/89	09/18/89	09/21/89
Post-Special	09/14/89-10/23/89	11/02/89	11/02/89
Year-End	10/24/89-12/31/89	01/31/90	01/31/90

Chart 2: If two elections are held, and the committee is involved in both; Special (10/3/89) and Runoff (10/17/89):

Report	Period covered[1]	Reg./Cert. mailing date[2]	Filing date
Pre-Special	07/01/89-09/13/89	09/18/89	09/21/89
Pre-Runoff	09/14/89-09/27/89	[3]10/05/89	10/05/89
Post-Runoff	09/28/89-11/06/89	11/16/89	11/16/89
Year-End	11/07/89-12/31/89	01/31/90	01/31/90

Chart 3: If two elections are held, but a committee is involved in only the first; Special (10/3/89):

Report	Period covered[1]	Reg./Cert. mailing date[2]	Filing date
Pre-Special	07/01/89-09/13/89	09/18/89	09/21/89
Year-End	09/14/89-12/31/89	01/31/90	01/31/90

[1] The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

[2] Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

[3] Committees involved in the Runoff Election may use the October 5 filing date as the mailing date for the Pre-Runoff Report.

Note: If no candidate achieves a majority of the vote in the Special Election, the two top vote-getters, regardless of party, go to a Runoff Election.

Dated: August 30, 1989.

John Warren McGarry,

Commissioner.

[FR Doc. 89-20798 Filed 9-5-89; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 28, 1989.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (title 44 U.S.C. chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR part 1320). A copy on the proposed information collection and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

For Further Information Contact

Federal Reserve Board Clearance Officer—Frederick Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340).

Request for OMB Approval to Extend Without Revision

Report title: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks
Agency form number: FFIEC 004
OMB Docket number: 7100-0034
Frequency: Annually (for the report), quarterly and on occasion (for recordkeeping and disclosure requirements)
Reporters: Executive officers and principal shareholders of member banks
Annual reporting hours: 6,922
Estimated average hours per response: 1.27 hours (1 hour of reporting burden, 2.35 hours of recordkeeping burden)
Estimated number of respondents: 5,450 (4,360 executive officers and principal shareholders filing the report, 1,090 state member banks fulfilling the recordkeeping burden)
Small businesses are affected.

General description of report:

This information collection is mandatory (12 U.S.C. 1972(2)(G)) and is given confidential treatment (12 CFR 215.22(2)).

Executive officers and principal shareholders of member banks who are indebted to correspondent banks must file the FFIEC 004 report on such indebtedness to them or their related interests. State member banks are required to retain these reports for a period of three years.

Board of Governors of the Federal Reserve System, August 28, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-20833 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 15, 1989.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Otis Guy Bacon,* Ardmore, Oklahoma; to acquire an additional 10.3 percent of the voting shares of Amcorp Financial Corporation, Inc., Ardmore, Oklahoma, and thereby indirectly acquire American National Bank, Ardmore, Oklahoma.

Board of Governors of the Federal Reserve System, August 30, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20834 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

The Citizens and Southern Corp.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 22, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The Citizens and Southern Corporation,* Atlanta, Georgia, and the Citizens and Southern Florida Corporation, Fort Lauderdale, Florida; to acquire 100 percent of the voting shares

of The Ocean State Bank, Neptune, Florida.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *PSB Financial Shares, Inc.*, Prinsburg, Minnesota; to become a bank holding company by acquiring 98.1 percent of the voting shares of Prinsburg State Bank, Prinsburg, Minnesota.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *South Holt Bancshares, Inc.*, Oregon, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Zook and Roecker State Bank, Oregon, Missouri.

Board of Governors of the Federal Reserve System, August 30, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20835 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

The First National Bankshares of Henry County, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 22, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The First National Bankshares of Henry County, Inc.*, Stockbridge, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Henry County, in organization, Stockbridge, Georgia.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Great River Bancshares Corporation*, Burlington, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Burlington Bank and Trust, Burlington, Iowa.

2. *Peotone Bancorp, Inc.*, Peotone, Illinois; to acquire an additional 0.96 percent of the voting shares of Rock River Bancorporation, Oregon, Illinois, and thereby indirectly acquire Rock River Bank, Oregon, Illinois.

3. *Yale Bancorporation*, Yale, Iowa; to become a bank holding company by acquiring at least 96.25 percent of the voting shares of Farmers State Bank, Yale, Iowa.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to merge with First Bellevue Bancshares, Co., Bellevue, Nebraska, and thereby indirectly acquire The First National Bank of Bellevue, Bellevue, Nebraska.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Far West Bancorporation*, Provo, Utah; to become a bank holding company by acquiring 100 percent of the voting shares of Far West Bank, Provo, Utah.

2. *Valley Capital Corporation*, Las Vegas, Nevada; to acquire 100 percent of the voting shares of the successor by merger to First Business Bank of Arizona, Phoenix, Arizona.

Board of Governors of the Federal Reserve System, August 30, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20836 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

National Bancorp, Inc.; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 21, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *National Bancorp, Inc.*, Melrose Park, Illinois; to engage *de novo* in acquiring and servicing loans or other extensions of credit of the type set forth in § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 30, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20837 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank

Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 27, 1989.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Earl K. Nau*, Springfield, Missouri; to acquire an additional 5.36 percent of the voting shares of First City Bancshares, Inc., Springfield, Missouri, for a total of 15.26 percent, and thereby indirectly acquire First City National Bank, Springfield, Missouri.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *David A. Erickson*, Linton, North Dakota; to acquire an additional 1.14 percent of the voting shares of Linton Bancshares, Inc., Linton, North Dakota, and thereby indirectly acquire The First National Bank, Linton, North Dakota.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *John F. Piercey*, Salt Lake City, Utah, to acquire 50 percent; Lynne B. Haldemann, Chinook, Montana, to acquire 12.5 percent; Scott M. Browning, San Diego, California, to acquire 12.5 percent; Gay Browning, Salt Lake City, Utah, to acquire 12.5 percent; and Diane Browning, River Heights, Utah, to acquire 12.5 percent of the voting shares of Cottonwood Bancorporation, Salt Lake City, Utah, and thereby indirectly acquire Cottonwood Security Bank, Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, August 30, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20838 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

Plainview Bankshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 1989.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Plainview Bankshares, Inc.*, Plainview, Minnesota; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank, Plainview, Minnesota.

In connection with this application, Applicant also proposes to continue to engage in its existing lending and loan participation activities, which include obtaining lending capital from a Federal Intermediate Credit Bank, making loans and other extensions of credit for primary agricultural production, purchasing participations in loans from its subsidiary bank, and making loans and extensions of credit to certain officers, directors and share holders of Applicant. These activities will be conducted in Wabasha, Olmstead, and Winona Counties.

Board of Governors of the Federal Reserve System, August 30, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-20839 Filed 9-5-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS. The Department of Health and Human Services (HHS) previously published a list of information collection packages it submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (Public Law 96-511). The Health Care Financing Administration (HCFA), a component of HHS, now publishes its own notices as the information collection requirements are submitted to OMB. The HCFA has submitted the following requirements to OMB since the last HCFA list was published.

1. *Type of Request:* Extension; *Title of Information Collection:* Information Collection Requirements for Sole Community Home Health Agencies; *Form Number:* HCFA-R-85; *Frequency:* On occasion case-by-case; *Respondents:* Individuals/households; *Estimated Number of Responses:* 20; *Average Hours per Response:* 5; *Total Estimated Burden Hours:* 100.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Long Term Care Request for Certification; *Form Number:* HCFA-1516; *Frequency:* Annually; *Respondents:* State/local governments, businesses/other for

profit, and small businesses/organizations; *Estimated Number of Responses:* 19,100; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 4,775.

3. *Type of Request:* Revision; *Title of Information Collection:* Medicaid Management Information System; *Form Number:* HCFA–R–4; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 47; *Average Hours per Response:* 47,177; *Total Estimated Burden Hours:* 2,217,300.

4. *Type of Request:* Extension; *Title of Information Collection:* Integrated Review Schedule; *Form Number:* HCFA–301; *Frequency:* Monthly; *Respondents:* State/local governments; *Estimated Number of Responses:* 102,192 (Reporting) and 370,436 (Recordkeeping); *Average Hours per Response:* .2991 (Reporting): *Total Estimated Burden Hours:* 30,569 (Reporting) and 20,374 (Recordkeeping); total 50,943.

Additional Information or Comments: Call the Reports Clearance Officer on 301–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: August 30, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 89–20845 Filed 9–5–89; 8:45 am]

BILLING CODE 4120–03–M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority; Deputy Commissioner, Management

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that Chapter S1 of the Deputy Commissioner, Management, is being amended to reflect some internal realignments of subordinate offices in that Office. Chapter S1, Section S1E is amended to add division- and staff-level subcomponents and functions within the Office of Human Resources, Training and Management Analysis in the Office of the Deputy Commissioner, Management. The new material and changes are as follows:

Section S1E.200 *The Office of Human Resources, Training and Management Analysis*—(Functions):

Add:

C. 1. The Executive Recruitment and Services Staff (S1EA5).

a. Develops and implements all SSA policies and activities relating to the Agency's executive personnel management program.

b. Develops and implements policies and guidelines for SSA administration of the Senior Executive Service.

2. The Division of Labor and Employee Relations (S1EA4).

a. Plans and directs the development and evaluation of the SSA labor-management and employee relations (disciplinary/adverse and unacceptable performance) programs; formulates SSA-wide labor-management and employee relations policy; serves as the SSA reference point for inquiries, guidance and interpretations on labor-management and employee relations matters and provides SSA liaison with the Office of Personnel Management (OPM), HHS and other non-SSA entities and organizations concerning labor-management and employee relations in SAA.

b. Implements labor-management relations programs and policies throughout SSA's headquarters and field organizations; participates in negotiation and implementation of such procedures with labor organizations; resolves or recommends resolution in labor relations disputes and advises management during bargaining sessions.

c. Represents SSA management in all labor-management relations matters and proceedings which are adjudicated outside the Agency.

d. Provides the full range of labor-management relations advisory services to all SSA components to ensure proper application of negotiated agreement provisions and directs monitoring of union-management consultations as required by negotiated agreements or executive orders.

e. Implements an SSA program for disciplinary/adverse and unacceptable performance actions, in accordance with applicable regulations and procedures. Provides technical assistance, guidance, representation and letter-writing services for misconduct and performance action cases to management in SSA headquarters. Also provides these services to the field in complex cases.

f. In coordination with HHS' Office of the General Counsel, researches law, executive orders, court, Merit Systems Protection Board and Comptroller General decisions, regulations, policies, precedents and procedures on disciplinary/adverse actions, employee appeals and grievances.

3. The Division of Personnel Operations (S1EA1).

a. Implements policies and regulations pertaining to SSA recruitment and placement. Initiates and processes personnel actions for SSA headquarters employees and participates with office managers and staffs in assessing placement actions; directs the administration of all Merit Promotion Plans applicable within Baltimore/Washington headquarters components. Processes necessary administrative actions required for new employees entering on duty.

b. Provides professional counseling and referral services for emotionally disturbed employees and employees with alcohol or drug problems. Provides technical advice and guidance to SSA management officials on matters related to these functions.

c. Implements policies, regulations and affirmative action programs pertaining to special recruitment and staffing activities for SSA headquarters and field organizations; develops and implements special needs placement programs, including handicapped and veterans readjustment programs.

d. Develops, implements and evaluates SSA's employees health services programs in conformance with appropriate laws, policies and regulations.

e. Directs the development and operation of SSA's employee services such as: Workers' Compensation, health benefits, preretirement counseling and employee thrift plans. Provides assistance to employees regarding claims for loss of wages, settlement awards, notices of injury and required medical reports.

4. The Division of Classificiation and Organization Management (S1EA2).

a. Develops and implements SSA-wide programs of position classification and position management within SSA headquarters. Directs position classification and position management activities having SSA-wide significance.

b. Provides advice and assistance to all SSA components on activities and issues that involve position classification and position management; serves as the central SSA referral point on these programs and acts as SSA liaison with OPM, HHS and other non-SSA entities and organizations with respect to assigned areas of responsibility.

c. Formulates and oversees the implementation of policies, procedures, standards, directives and objectives which assure that position structure and

management promote cost-effective operations and the efficient use of employee skills.

d. Provides leadership and coordination in the formulation of SSA policies, directives and programs relating to the Fair Labor Standards Act and to salary and wage surveys; and conducts a continuing review of the applicability of classification standards and, as appropriate, negotiates with OPM for the revision of such standards or the development of single agency standards.

e. Directs an SSA-wide program for inspection and evaluation of SSA's personnel management program including employment and staffing, position management and classification, employee relations, equal employment opportunity and labor relations. Conducts administrative surveys and special studies to provide managers with information and assistance to assure conformance with OPM regulations and HHS/SSA policies and directives.

f. Authorizes the establishment of positions and organizations, providing advice and guidance to managers on organizational structure and preparing **Federal Register** and Organizational Manual material.

5. The Division of Personnel Policy, Data and Research (S1EA3).

a. Directs the formulation and issuance of SSA personnel management policies and directives. Reviews all proposals submitted by other components pertaining to such areas as staffing, compensation, appraisals and performance standards, personnel information disclosure, employee relations, labor-management relations and management communications and ensures that such proposals are consistent with pertinent laws, regulations and policies. Oversees the dissemination and implementation of SSA-wide policies and directives pertaining to personnel management areas. Directs the development and maintenance of the SSA personnel manual system, reviewing all issuances under this system.

b. Provides overall coordination and direction to work environment improvement efforts within SSA. Coordinates a variety of studies throughout SSA designed to improve the work environment.

c. Designs, analyzes and implements a variety of research projects in the areas of personnel management. Plans, designs and implements human resources planning policy and procedures consistent with SSA-wide strategic planning initiatives.

d. Directs the development and operation of SSA employee awards programs. Develops and implements SSA employee suggestion, incentive and honor awards programs.

e. Plans and directs ongoing development, analysis and evaluation of SSA's personnel recordkeeping systems; develops general objectives and performance standards for automated systems and detailed specifications for development or modification of computer programs used in automated systems and proposes changes in these systems to meet SSA's human resources data, statistics and information needs. Coordinates, with SSA's Office of the Deputy Commissioner, Operations, the planning, development, modification and evaluation of automated systems. Reviews and processes all personnel and payroll actions in conformance with OPM and HHS regulations.

f. Plans, designs and evaluates personal computers and office automation support for human resources systems. Operates selected data processing/office automation systems in the Office of Human Resources.

Subsection D. The Office of Training (S1EB).

Delete:

D. The Office of Training (S1EB) in its entirety.

Add:

D. The Office of Training (S1EB) is responsible for the management and administration of a national training program to enhance SSA's capability of providing effective and efficient service to the public. It develops and issues Agencywide policies, procedures and operational guidelines for the design, development, implementation, maintenance and evaluation of all SSA training activities. Reviews training conducted by component technical training staffs in both Headquarters and the field, the SSA instructor cadre, other Government agencies and outside contractors to ensure that the results of all training are consistent with Agency needs. It directs the financial management of training monies to ensure accountability of money spent to train and develop the Agency's employees—from new hires to senior-level executives—located throughout the nation. Maintains the Headquarters Training Center, the Individualized Learning Center and the Training Information Center.

1. The Division of Management and Employee Development (S1EB1).

a. Directs, designs, develops, implements, conducts and evaluates all SSA supervisory, managerial and executive-level training development activities.

b. Has Agencywide responsibility for common needs and general skills training, including related developmental activities for nonsupervisory personnel.

c. Initiates independent studies and analyses to anticipate and identify new or changing training and development needs in a dynamic organizational environment.

d. Engages in applied research and development efforts associated with training and development programs administered by the division. Provides ongoing consultative assistance and support to SSA components, including training needs identification and program design; monitors and evaluates Agency training and developmental activities to ensure desired results and effects of nontechnical training provided to the Agency's employees. Fosters and maintains effective communications with appropriate internal and external organizations to ensure positive results relative to Agency objectives, policy directives, new initiatives, inservice training needs, etc.

e. Plans, directs, coordinates and administers the activities relative to developing and executing budget activities; evaluates SSA training in terms of cost-effectiveness, quality and value to the Agency; plans, formulates and implements SSA training policies and provides overall support and coordination to the training function. Coordinates attendance for Government-sponsored and nongovernment-sponsored conferences.

2. The Division of Technical Training (S1EB2).

a. Directs the design, development, implementation and evaluation of SSA program/technical training, including entry-level and advanced program, systems-user and computer technology training and other technical training to meet the needs of SSA components Agencywide.

b. Conducts ongoing research to identify automated technologies and instructional methodologies for application to training throughout SSA.

c. Develops guidelines and procedures to determine technical training needs, and reviews and evaluates technical training Agencywide.

Subsection E. The Office of Management Analysis (S1EC).

Add:

1. The Division of Workforce Utilization (S1EC2).

a. Develops and implements comprehensive workforce utilization and planning programs to improve productivity and the use of the SSA workforce.

b. Conducts studies and analyses of work processes and procedures, workflows and workload processing positions; applies a variety of disciplines and techniques, including management analysis and model building to assure best workforce utilization and recommends action to top SSA executives for improving the effectiveness of the SSA workforce.

c. Develops SSA-wide workforce management policies, procedures and guidelines; develops, analyzes and interprets workforce forecasting data and projects future workforce needs, including the types of skills and positions required.

d. Develops and implements a program to evaluate Agency operations in light of OMB Instruction A–76 and establishes policies to ensure overall compliance with A–76 provisions.

2. The Division of Management Studies and Analysis (S1EC1).

a. Directs, develops and implements a comprehensive program of management studies, research and analysis to evaluate and determine the feasibility of implementing major changes affecting the SSA organization, its administrative practices and its methods of operation. Studies and analyses are Agencywide, frequently deal with issues of a sensitive nature and may involve other Government agencies.

b. Undertakes feasibility, predictive benefit and cost/risk analyses to identify alternatives and to develop administrative strategies for consideration by the SSA Executive Staff in responding to Agencywide problems and issues.

c. Directs, develops and conducts Agencywide reviews and studies using industrial engineering, model building and other scientific approaches and methodologies.

d. Reviews and analyzes existing and proposed formal delegations of program and administrative decisionmaking authorities within SSA.

e. Has responsibility for SSA mobilization procedures for assuring continuity of all necessary SSA operations during a national emergency.

Dated: August 11, 1989.

John R. Dyer,

Deputy Commissioner for Management.

[FR Doc. 89-20804 Filed 9-5-89; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-2043]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB for emergency processing, an information collection package with respect to the Public Housing Drug Elimination Program.

This Notice is intended to inform the public that the Department is seeking emergency processing by September 6, 1989, of the paperwork requirements contained in a Notice of Fund Availability (NOFA) for the Public Housing Drug Elimination program. The NOFA announces the availability of $8.2 million in grant funds for public housing agencies and Indian housing authorities to eliminate drug-related crime in public housing projects. The public is invited to submit comments by September 6, 1989, on any paperwork requirements contained in the NOFA to: OMB Desk Officer for HUD, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the NOFA may be obtained from the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410. Upon approval of the paperwork requirements by OMB, a 90-day control number will be issued and displayed in the NOFA.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information collection proposal; (3) the description of the need for the information and its propose use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 30, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Drug Elimination Program—Notice of Fund Availability (NOFA).

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: This information collection announces the availability of $8.2 million in grant funds for the purpose of eliminating drug-related crime in public housing projects.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: One-Time and Semi-Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Plan	500	1	26				13,000
Comments	5,000	1	1				5,000
Application	500	1	32				16,000
Grant	500	1	5				2,500
Periodic Reports	100	2	25				5,000

Total Estimated Burden Hours: 41,500.
Status: Revision.
Contact: Howard Mortman, HUD, (202) 755–3611, John Allison, OMB, (202) 395–6880.

Dated: August 30, 1989.

[FR Doc. 89–20800 Filed 9–5–89; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Ivory Export Quotas Issued by the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora's Ivory Control System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: On June 9, 1989, under the provisions of the African Elephant Conservation Act, the United States prohibited the import of all African elephant ivory except for sport-hunted trophies. Trophies may be imported from an ivory producing country if it has an ivory export quota accepted by the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. As ivory export notifications are received from the Secretariat by the Fish and Wildlife Service, they will be published in the **Federal Register**. The first such notice was published on March 20, 1989. This notice adds 1989 quotas for Burkina Faso, Chad, Kenya, Nigeria, Senegal, Somalia and Tanzania.

EFFECTIVE DATE: September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Frank McGilvrey, Office of Management Authority, telephone (703) 358–2095.

SUPPLEMENTARY INFORMATION: On June 9, 1989, the Fish and Wildlife Service published a notice of a moratorium on importation of raw and worked ivory (54 FR 24758). This is a total ban except for import of sport-hunted trophy ivory. Section 2202(e) of the African Elephant Conservation Act of 1988 states that "Individuals may import sport-hunted elephant tropies that they have legally taken in an ivory producing country that has submitted an ivory quota."

Through the **Federal Register**, notices will be published of such quotas as notifications are received from the CITES Secretariat. Sport-hunted trophies may be imported into the United States only from nations which have ivory quotas for the year in which the import will take place. The first such notice was published on March 20, 1989 (54 FR 11449). Since then, quotas have been established for Burkina Faso, Chad, Kenya, Nigeria, Senegal, Somalia and Tanzania. This allows sport-hunted trophies with proper export permits to be imported from these countries into the United States during 1989. As of this date, import of trophies will be allowed for 1989 only from the following nations:

Country	1989 quota for total export of African elephant tusks
Botswana	1,000
Burkina Faso	46
Cameroon	298
Central African Republic	800
Chad	289
Congo	1,042
Ethiopia	870
Kenya	2,000
Malawi	238
Mozambique	17,961
Nigeria	50
Senegal	28
Somalia	1,653
South Africa	2,236
Tanzania	12,000
Zambia	3,772
Zimbabwe	5,000

This notice was prepared by Frank McGilvrey, U.S. Fish and Wildlife Service, Office of Management Authority.

Dated: August 30, 1989.

Richard M. Smith,

Director.

[FR Doc. 89–20887 Filed 9–5–89; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[UT–940–09–4212–11; U–54156]

Termination of Recreation and Public Purpose Classification; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates Recreation and Public Purpose Classification affecting 9.242 acres in Box Elder County, Utah.

EFFECTIVE DATE: September 30, 1989.

FOR FURTHER INFORMATION CONTACT: Mike Barnes, BLM Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111–2303, (801) 539–4119.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by the Recreation and Public Purpose Act of June 14, 1926, as amended; 43 U.S.C. 869; 869–4, it is ordered as follows:

Pursuant to 43 CFR 2091.7–1(b)(1) and the authority delegated to me by BLM Manual section 1203 (48 FR 85), classification decision U–54156 dated April 8, 1985, which classified 9.242 acres of public land as suitable for recreation and public purposes is hereby revoked insofar as it affects the following described lands:

Salt Lake Meridian

T. 13 N., R. 13 W.,
Sec. 3, Beginning at a point located 3,909.20 feet North and 50 feet East of the SW corner of section 31, thence East 660 feet, thence North 610 feet, thence West 660 feet, thence South 610 feet to the point of beginning.

The area described contains 9.242 acres located in Box Elder County.

The classification provided for segregation of the lands against all forms of appropriation under the public land laws, including location under the mining laws, but not the Recreation and Public Purposes Act and the mineral leasing laws. A 30 year lease was subsequently issued to Box Elder County for a sanitary landfill.

The County would now like to acquire unrestricted title to the land pursuant to section 203 of the Federal Land Policy and Management Act, (43 U.S.C. 1713). At 9:00 a.m., on September 30, 1989, the Recreation and Public Purpose classification will be terminated and the lands described above will be open only to disposal pursuant to section 203 of the Federal Land Policy and Management Act, to Box Elder County at fair market value, subject to any valid existing rights, and the requirements of applicable laws, rules and regulations.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-20889 Filed 9-5-89; 8:45 am]

BILLING CODE 4310-DQ-M

[UT-943-09-4212-13; U-56998]

Notice of Issuance of Land Exchange Conveyance Document; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued an exchange conveyance document to The Nature Conservancy for the following described lands under section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716:

Salt Lake Meridian

T. 41 S., R. 13 W.,
Sec. 29, E½SE¼NE¼SW¼, SW¼NE¼SW¼, NE¼NE¼SE¼SW¼, NW¼SE¼SW¼, W½SW¼SE¼SW¼, SW¼NW¼NW¼SE¼, S½SE¼SE¼SW¼, W½SE¼NW¼SW¼, W½NE¼SW¼SW¼, SE¼SW¼SW¼, SW¼NW¼NE¼SE¼, W½SW¼NE¼SE¼, SE¼SW¼NE¼SE¼, SE¼SE¼NE¼SE¼, NW¼NE¼NW¼SE¼, S½NE¼NW¼SE¼, N½NW¼NW¼SE¼, W½SW¼NW¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, W½NW¼SW¼NE¼, SE¼NW¼SW¼SE¼, E½SW¼SW¼SE¼, SE¼SE¼SW¼SE¼, E½NE¼SE¼SE¼, S½NW¼SE¼SE¼, S½S½SE¼SE¼, NE¼SE¼SE¼SE¼.
Containing 147.50 acres.

In exchange for these lands, the United States acquired the surface estate only (except as noted) of the following described lands

Salt Lake Meridian

T. 11 S., R. 18 W.,
Sec. 3 S½;
Sec. 4, S½;
Sec. 5, all (surface and mineral estate);
Sec. 6, SE¼SE¼;
Sec. 7, NE¼SE¼;
Sec. 8, all;
Sec. 9 all;
Sec. 17, W½SW¼;
Sec. 18, W½NE¼S½NW¼S½.
Containing 3,210.20 acres.

The purpose of the exchange was to acquire non-Federal land that will allow blocking the land into better management units. The public interest was best served through the completion of the exchange.

The values of the Federal public land and the non-Federal land in the exchange were both appraised at $413,000, and $321,020 respectively. The Nature Conservancy paid $91,980 difference in value.

Dated: August 22, 1989.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89-20890 Filed 9-5-89; 8:45 am]

BILLING CODE 4310-DQ-M

[CO-942-09-4730-12]

Colorado: Filing of Plats of Survey

August 28, 1989.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., August 1989.

The plat representing the dependent resurvey of portions of the First Standard Parallel North (south boundary) and the subdivisional lines and the subdivision of sections 26 and 35, T. 5 N., R. 98 W., Sixth Principal Meridian, Colorado, Group No. 894, was accepted August 11, 1989.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 89-20859 Filed 9-5-89; 8:45 am]

BILLING CODE 4310-JB-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31477 [1]]

Consolidated Rail Corp.—Acquisition Exemption—Canadian National Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission, under 49 U.S.C. 10505, exempts from the requirements of 49 U.S.C. 11343–11345: (1) The purchase by Consolidated Rail Corporation (Conrail) of approximately 22.2 miles of Canadian National Railway Company's (CN) rail line and real property between Massena, NY (CN's milepose 0.0 and Conrail's milepost 160.8) and the U.S.-Canadian border (CN's milepost 22.2); and (2) the termination of Conrail's present overhead trackage rights agreement under which Conrail presently operates over this line. Both exemptions are subject to standard labor protective conditions. The exemption of Contrail's line purchase is also subject to an Historic Preservation Act condition.

DATES: This exemption is effective on October 6, 1989. Petitions for stay must be filed by September 21, 1989. Petitions for reconsideration must be filed by October 2, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31477 to:

Office of the Secretary, Case Control Branch, Att'n: Finance Docket No. 31477, Interstate Commerce Commission, Washington, DC 20423

Jonathan M. Broder (Conrail), 1138 Six Penn Center Plaza, Philadelphia, PA 19103–2959

Robert P. vom Eigen (CN), Hopkins, Sutter, Hamel & Park, 888 16th Street NW., Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. (TDD for hearing impaired: (202) 275–1721)

SUPPLEMENTAL INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202)

[1] Embraces Finance Docket No. 31477 (Sub-No. 1), *Consolidated Rail Corporation—Cancellation of Trackage Rights Exemption—Canadian National Railway Company.* We have consolidated these proceedings because they are integral parts of the same transaction, embracing the same issues and affecting the same parties.

289–4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 275–1721.)

Decided: August 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–20907 Filed 9–5–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31520]

Norfolk and Western Railway Co.—Trackage Rights Exemption—Illinois Central Railroad Co.

Illinois Central Railroad Company has agreed to grant overhead trackage rights to Norfolk and Western Railway Company between milepost 12 at Chicago, IL, and milepost 110 at Gibson City, IL. The trackage rights were to have become effective on August 17, 1989.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pledings must be filed with the Commission and served on: Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510–2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Dated: August 29, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–20825 Filed 9–5–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31520 (Sub-No. 1)]

Norfolk and Western Railway Co.—Trackage Rights Exemption—Illinois Central Railroad Co.

Illinois Central Railroad Company has agreed to grant overhead trackage rights to Norfolk and Western Railway Company between milepost 127 at Champaign, IL, and milepost 137 at Tolono, IL. The trackage rights were to have become effective on August 17, 1989.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510–2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Dated: August 29, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–20826 Filed 9–5–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 72X)]

Norfolk and Western Railway Co. and Wabash Railroad Company—Abandonment Exemption—in Lucas County, OH

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 6.5-mile line of railroad between milepost TN–10.8, at Delmont Junction, and mileport TN–17.3, at Whitehouse, in Lucas County, OH.

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 & 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 October 6, 1989 (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 September 18, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by September 26, 1989, 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: Virginia K. Young, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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 September 11, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate 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: August 29, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–20827 Filed 9–5–89; 8:45 am]

BILLING CODE 7035–01–M

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[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-file trail use statement so long as it retains jurisdiction to do so.

[Docket No. AB-225 (Sub-No. 2X]

Portland Traction Co.—Abandonment Exemption—in Multnomah and Clackamas Counties, OR

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904, the abandonment by Portland Traction Company of 17.5 miles of rail line from milepost 4.54 near Milwaukie Industrial Park to the end of the line at milepost 22.04 near Boring, in Multnomah and Clackamas Counties, OR, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 10, 1989. Formal expressions of intent to file an offer[1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by September 18, 1989, petitions to stay must be filed by September 25, 1989, and petitions for reconsideration must be filed by October 5, 1989. Requests for a public use condition and trail use statements must be filed by September 18, 1989.[2]

ADDRESSES: Send pleadings referring to Docket No. AB–225 (Sub-No. 2X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

and

(2) Petitioner's representatives: Joseph D. Anthofer, Jeanna L. Regier, 1416 Dodge Street, Omaha, NE 68179.

and

Gray A. Laakso, One Market Plaza, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Joseph H. Detmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing is available through TDD service (202) 275–1721.]

Decided: August 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamoley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–20828 Filed 9–5–89; 8:45 am]

BILLING CODE 7035–01–M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[2] The Commission will accept late-filed trail use statements so long as it retains jurisdiction to do so.

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 28th day of August 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
ATF Davidson Co. (USW)	Whitinsville, MA	8/28/89	8/9/89	23,305	Printing Equipment
Arrow Pumps & Supply, Inc. (Workers)	Ada, OK	8/28/89	8/18/89	23,306	Oil & Gas
Continental Pet Technologies (UFWA)	Kentwood, MI	8/28/89	7/23/89	23,307	Plastic Containers
Customized Transportation, Inc. (UAW)	Trenton, NJ	8/28/89	8/14/89	23,308	Warehouse for GM
Daily Petroleum Services, Inc	Lafayette, LA	8/28/89	8/3/89	23,309	Rent & Repair Drilling Jars
Diversified Drilling	Abilene, TX	8/28/89	8/16/89	23,310	Oil & Gas
Dresses-Rand Co. & Midland Repair Center (Workers).	Midland, TX	8/28/89	8/14/89	23,311	Oil & Gas
Forest Hill Co. (Workers)	Dallas, TX	8/28/89	8/18/89	23,312	Oil & Gas
Forest Hill Co (Workers)	Quitman, TX	8/28/89	8/18/89	23,313	Oil & Gas
Greenwich Oil Corp. (Workers)	Dallas, TX	8/28/89	8/18/89	23,314	Oil & Gas
L&S Shirt Co., Inc. (Workers)	New York, NY	8/28/89	4/24/89	23,315	Sportswear
Litton Panelvision (Workers)	Pittsburgh, PA	8/28/89	8/9/89	23,316	Panel Displays
Mercury Marine (Workers)	Fon Du Lac, WI	8/28/89	8/16/89	23,317	Motors
Miller Taxidermy (Company)	Aransas Pass, TX	8/28/89	8/11/89	23,318	Commercial Taxidermy Service
Monon Corp. Mfg. Plant (UBCJA)	Monon, IN	8/28/89	8/22/89	23,319	Shipping Containers
Moriarty Welding & Fabrication	Buffalo, WY	8/28/89	7/16/89	23,320	Oil & Coal
Munsingwear Design Dept. (Workers)	Minneapolis, MN	8/28/89	8/16/89	23,321	Sportswear
Niagara Paper Co. (UPIU)	Buffalo, NY	8/28/89	8/21/89	23,322	Paper
Petroplex Savings Association (Workers)	Midland, TX	8/28/89	8/11/89	23,323	Savings & Loan Assoc.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Pharmacia ENI Diagnostic, Inc. (Workers)	Cranbury, NJ	8/28/89	8/11/89	23,324	Testing Kits
Planters Lifesavers Co. (Workers)	Canajoharie, NJ	8/28/89	8/15/89	23,325	Gum, Candy, Etc.
Racal Milgo, Inc. (Workers)	Miami & Sunrise, FL	8/28/89	8/15/89	23,326	Data Communications Equipment
Research Planning Institute (Workers)	Boulder, CO	8/28/89	8/17/89	23,327	Geological Data
Savory Planning Institute (Workers)	Lakewood, NJ	8/28/89	5/6/89	23,328	Toasters Ovens
Sooner Completion Co. (Workers)	Enid, OK	8/28/89	8/15/89	23,329	Oil & Gas
Syltron Inc. (Workers)	Luquillo, Puerto Rico	8/28/89	8/8/89	23,330	Printed Wire for Computers
Triumph-Lor, Inc. (Company)	Broussard, LA	8/28/89	8/4/89	23,331	Drill Collars & Pipes
Union Carbide-Round Brook Plant	Piscataway, NJ	8/28/89	8/15/89	23,332	Phenolic Resins
West Point Pepperall, Inc. (Workers)	Keysville, VA	8/28/89	8/18/89	23,333	Tufted bath Products

[FR Doc. 89-20883 Filed 9-5-89; 8:45 am]

BILLING CODE 4570-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the **Federal Register** for the date received in column 3 of the appendix of FR Document 89-19503 on page 34263. which was published on August 18, 1989.

In column 3 of the Appendix, the date received is corrected to read "7/31/89" instead of 8/7/89 for Petition No. 23,226 General Motors BOC Body Assembly, Lansing, Michigan and Petition No. 23,247 General Motors/BOC Chassis Assembly, Lansing, MI.

Signed at Washington, DC, this 29th day of August 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-20882 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of August 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-22,896; Lamontre Case Co., Inc., Long Island City, NY

TA-W-22,994; Control Data Corp., Arden Hills, MN

TA-W-22,995; Control Data Corp., Minneapolis, MN

TA-W-23,053; The Atlantic Foundry Co., Akron, OH

TA-W-23,024; Bison Drilling Inc., Wakeeney, KS

TA-W-23,038; Henkel Corp., Harrison, NJ

TA-W-23,092; Stacy Industries, Inc., Woodridge, NJ

TA-W-23,093; Weymouth Art Leather Co., South Braintree, MA

TA-W-23,071; Wallace-Crossley Corp., Miami, FL

TA-W-22,976; C.E.F. Co—Raytron, West New York, NJ

TA-W-23,011; L & S Sales, Inc., Caribou, ME

TA-W-23,028; Champion Spark Plug Co., Toledo, OH

TA-W-23,029; Champion Spark Plug Co., Detroit, MI

TA-W-23,030; Champion Spark Plug Co., Cambridge, OH

TA-W-23,031; Champion Spark Plug Co., Iowa Industries Div., Burlington, IA

TA-W-23,044; Parkway Fabricators, South Amboy, NJ

TA-W-23,075; Cadic, Inc., Beaverton, OR

TA-W-23,051; Aneco Trousers Corp., Hanover, PA

TA-W-23,052; Aneco Trousers Corp., Taneytown, MD

TA-W-23,068; Schreiber Foods, Inc., Curwensville, PA

TA-W-23,063; Pendleton Land & Exploration, Inc., Englewood, CO

TA-W-23,083; Malina, Inc., Providence, RI

TA-W-23,079; Inman Molding & Manufacturing Co., Inc., Rahway, NJ

TA-W-22,843; American Trim Products, Inc., Rochester, NY

TA-W-23,128; W & W Steel Co., Electric Transformer Div., Norman, OK

In the following cases, the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-23,049; W.C.I. Major Appliance Group, Newark, OH

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,036; Ellithrope Well Control, Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,065; Plessey Electronic Systems Corp., Wayne, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for cetification.

TA-W-23,039; L & M Oil Co., Dallas, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,035; Delsea Parker Corp., Millville, NJ

U.S. imports of fabricated structural steel declined in 1988 compared to 1987

and in the first four months of 1989 compared to the same period in 1988.

TA-W-22,986; Amoco Production Co., Houston, TX Region
And Operating at Various Locations in The Following States
TA-W-22,986A; New Mexico
TA-W-22,986C; Michigan
TA-W-22,986B; Texas

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for cetification.

TA-W-22,996; Crescent Foods, Inc., Seattle, WA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,089; Quickie Manufacturing Corp., Cinnaminson, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,004; H & H Atlas, Bronx, NY

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,047; Tapley Rutter, Moonachie, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,034; Cravat Coal Co., Holloway-Freeport Mine, Cadiz, OH

U.S. imports of bituminous steam coal, lignite and anthracite were negligible in 1987 and 1988.

TA-W-23,026; C & H Transportation Co., Inc., Dallas, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-22,988; AT & T Technologies, Inc., Dallas Works, Mesquite, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,066; Quintana Petroleum Corp., Denver, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,032; Chrysler Corp., Kenosha, WI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,099; Charles Komar & Sons, Middletown, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,070; Smithkline Beckman Corp., U.S. International, Philadelphia, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,042; Metallurgical Exoproducts Corp., Metscrap Div., McKees Rock, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,060; McCord Heat Transfer Corp., Plymouth, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,069; U.K. Dye Works, Paterson, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,213; Bethenergy Mines, Inc., Eighty Four, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,214; Bethenergy Mines, Inc., Ellsworth, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,073; Wichita River Oil Corp., Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,100; Cone Mills Manufacturing, New York, NY

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,074; Adidas, Inc., Warren, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,056; Gary Williams Energy Corp., Gas Processing Plant, Roosevelt, UT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,088; Petrolite Corp., Oil Field Chemical Group., Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,153; Petrolite Corp., Oil Field Chemical Group., St. Louis, MO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,076; Equitable Handbags, New Brunswick, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,125; Trafalgar House Oil & Gas, Inc., Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,077; Four Corners Drilling Co., Farmington, NM

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,081; J.M. Huber Corp., Oil and Gas Div., Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,101; Crist Lakeshore Plateau Supply, Phoenix, AZ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,117; Plateau Supply, Farmington, NM

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,094; Wyoming Casing Service, Inc., Dickinson, ND

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-23,095; Wyoming Casing Service, Inc., Gillette, WY

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-23,080; J.L. Prescott Co., Passic, NJ

U.S. imports of plastic bottle soap detergents are negligible.

TA-W-23,080A; J.L. Prescott Co., Lincoln Park, NJ

U.S. imports of plastic bottle soap detergents are negligible.

Affirmative Determination

TA–W–23,174; Boyd Exploration Co., Casper, Wy

A certification was issued covering all workers separated on or after July 13, 1988.

TA–W–23,084; N.H.R., Inc., Nicholls, GA

A certification was issued covering all workers separated on or after May 31, 1988.

TA–W–23,179; Jackson Drilling Co., Conroe, TX

A certification was issued covering all workers separated on or after June 29, 1988 and before February 28, 1989.

TA–W–23,110; Klinger Industries, Morton, MS

A certification was issued covering all workers separated on or after June 22, 1988.

TA–W–23,958; Babcock & Wilcox Co., Beaver Falls Works, Beaver Falls, PA

A certification was issued covering all workers separated on or after May 8, 1988 and before June 1, 1989.

TA–W–23,958A; Babcock & Wilcox Co., Koppel, PA

A certification was issued covering all workers separated on or after May 8, 1988 and before June 1, 1989.

TA–W–23,958B; Babcock & Wilcox Co., Ambridge, PA

A certification was issued covering all workers separated on or after May 8, 1988 and before June 1, 1989.

TA–W–22,840; Aeronca, Inc., Middletown, OH

A certification was issued covering all workers separated on or after April 12, 1988.

TA–W–22,980; Therma Tru, Van Buren, AR

A certification was issued covering all workers separated on or after November 1, 1988 and before August 1, 1989.

TA–W–23,033; Copperweld Steel Co., Inc., Warren, OH

A certification was issued covering all workers separated on or after May 27, 1988.

TA–W–23,078; Heci Exploration Co., Dallas, TX

A certification was issued covering all workers separated on or after May 31, 1988.

TA–W–23,000; GTE Halls Station, GTE Products Corp., Muncy, PA

A certification was issued covering all workers separated on or after May 11, 1988.

TA–W–23,061; Montgomery Drilling Co., Roosevelt, UT

A certification was issued covering all workers separated on or after January 1, 1989 and before March 19, 1989.

TA–W–22,991; Bayonne Fashions, Inc., Bayonne, NJ

A certification was issued covering all workers separated on or after May 15, 1988.

TA–W–23,046; Signetics Co., Orem, UT

A certification was issued covering all workers separated on or after May 20, 1988.

TA–W–23,090; Renaissance Eyewear, Perth Amboy, NJ

A certification was issued covering all workers separated on or after May 25, 1988.

TA–W–23,016; Stackpole Carbon Co., St. Marys, PA

A certification was issued covering all workers engaged in the production of carbon and graphite brushes separated on or after July 6, 1989.

TA–W–23,040; L.S. Thorsen Corp., Ellsworth, ME

A certification was issued covering all workers separated on or after May 23, 1988.

TA–W–23,057; Goldstar of America, Inc., Huntsville, AL

A certification was issued covering all workers separated on or after June 1, 1988.

TA–W–23,041; Meriden-Steinhour Press, Inc., Meriden, CT

A certification was issued covering all workers separated on or after January 1, 1989 and before July 1, 1989.

TA–W–23,087; Parchman Oilfield Service, Inc., Edinburg, TX

A certification was issued covering all workers separated on or after June 5, 1988.

TA–W–22,961; Continental Plastics and Chemicals, Inc., Avenel, NJ

A certification was issued covering all workers separated on or after May 12, 1988 and before April 30, 1989.

TA–W–23,058; Keystone Lamp Mfg. Corp., Slatington, PA

A certification was issued covering all workers separated on or after May 31, 1988.

TA–W–23,050; A.O. Smith Electrical Products Co., Tipp City, OH

A certification was issued covering all workers engaged in the production of the hand machining operation for the production electric motor kits separated on or after June 6, 1988.

TA–W–23,072; Whirlpool Corp., Evansville Div., Evansville, IN

A certification was issued covering all workers engaged in the production of control boxes, roller coasters and water and tubing valves separated on or after January 1, 1989.

TA–W–23,054; Cardinal Surveys Co., Odessa, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA–W–23,054A; Cardinal Surveys Co., Midland, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA–W–23,055; Cardinal Surveys Co., Hobbs, NM

A certification was issued covering all workers separated on or after January 1, 1989.

TA–W–23,163; Westinghouse Electric Corp., El Paso, TX

A certification was issued covering all workers separated on or after June 26, 1988.

TA–W–23,160; Terra Tec Core Services, Midland, TX

A certification was issued covering all workers separated on or after June 26, 1988 and before May 30, 1989.

I hereby certify that the aforementioned determinations were issued during the month of August 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: August 29, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Dated: August 29, 1989.

[FR Doc. 89–20884 Filed 9–5–89; 8:45 am]

BILLING CODE 4510–30–M

Research, Evaluation, Pilot and Demonstration Plans for Program Year 1989

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) announces its research, evaluation, pilot and demonstration (R,E,P&D) procurement plan for Program Year 1989 (July 1, 1989 through June 30, 1990). The current plans are to implement projects that will address specific issues related to enhancing the quality of work, the productivity of workers, and labor market efficiency throughout the 1990's.

FOR FURTHER INFORMATION: Firms wishing to be included on a bidders' list may write to: Office of Acquisitions and Assistance, Department of Labor, Employment and Training

Administration, Room C-4305, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210 Attention: Bidders' List.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) announces its research, evaluation, pilot and demonstration (R,E,P&D) procurement plan for Program Year 1989 (July 1, 1989 through June 30, 1990). The current plans are to implement projects that will address specific issues related to enhancing the quality of work, the productivity of workers, and labor market efficiency throughout the 1990's.

This notice serves to alert interested parties to ETA's plan. It does not solicit applications or proposals. Solicitations for grant award (SGAs) will be announced throughout the Program Year in the Federal Register, and requests for proposals (RFPs) will be announced in the Commerce Business Daily. Some projects will be implemented through agreements with other DOL agencies and with other Federal departments. In some cases, these agencies will offer competitions for the projects. Some future competitions may be limited (for example, among States, Service Delivery Areas, or Private Industry Councils under the Job Training Partnership Act (JTPA) program) and, therefore, will be announced only through ETA's administrative communications system. Still other procurements may be set aside for small business or 8(a) firms. These procurement plans are subject to change; projects may not be initiated under all topics, or topics may be added or expanded. This announcement is for general information purposes to indicate the direction of the R,E,P&D agenda.

These projects are now planned to fall within five subject areas. They are:

(1) Workplace 2000,

(2) Youth Opportunities,

(3) Workplace Literacy,

(4) Worker Adjustment and Adult Programs, and

(5) Homeless Job Training.

This announcement consists of three parts. Part I provides general background information concerning the R,E,P&D program. Part II describes the five subject areas and provides a brief discussion of key issues. Part III announces the intention to initiate a field generated procurement competition later in the year.

Part I—Background

A. Mission of the Employment and Training Administration and its Research, Evaluation, Pilot and Demonstration Program

ETA is the Federal agency with the lead responsibility for the Federal Government's training and employment programs. Both U.S. workers and employers, and ultimately the economy, benefit from the comprehensive system of training and employment programs ETA administers. Its major programs include:

—JTPA, which consists of a wide range of activities targeted to individual groups who need job-related assistance, with emphasis on economically disadvantaged youth and adults and others who face severe problems in the job market;

—The Employment Service System, which operates as a labor exchange, matching workers with available jobs, as well as carrying out other functions;

—The Unemployment Insurance Program, which provides limited compensation to workers who lose their jobs through no fault of their own;

—Trade Adjustment Assistance, which is available to workers who lose their jobs as a result of increased imports; and

—Economic Dislocation and Worker Adjustment Assistance (EDWAA) program, under JTPA, which assists dislocated workers.

ETA's R,E,P&D program is operated to measure the impact and effectiveness of the agency's various activities, explore new program concepts, techniques and designs, and to assist the Nation in expanding current and future work opportunities and assuring access to those opportunities for all who desire them. ETA carries out its R,E,P&D program through State and local public agencies, private-for-profit and nonprofit organizations, colleges and universities, community-based and labor groups, and other Federal agencies.

B. Workforce 2000

R,E,P&D projects for Program Year 1989, which began on July 1, 1989, will continue to focus on workplace issues confronting the Nation through the year 2000. These issues, initiated in Program Year 1987, were first articulated in a 17-month study titled "Workforce 2000: Work and Workers for the Twenty-first Century". The report crystallized key issues and questions the Nation must deal with if it is to prosper in the intensely competitive and technologically sophisticated global market of the 21st Century. For example, the U.S. must:

—Fully integrate women, blacks, Hispanics, immigrants, and handicapped workers into the economy. The labor force will grow more slowly over the next 16 years than at any time in U.S. history, except during the decade of the Great Depression. The net growth in workers will be predominantly women, blacks and immigrants, sources of labor that have long been underutilized. Because there will be fewer young people beginning their careers overall, this could provide opportunities to bring groups historically underutilized into full participation in the economy.

—Provide the work force with the education and skills that new jobs in the expanding service-oriented economy will demand. Most new jobs in fast growing service industries will require higher levels of reading, math and reasoning skills than traditional jobs in manufacturing industries. Individuals with less than a high school education will face increasing difficulty in finding work and fewer opportunities for good pay and advancement. Yet 700,000 students drop out of school each year, and inadequate literacy skills have become a major problem among young adults.

—Ensure that the increasingly middle-aged work force is adaptable and retains its willingness to learn. The rapidly changing economy will demand workers who are flexible and willing to respond to new opportunities and conditions. Workers with years of experience often lack the flexibility and specialized skills they need to move into expanding industries.

—Reconcile the conflicting demands of work and family responsibilities, especially for women. The increase in the labor force participation of mothers, including women with young children, has been striking. As of March 1987, 66.7 percent of women with children under 18 and 52 percent of mothers with children under 2 years were in the labor force. Welfare mothers and displaced homemakers are among groups needing special consideration.

A basic step in meeting these challenges is strengthening ETA's information base. The R,E,P&D procurement plan announced in this notice is designed to provide more complete information to enable the

agency to better understand and deal with specific issues.

Part II—Subject Areas

A. Workplace 2000

The U.S. economy is expected to continue to grow at least at its current rate through the year 2000. Nonetheless, the efficiency of our labor markets will be severely tested. More sophisticated jobs will demand greater skills. Fewer young people will be entering the labor market, and a growing fraction will be minorities who traditionally are educationally disadvantaged as a group. Greater flexibility will be demanded of all workers, but particularly the middle-aged worker. In the anticipated tight labor market of the year 2000, employers will be forced to either seek out and invest in workers heretofore underutilized, or to bid up wages or export jobs overseas.

Employer-based training is one such method of investing in workers. Recent study findings indicate that it is a primary source of productivity improvement. However, there are gaps in the research needed to fully understand learning in the workplace. More information is needed on how to make learning on the job more effective and efficient for both workers and employers.

A critical part of any planning for the future is a sound information base. The work effort sought through Workplace 2000 projects is intended to supplement and expand on information bases for National, local, and occupation-specific improvements. It is intended to provide information to develop a cohesive national policy on workforce preparedness, improve labor market information, and seek out ways for solving labor shortage situations.

In some labor shortages situations, foreign workers have been permitted to fill the gaps, for example, in nursing. However, the issue of immigration is much broader, including responses to new and proposed immigration legislation.

Activities planned within this category of projects include initiating a number of inter-agency demonstration efforts aimed at preparing at-risk groups, such as teen-aged parents and welfare recipients, for the work force, and evaluating new Federal programs with the same aim.

DOL plans to share in a survey of business attitudes and activities about workplace training, and to assess the impact of past unemployment insurance program extensions during periods of recession.

Also planned, is a comprehensive program of immediate and longer-term research on workplace trends and projections. Demographic changes, changes in employment status, e.g., contingent and part-time workers, trends in benefits and employer-based training would be key areas of exploration.

B. Youth Opportunities

Improving the educational preparedness of workers is a challenge we must meet to be competitive into the 21st century. This is most important for our young people. Today's youth at risk of dropping out are our entry level workers of the next two decades. They face jobs demanding higher skills in math, reading and communications. Yet recent studies have shown that many of these youth are reading, writting, and computing at levels below present day expectations. Further, many of these youth are disenfranchised from and disillusioned with schools, and fail to see education's connection with good paying jobs. In some inner cities, as many as 50 percent of youth drop out of school. Further efforts must also be focused on young people who do not go to college. Businesses report that their levels of job preparedness are frequently inadequate.

ETA intends to closely examine programs and linkages that appear successful in helping our youth make the connnection between education and work. A number of programs linking school and employment and training programs with apprenticeship are successfully operating. In an effort to inform and encourage expansion of these school/training-to-work bridges, programs and the factors that make them successful need to be identified.

Project activities planned to prepare youth, particularly youth at-risk of dropping out, include the documentation and analysis of the outcomes experienced by a multi-year series of interagency demonstrations. A comprehensive research and development effort will also be undertaken to explore the employment and education patterns of youth and evaluate promising models for successful youth achievements such as dropout prevention/recovery and school-to-work transition.

Major youth demonstrations are planned for large cities and rural areas that will focus on integrating and linking the provision of services by the many local agencies concerned with the well-being of dropout and dropout prone youth.

DOL also plans to join forces with foundations to share in longer term research and evaluation studies related to at-risk youth; other plans include the evaluation of recently funded demonstrations to provide alternative education to at-risk youth.

C. Workplace Literacy

As the remainder of this century unfolds, it is expected that jobs requiring higher levels of literacy and analytic skills will increase, and those requiring only strength and manual ability will shrink. Further, the population groups presently in jobs with lesser skill requirements can expect a more difficult time in the job markets ahead unless their literacy skills are increased. In addition to increased skills, increased flexibility to new working conditions, new technology and new environments will be required. In the rapidly increasing service sector, the jobs will spring up in places to accommmodate customers. Job mobility will be required. Effective mobility rests on the premise that skills learned and tested in one area will be rated and recognized in another.

In the past several years, ETA has undertaken a wide variety of programs to explore, test and demonstrate new learning techniques and programs for groups in particular need of enhancing their workplace literacy skills, and efforts to assess literacy skill levels.

D. Worker Adjustment Assistance and Adult Programs

Trade Adjustment Assistance (TAA) and Economic Dislocation and Worker Adjustment Assistance (EDWAA) (Title III of JTPA) programs are available to assist dislocated workers train for and find new employment. Major new legislation was enacted last year substantially revising and expanding these important programs.

Women, work and family issues are subsumed under this topic, as well. Since the mid-1940's the labor force participation rate for women has grown dramatically from about 33 percent to more than 70 percent. In 1987, 66.7 percent of women with children participated in the labor force. The rate for mothers with young toddlers was 55.2 percent, more than double the rate of only 20 years ago. Contrary to popular belief, most working women (78 percent) work full time, and only 17 percent work part time voluntarily. Estimates for the remainder of the century indicate that women will increase their labor force participation, but at a slower rate. By the year 2000, the labor force participation rate for women is expected to reach 81 percent,

while that of men will be nearly 93 percent.

Clearly, the conflicts between work and family needs will increase. Among these conflicts are the adequacy of arrangements for the care of children and elderly family members. As women continue to work more hours per week and more weeks per year, solutions to this problem will become increasingly critical.

Solutions will have to include flexible hours to care for sick children and dependents, and the overall time and financial resources to raise children. Better paying, full-time, skilled jobs will be needed by many women to adequately care for their families and their own occupational aspirations.

Improvements in the training and employment system including research and assessments of such programs as Unemployment Insurance, JTPA and joint efforts with other Federal agencies fall primarily within the purview of this category.

DOL plans to demonstrate the joint administration and delivery of worker adjustment programs by State agencies. Evaluations are planned for other worker adjustment programs or their components including The Targeted Jobs Tax Credit and Trade Adjustment Assistance programs.

Improvements in the training and employment delivery system will be studied through such research efforts as identifying the kinds of jobs obtained by those who complete JTPA training, and assessing the success of systems to identify mass layoffs. Technical writing and logistical assistance may also be sought to support conferences and required reports.

Part III—Field-Initiated Procurement Competition

A. Background

In the past several Programs Years, ETA has received hundreds of unsolicited proposals from offerors who requested funding support from R,E,P&D resources. A very small proportion of these have been funded. There are a number of reasons for this beyond funding limitations:

—Many have been inappropriate appeals to establish businesses, buy buildings, purchase major equipment, or receive loans, etc.
—Some have duplicated announced competitive projects, and
—Many have been requests to simply replicate established operations.

In order to reduce the number of inappropriate proposals and to increase the fairness and probability of funding proposals that are more responsive to the ETA R,E,P&D initiatives, ETA proposes to announce an annual review and selection process for proposals initiated from the field.

B. Proposed Competitive Process

Beginning in Program Year 1989, ETA will announce an annual competition for grant solicitations initiated from the field in support of R,E,P&D initiatives. The broad topic areas that will be considered for Program Year 1989 are those announced in this notice under Part II. Specific rating criteria that will be applied against each proposal along with funding limitations will be listed in the notice. The notice announcing the initiative of this process will be published shortly.

Signed at Washington, DC, this 29th day of August, 1989.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 89-20881 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-111-C]

Hansford Smokeless Collieries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Hansford Smokeless Collieries, Inc., 41 Eagles Road, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entires) to its No. 4 Mine (I.D. No. 46-04388) located in Raleigh County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On September 13, 1982, petitioner was granted a modification of 30 CFR 75.326 to use belt and track haulage entries for ventilating active working places, to install an early warning fire detection system, and to monitor the air with a carbon monoxide detection system (docket no. M-82-37-C).

2. This petition concerns paragraph 5 of MSHA's Decision and Order which requires that the velocity of the air current in the belt entry not exceed 300 feet per minute (fpm).

3. Petitioner proposes that paragraph 5 of the Decision and Order be deleted, thus allowing velocities in excess of 300 fpm in the belt entry.

4. In support of this request, petitioner states that mining is taking place in the Beckley Seam, which is renowned for its unpredictable geology. Faults, rolls, and washouts make it impossible to plan and develop the airways necessary to maintain adequate ventilation. The mine is liberating in excess of 3.5 million cubic feet of methane per 24-hour period. Evaluations have shown that 12,000 cubic feet per minute of air must be delivered behind the line curtain on particular sections in order to dilute and render harmless the methane being liberated by the faces.

5. In further support of this request, petitioner states that the working sections are currently developing toward "virgin" areas of the reserve. They are also being developed beneath Paint Mountain, which rises over 2200 feet above the Beckley Seam, making a shaft impractical at this time.

6. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.326.

Request for Comments

Persons interested in this petition 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 October 6, 1989. Copies of the petition are available for inspection at that address.

Dated: August 28, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-20876 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-135-C]

Hickory Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Hickory Coal Company, R.D. No. 1, Box 479, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Slope No. 1 (I.D. No. 36-07783) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair of set

of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air reaching each working face is required to be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine. Ignition, explosion, and mine fire history are nonexistent for the mine. There is no history of harmful quantities of carbon monoxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Requiring extremely high velocities in small cross-sectional airways and manways in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

(a) The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

(b) The minimun quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

(c) The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition 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 October 6, 1989. Copies of the petition are available for inspection at that address.

Dated: August 28, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-20875 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-126-C]

Mid-Continent Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Mid-Continent Resources, Inc., 1058 Road 100, P.O. Box 500, Carbondale, Colorado 81623 has filed a petition to modify the application of 30 CFR 75.302-4(e) (auxiliary fans and tubing) to its Dutch Creek Mine (I.D. No. 05-00301) located in Pitkin County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that when air passing through an auxiliary fan or tubing contains 1.0 volume per centum or more of methane, the provisions of 30 CFR 75.308 must be applied. Should the requirements of 30 CFR 75.308 necessitate deenergizing the auxiliary fan, the auxiliary fan must not be restarted until the methane content in the affected area is less than 1.0 volume per centum.

2. As an alternate method, petitioner proposes that whenever a bifurcated type auxiliary fan is used, the fan motor would not be required to be deenergized if one (1.0) volume per centum or more of methane is passing through the fan tubing or fan blades, provided:

(a) The environment in which the fan motor is operating is less than one and one-half (1.5) volume per centum of methane;

(b) The air passing by the fan motor is monitored for methane while the auxiliary fan is operating, and the fan motor is automatically deenergized when one and one-half (1.5) volume per centum or more of methane is detected at the fan motor;

(c) A methane monitor is installed inside the fan and is set to automatically deenergize the entire section, including the auxiliary fan unit, when the volume of methane being conducted through the fan reaches two (2.0) per centum or more. This type of installation affects not only the equipment set in the working place (all electrical equipment traditionally in by the last open crosscut) but also any equipment connected to the section's powercenter; and

(d) The fan blades are constructed of non-sparking material.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition 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 October 6, 1989. Copies of the petition are available for inspection at that address.

Dated: August 28, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-20877 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-113-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On August 2, 1986, petitioner was granted a modification of 30 CFR 75.326 to use air from the belt haulage and track entries to ventilate active working places, to install an early warning fire detection system, and to monitor the air with a carbon monoxide detection system (docket no. M-84-220-C).

2. This petition concerns paragraph 1(d) of MSHA's Decision and Order which requires that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction. The velocity of the air current in the belt conveyor entry cannot exceed 300 feet per minute.

3. Paragraph 1(d) should be modified to require that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction.

4. In support of this request, petitioner states that limiting velocities to 300 feet per minute seriously impairs the ability to maintain the minimum velocity of 50 feet per minute required for a definite and distinct air movement in the designated direction in section belt

entries. Furthermore, restricting the air current in the belt conveyor entries to 300 feet per minute would reduce the volume of air coursed to longwall mining sections necessary to dilute, render harmless and to carry away flammable, explosive, noxious, and harmful gases and dust and to ensure adequate ventilation of gob areas.

5. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.326.

Request for Comments

Persons interested in this petition 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 October 6, 1989. Copies of the petition are available for inspection at that address.

Dated August 28, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-20878 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-115-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On August 2, 1986, petitioner was granted a modification of 30 CFR 75.1105 to use air currents which are used to ventilate transformers, permanent pumps, and rectifiers be used to ventilate active working places in lieu of being coursed directly into the return and to install an early warning fire detection system and to monitor the air with a carbon monoxide detection system in all belt entries utilized as intake aircourses (Docket No. M-84-222-C).

2. This petition concerns paragraph 1(d) of MSHA's Decision and Order which requires that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction. The velocity of the air current in the belt conveyor entry cannot exceed 300 feet per minute.

3. Paragraph 1(d) should be modified to require that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction.

4. In support of this request, petitioner states that limiting velocities to 300 feet per minute seriously impairs the ability to maintain the minimum velocity of 50 feet per minute required for a definite and distinct air movement in the designated direction in section belt entries. Furthermore, restricting the air current in the belt conveyor entries to 300 feet per minute would reduce the volume of air coursed to longwall mining sections necessary to dilute, render harmless and to carry away flammable, explosive, noxious, and harmful gases and dust and to ensure adequate ventilation of gob areas.

5. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.1105.

Request for Comments

Persons interested in this petition 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 October 6, 1989. Copies of the petition are available for inspection at that address.

Dated: August 28, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-20879 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-114-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawer A & B, Big Stone Gap, Virginia 24217 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Holton Mine (I.D. No. 44-04197) located in Lee County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. On August 2, 1986, petitioner was granted a modification of 75.1103-4(a) to use a fire sensor and warning device system capable of identification of fire by activated sensors rather than identification of fire within each belt flight and to install an early warning fire detection system and to monitor the air with a carbon monoxide detection system in all belt entries utilized as intake aircourses (docket no. M-84-221-C).

2. This petition concerns paragraph 1(d) of MSHA's Decision and Order which requires that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction. The velocity of the air current in the belt conveyor entry cannot exceed 300 feet per minute.

3. Paragraph 1(d) should be modified to require that the velocity of air in the belt conveyor entry be 50 feet a minute or greater and have a definite and distinct movement in the designated direction.

4. In support of this request, petitioner states that limiting velocities to 300 feet per minute seriously impairs the ability to maintain the minimum velocity of 50 feet per minute required for a definite and distinct air movement in the designated direction in section belt entries. Furthermore, restricting the air current in the belt conveyor entries to 300 feet per minute would reduce the volume of air coursed to longwall mining sections necessary to dilute, render harmless and to carry away flammable, explosive, noxious, and harmful gases and dust and to ensure adequate ventilation of gob areas.

5. For these reasons, petitioner requests an amendment to the Decision and Order granting the petition modifying the application of 30 CFR 75.1103-4(a).

Request for Comments

Persons interested in this petition 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 October 6, 1989. Copies of the petition

are available for inspection at that address.

Dated: August 28, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-20880 Filed 9-5-89; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL COMMISSION ON MIGRANT EDUCATION

Meeting

AGENCY: National Commission on Migrant Education.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 100-297, the National Commission on Migrant Education announces a forthcoming meeting of the Commission.

DATE: September 27, 1989, 9:00 a.m. to 3:00 p.m.

ADDRESS:

9:00 a.m.—noon, Capitol Building, Room S-126, Washington, DC 20510

1:30 p.m.—3:00 p.m., Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Nancy Watson, Administrative Officer, National Commission on Migrant Education, 8120 Woodmont Avenue, Bethesda, Maryland 20814, (301) 843-1387.

TYPE OF MEETING: Open.

AGENDA:

9:00 a.m.—9:15 a.m. Welcoming Remarks from Chairman

9:15 a.m.—10:00 a.m. Swearing in the Commissioners

10:00 a.m.—Noon General Discussion on the personnel, study, scope and schedule

1:30 p.m.—3:00 p.m. Briefing by Department of Education officials on migrant education.

Linda Chavez,

Chairman.

[FR Doc. 89-20850 Filed 9-5-89; 8:45 am]

BILLING CODE 6820-DE-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meeting

AGENCY: The National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE: September 18, 1989—9:00 a.m. to 5:00 p.m.; September 19, 1989—12:00 a.m. to 5:00 p.m.

ADDRESS: September 18, Cannon House Office Building, Caucus Room, Independence Avenue SW., Washington, DC 20515 September 19, the General Service Administration Auditorium, 18th and F Streets NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carlton Lee, Chief Liaison Officer, The National Commission on Acquired Immune Deficiency Syndrome, Washington, DC 20407, (202/472-9058).

Type of Meeting: Open.

Agenda: On September 18, 1989, the meeting will be called to order at 9:00 a.m. The Commission will hear from a variety of experts, including a panel of people with AIDS, regarding their experiences with HIV AND AIDS. The Commission will review the recommendations of the Presidential Commission on the Human Immunodeficiency Virus Epidemic and discuss the National Commission's plans for performing the functions outlined in Public Law 100-607. The Commission may also review any pending legislation or policy recommendations affecting HIV and AIDS. On the morning of September 19, 1989, the Commission will visit the Whitman Walker Clinic and reconvene the public meeting at 12:00 a.m. to resume consideration of the issues raised on the previous day.

Maureen Byrnes,

Executive Director.

[FR Doc. 89-21117 Filed 9-5-89; 10:25 am]

BILLING CODE 6820-CD-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Institute of Museum Services.

ACTION: Notice.

SUMMARY: The Institute of Museum Services has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3002, Washington, DC 20503 (202-395-7316f). In addition, copies of such comments may be sent to Ms. Mamie Bittner, Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-786-0536).

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-786-0536) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Institute requests review of a new collection of information as follows.

Title: Conservation Assessment Program Application and Guidelines.

Frequency of Collection: Annual.

Respondents: Non-profit institutions.

Use: Application for funding.

Estimated Number of Respondents: 1000.

Average Burden Hours per Response: 1.

Total Estimated Burden: 100.

Mamie Bittner,

Institute of Museum Services.

[FR Doc. 89-20832 Filed 9-5-89; 8:45 am]

BILLING CODE 7036-01-M

NATIONAL LABOR RELATIONS BOARD

Rescheduling of Unfair Labor Practice Hearings: Experimental Modification of Procedures

AGENCY: National Labor Relations Board.

ACTION: Notice of extension of comment period.

SUMMARY: The National Labor Relations Board gives notice that it will extend until October 2, 1989 the deadline for filing comments on its experimental modification of the procedures governing the rescheduling of unfair labor practice hearings.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: On August 1, 1988, the National Labor Relations Board implemented a one-year experiment in all of its Regional Offices whereby the authority to reschedule unfair labor practice hearings was transferred, subject to certain exceptions, from the Regional Directors to the administrative law judges. The Board's original notice of this experiment invited parties to submit

comments on the experiment on or before August 30, 1989. (See 53 FR 26348). A subsequent notice by the Board regarding the experiment also restated this deadline for submitting comments. (See 54 FR 31392).

However, having received requests for an extension, the Board has decided to extend the comment period until the close of business on October 2, 1989.

As indicated in the previous notices, comments should be sent to: Office of the Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, DC 20570, Telephone: (202) 254–9430.

Dated, Washington, DC, August 30, 1989.
By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 89–20821 Filed 9–5–89; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 14, 1989 through August 24, 1989. The last biweekly notice was published on August 23, 1989 (54 FR 35099).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve 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 amendments 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 basis for this proposed determination for each amendment request is shown below.

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 October 6, 1989, 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. 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 particularity 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, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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 immediately 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 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 before action is taken. 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 373" and the following message addressed to (*Project Director*): 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 the 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 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 which is 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 for the particular facility involved.

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment requests: July 1, 1988 as supplemented August 15, 1989

Description of amendment requests: The proposed amendments would revise Facility Operating License Nos. DPR-51 and NPF-6 for Arkansas Nuclear One, Units 1 and 2 (ANO-1&2) to authorize Entergy Operations, Incorporated (EOI) to act on behalf of Arkansas Power and Light (AP&L), with responsibility for the control over the physical construction, operation and maintenance of the facilities. This action is proposed in conjunction with EOI becoming the operator of Waterford Steam Electric Station, Unit 3 and Grand Gulf Units, 1 and 2. The proposed amendments were originally noticed on August 10, 1988 (53 FR 30126) with System Energy Resources, Inc. as the proposed operator.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (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. AP&L has evaluated the proposed changes to Facility Operating License Nos. DPR-51 and NPF-6 and has determined the following.

EOI will be a wholly owned subsidiary of Entergy. The employees of AP&L presently engaged in the operation of ANO-1&2 will become employees of EOI. The organizational structure of EOI will provide for clear management control and effective lines of authority and communication among the organizational units involved in the management, operation, and technical support of the facility.

As a result of the proposed amendments, there will not be physical changes to the facilities, and all Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications will remain unchanged. With the exception of administrative changes to reflect the role of EOI, the quality assurance program, security plan, and training program are unaffected. With regard to emergency plans, certain physical and personnel resources, limited to support in administrative areas but not inclusive of decision making authority, will continue to be provided by AP&L in support of these activities. The licensee states that decisional responsibilities related to accident recognition and classification, mitigation and corrective actions, radiological assessment and protective action recommendations and coordination with state and local authorities will rest with EOI personnel. AP&L corporate management will provide direction to other non-nuclear AP&L facilities for support to ANO-1&2. Operating agreements will ensure continued compliance with among others, General Design Criterion 17 of Appendix A to 10 CFR Part 50 on Electrical Power Systems. Therefore, the proposed changes will not increase the probability or consequences of any accidents previously evaluated.

The design and design bases of ANO-1&2 remain the same. Therefore, the current plant safety analyses remain complete and accurate in addressing the licensing basis events and analyzing plant response and consequences. The Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits are not affected by the proposed amendments. With the exception of administrative changes to reflect the role of EOI, plant procedures are unaffected. As such, the plant conditions for which the design basis accident analyses have been performed are still valid. Therefore, the proposed amendments cannot create the possibility of a new or different kind of accident than previously evaluated.

Plant safety margins are established for and reflected in Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these or any other margins. The proposed amendments therefore will not involve a reduction in a margin of safety.

The staff has reviewed the licensee's evaluation and agrees with the conclusions. Therefore, based on the above, the staff proposed to determine that the proposed license amendments do not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: December 17, 1987

Description of amendment request: The proposed amendment would make corrections or clarifications in various sections of the Shearon Harris Nuclear Power Plant, Unit 1 (Harris) Technical Specifications (TS). Specifically, the following eight corrections or clarifications would be made: (1) establish consistency of nomenclature when a table or figure is deleted from the TS index; (2) insert omitted brackets to equation in Note 1 of Table 2.2-1 used to calculate the overtemperature trip setpoints; (3) clarify report submission timing for consistency between TS 3.3.3.6 Action c, 6.9.2, 3.3.3.4a and 3.3.3.9.a; (4) correct spelling of radioactivity in Item 1, Table 4.3-8; (5) improve consistency in nomenclature by deleting brackets enclosing train identifiers for residual heat removal loops in TS 3.4.1.3.d and 3.4.1.3.e; (6) delete references to deleted Table 3.6-1 from TS 4.6.3.2 and 4.6.3.3; (7) revise references for special reporting in Surveillance Requirement 4.4.5.5.c, Bases for Section 3/4.2.4 and TS 6.9.1, 6.9.1.6 and 6.9.2 to refer to TS 6.9.2 or 10 CFR 50.4, as appropriate, for consistency; and (8) add additional information to TS sections where the specifications were relocated to plant procedure PLP-106.

In the case of the eighth category of clarifications, the TS were reissued with the full power license, relocating certain surveillances and technical data related to valves, snubbers, materials and containment penetration conductor overcurrent protective devices to plant procedure, PLP-106, Technical Specification Equipment List Program. These clarifications describe more thoroughly where the relocated material may be found.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of 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.

As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes are administrative in nature. The changes correct typographical errors and inconsistencies and are intended to clarify the Technical Specifications. The proposed amendment does not result in a change in any Limiting Condition for Operation or their bases nor does it result in any physical change to the plant.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, the proposed changes are purely administrative in nature. No new operating environment, conditions, or procedures are introduced by this change. As such, the proposed amendment cannot create any new or different kind of accident.

3. The proposed amendment does not involve a significant decrease in a margin of safety. The proposed changes are administrative in nature and enhance the clarity and/or consistency of the Technical Specifications. This will result in less chance of operator confusion and, therefore, increase the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The Commission has published guidance in the Federal Register (48 FR 14864) concerning examples of amendments that are not likely to involve a significant hazards consideration. These changes are consistent with one of the examples: "(i) A purely administrative change to technical speciifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on the guidance example and the licensee's analysis, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: July 11, 1989 as supplemented by August 14, 1989.

Description of amendments request: Currently, the Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, Technical Specifications (TS) do include cycle-specific and fuel bundle type specific power distribution operating limits. Typically, in the past, changes to these limits would be submitted for NRC approval prior to each refueling outage to reflect upcoming cycle-specific characteristics. Since these limits were determined using a methodology previously approved by the NRC, license amendments were an unnecessary burden on utility and NRC resources. In order to facilitate the elimination of these unnecessary amendments, the NRC issued Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications". This Generic Letter provides guidance in removing the cycle-specific and fuel bundle-specific operating limits from TS and recording them in a Core Operating Limits Report (COLR). Commonwealth Edison Company (CECo) proposed a TS amendment for QCNPS in accordance with Generic Letter 88-16 and the previously approved lead Boiling Water Reactor (BWR) plant - Brunswick.

CECo's proposed TS amendment removes the following cycle-specific and fuel bundle type specific operating limits: Average Planar Linear Heat Generation Rate (APLHGR), Minimum Critical Power Ratio (MCPR), Linear Heat Generation Rate (HLGR), and Rod Block Monitor (RBM) Upscale Setpoints. In place of these limits, the applicable TS sections will reference the COLR. The COLR is an unit specific document containing the power distribution operating limits that apply for a specific cycle.

COLRs for future operating cycles will be submitted to the NRC for information prior to startup following each refueling outage, as required by Generic Letter 88-

16. The implementation and revision of the COLRs will be controlled QCNPS Administrative Procedures. It should be noted that COLR revisions will receive the same level of detailed review and required approvals by the CECo Nuclear Fuel Services (NFS) Department, and On-Site and Off-Site Review Committees as Technical Specification changes do. In addition, the Definitions Section of the Technical Specifications shall have an entry entitled "Core Operating Limits Report" and there will be a new administrative reporting requirement added to the existing reporting requirements in Section 6.6.A of the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(C). A proposed amendment to an operating license involves no significant hazards consideration if operaiton of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of 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.

CECo reviewed the proposed changes to TS and determined that the requested amendment does not involve a significant hazards consideration. More specifically, operation of QCNPS in accordance with the proposed amendment:

(1) Does not involve a significant increase in the probability or consequences, of any accident previously evaluated because plant protective functions and modes of operation are not altered. This amendment removes cycle-specific and fuel bundle type specific power distribution limits from the Technical Specifications and places them in a separate, controlled document (i.e. COLR). These changes are essentially administrative in nature, as the parameters in the COLR are the same as those currently specified in the Technical Specifications. NRC approved methods will still be used to analyze reloads of NRC approved fuel types for determining the results reported in the COLR. The surveillance requirements for these operating limits remain unchanged. Furthermore, functional requirements of safety-related equipment remain uneffected.

(2) Does not create the possibility of a new or different kind of accident from any accident previously evaluated because as stated above no safety-related equipment, safety function, plant protective feature, or mode of operation will be altered as a result of this amendment. The proposed changes do not create any new type of accident. The proposed amendment is in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of the values of cycle-specific parameters from TS. These operating limits will be developed in accordance with NRC-approved methodology, and the incorporation of these limits to the COLR ensure they will be properly controlled. Furthermore, the TS requirement for submitting the COLR to the Commission will allow the staff to continue to trend the value of these limits without the need for prior staff approval and without introduction of an unreviewed safety question. The current spectrum of analyzed reactor transients and accidents remains unchanged.

(3) Does not involve a significant reduction in the margin of safety. No plant functions are changed by this amendment. The change only removes cycle-specific and fuel bundle type specific power distribution limits from the Technical Specifications and incorporates these limits in the COLR. The plant will still continue to be operated within the boundaries established by these same power distribution limits, as calculated using NRC approved methods.

The Commission conducted a preliminary review of CECo's proposed amendment and analysis of no significant hazards. Currently, the Commission concurs with CECo's determination, and proposes that the aforementioned amendment does not constitute a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Acting Project Director: Paul C. Shemanski

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: August 3, 1989

Description of amendments request: Commonwealth Edison Company (CECo) submitted an application to amend Appendix A, Technical Specifications (TS), of Operating Licenses DPR-29 and DPR-30 for the Quad Cities Nuclear Power Station (QCNPS). This application would reduce (from sixteen channels to four) the number of operable temperature switches, required by TS, which could initiate primary containment isolation of the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) Systems. Furthermore, the high temperature trip setpoint for primary containment isolation of HPCI and RCIC would be lowered from 200F to 170F.

High area temperature will isolate the main steam (MS) supply from containment to either HPCI or RCIC in the event of a steamline break in their respective rooms. In the past, spurious HPCI and/or RCIC system isolations have occurred from minor steam leaks at the HPCI/RCIC turbine gland seals and the proximal placement of primary containment isolation temperature switches. CECo plans to modify the location and number of temperature switch groups in the HPCI and RCIC rooms to maximize system reliability (i.e., minimize probability of spurious isolations) and yet still be capable of adequately sensing bulk room temperature during an actual MS line break. The temperature trip setpoint for primary containment isolation will also be lowered to compensate for the reduced number of temperature switches by improving system isolation response time.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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;

(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.

CECo evaluated the proposed amendment in accordance with 10 CFR 50.92(c) and determined that it does not involve a significant hazards consideration for the following reasons:

(1) Operation of QCNPS according to the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

HPCI and RCIC high temperature switches are installed to detect a smaller break in the MS supply piping than that which would result in 300% MS line flow (i.e. high steamline flow would initiate primary containment isolation). Tripping of the high area temperature switches results in actuation of the RCIC or HPCI isolation valves. The trip logic for this isolation actuation is one-out-of-two taken twice and, as such all channels are required to be operable or in a tripped condition to meet single failure criteria. The trip settings of high area temperature and high flow, as well as valve closure times, assure that core uncovery is prevented and fission product

releases are maintained within 10 CFR Part 100 limits.

The proposed modification to the HPCI and RCIC high temperature switches does not significantly increase the probability or consequence of an accident previously evaluated since the isolation function of the HPCI or RCIC temperature monitoring system is not directly affected. Relocation and reduction in the number of temperature switches is accompanied by a decrease in the trip level setting to assure acceptable response time and thereby minimize radiation releases to the room. The proposed change does not affect the one-out-of-two taken twice trip logic or the requirement that all installed sensors are operable (or in the tripped position). It is the intent of this proposed plant modification, and concurrent TS change, to maximize HPCI and RCIC system availability (i.e. reduce spurious isolations) without adversely effecting primary containment isolation response times during actual MS line break conditions.

(2) Operation of QCNPS according to the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification is submitted to support a proposed modification to the HPCI and RCIC temperature monitoring system which relocates and reduces the number of temperature switches. The system isolation logic design and the need for all instruments to be operable (or in the tripped condition) have not been changed. The trip level setting will be lowered (i.e., more conservative) to ensure adequate system response times and to maintain radiation levels within the limits of 10 CFR Part 100. As such, isolation of the HPCI and RCIC systems will occur when the bulk room temperature reaches the new trip setpoint (170° F) which would be indicative of a steamline break of the system. Calculations have been performed to demonstrate that the new temperature setpoint provides adequate assurance of system actuation in the event of a steamline break. The reduction of the number of switches prevents spurious isolations due to small localized steam leaks and removes the system sensitivity to area "hot spots", primarily at the turbine gland seals. HPCI and RCIC systems reliability is thereby increased by decreasing the number of unwanted system challenges.

Since the isolation function remains and the setpoint has been revised to accommodate for the system reconfiguration, no new or different kind of accident from any accident previously evaluated has been created.

(3) Operation of QCNPS according to the proposed changes does not involve a significant reduction in the margin of safety.

The purpose of the RCIC and HPCI system isolation is to assure system isolation in the event of a steamline break to prevent reactor inventory loss and maintain radiation doses to less than 10 CFR Part 100 limits. The modified temperature monitoring system will maintain separation criteria for electric power supplies. The one-out-of-two taken twice trip logic will be retained so that the isolation capability is maintained in the event of single switch failure. A large steam leak resulting from the rupture of the RCIC or HPCI steam supply line would cause the high flow instrumentation to provide a trip of the isolation logic. For smaller leaks, the bulk room temperature of the HPCI and RCIC rooms would increase until actuation of primary containment isolation due to high temperature. Relocation and reduction in the number of temperature switches is compensated for by a lowering, in the conservative direction, of the temperature isolation setpoint which will assure adequate system response. The current high flow isolation, accompanied by the modified temperature isolation, assures that only a minimal inventory loss occurs, thus preventing core uncovery and ensuring that 10 CFR Part 100 requirements are not exceeded; as such, a significant reduction in the margin of safety does not occur.

Therefore, the NRC staff proposes to determine that this amendment request does not involve significant hazards consideration based upon a preliminary review of the application and the licensee's evaluation of no significant hazards considerations.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Acting Project Director: Paul C. Shemanski

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: July 31, 1989

Description of amendment request: The proposed amendment would revise License Condition 3.E, remove fire protection Technical Specifications (TSs) 3.22, 4.17, 6.2.2.e and 6.4.2 and revise TSs 4.2.2 and 6.5.2.4.1. Generic Letters 86-10, dated April 24, 1986, and 88-12, dated August 2, 1988, from the NRC provided guidance to licensees to request removal of the fire protection TSs. The licensee's proposed amendment is in response to these Generic Letters.

Basis for proposed no significant hazards consideration determination: The NRC staff has evaluated this proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if 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 proposed revision to the License Condition is in accordance with the guidance provided in Generic Letter 86-10 for licensees requesting removal of fire protection TSs. The incorporation of the NRC-approved Fire Protection Program and the former TS requirements, by reference to the procedures implementing these requirements, into the Final Safety Analysis Report (FSAR) and the use of the standard License Condition on fire protection will ensure that the Fire Protection Program, including the systems, the administrative and technical controls, the organization, and the other plant features associated with fire protection will be on a consistent status with other plant features described in the FSAR. Also, the provisions of 10 CFR 50.59 would then apply directly for changes the licensee desires to make in the Fire Protection Program. In this context, the determination of the involvement of an unreviewed safety question defined in 10 CFR 50.59(a)(2) would be made based on the "accident...previously evaluated" being the postulated fire in the fire hazards analysis for the fire area affected by the change. Hence, the proposed License Condition establishes an adequate basis for defining the scope of changes to the Fire Protection Program which can be made without prior Commission approval, i.e., without introduction of an unreviewed safety question. The revised License Condition and the removal of the existing TS requirements on fire protection do not create the possibility of a new or different kind of accident from those previously evaluated. They also don't involve a significant reduction in the margin of safety since the License Condition does not alter the requirement that an evaluation be performed for the identification of an unreviewed safety question for each proposed change to the Fire Protection Program. Consequently, the proposed License Condition and the removal of the fire protection requirements do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Currently, Section 6 of the TSs requires that written procedures be established, implemented, and maintained covering Fire Protection Program implementation. Technical Specification 6.5, Review and Audit, is modified to include the review of the

changes to the Fire Protection Program and implementing procedures by the Nuclear Safety Board. In this manner, the Fire Protection Program will be addressed by administrative control requirements that are consistent with other programs addressed by License Conditions. These changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards consideration.

The proposed amendment includes the removal of fire protection TSs in four areas: (1) fire detection systems, (2) fire suppression systems, (3) fire barriers, and (4) fire brigade staffing and training requirements. While it is recognized that a comprehensive Fire Protection Program is essential to plant safety, many details of this program that are currently addressed in TSs can be modified without affecting nuclear safety. With the removal of these requirements from the TSs, they have been incorporated into the Fire Protection Program implementing procedures. Hence, with the additions to the existing administrative control requirements that are applicable to the Fire Protection Program and the revised License Condition, there are suitable administrative controls to ensure that licensee initiated changes to these requirements, that have been removed from the TSs, will receive careful review by competent individuals. Again, these changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards consideration.

Based on the preceding assessment, the NRC staff believes this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John Thoma, Acting

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: February 17, 1989

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to include operability and surveillance requirements for a flow path from the Low Pressure Injection (LPI) system discharge to the High Pressure Injection (HPI) pump suction. This flow path is necessary to assure the availability of long term core cooling following a small break loss of coolant accident in which the borated storage tank is depleted and Reactor Coolant system pressure remains above the shutoff head of the LPI pumps. This flow path currently exists in Oconee Units 1, 2 and 3; however, the flow paths were not addressed in the TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 probability or consequences of an accident previously evaluated are not significantly increased since these proposed amendments constitute additional restrictions not presently included within the TS to provide increased assurance of the operability of the Emergency Core Cooling System (ECCS).

The changes included within these proposed amendments add operability and surveillance requirements to the TS for the flow path from the LPI system to the HPI pump suction. No changes to the system configuration or design result from this change. Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The additional operability and surveillance requirements included within these proposed amendments provide increased assurance that the ECCS will be available during all design basis accident scenarios. As such, the proposed amendments do not involve a significant reduction in a margin of safety.

Based on the above considerations, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005

NRC Project Director: David B. Matthews

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: July 26, 1989

Description of amendment request: This amendment would add operability requirements, actions, and surveillance requirements for core exit thermocouples and a Reactor Coolant Inventory Tracking System to the Technical Specifications. Core exit thermocouples measure the temperature of reactor coolant as it leaves the reactor core. A Reactor Coolant Inventory Tracking System uses a differential pressure measurement to help operators determine the level of coolant within the reactor vessel. These instruments, when used in conjunction with other plant indicators, can help operators analyze accidents more quickly and accurately, thus allowing them to take prompt corrective action.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if 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 Commission has also provided guidance concerning the application of criteria in 10 CFR 50.92 by providing certain examples (51 FR 7750). One of the examples of actions involving no significant hazards considerations is example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement.

The staff has evaluated the licensee's proposed changes in light of the criteria provided in 10 CFR 50.92. In regard to the first criterion, the staff has found that the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated since the additional requirements placed on the

, inadequate core cooling instrumentation by the proposed amendment will serve to ensure their operability during and after an accident.

In regard to the second criterion, the staff has found that the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes introduce no new mode of plant operation, nor do they involve any physical modifications of the plant.

In regard to the third criterion, the staff has found that the proposed changes do not involve a significant reduction in a margin of safety. As the changes involve an additional restriction to ensure the operability of currently installed systems, no reduction in a margin of safety is involved.

The staff, after performing a preliminary review of the licensee's proposed changes, agrees that the criteria of 10 CFR 50.92 are met. Furthermore, the staff believes that the proposed amendment is in accordance with example (ii) in 51 FR 7750. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: July 26, 1989

Description of amendment request: This amendment would remove organizational charts from the Technical Specifications (TS) and add to the TS general requirements that capture the essential aspects of the organizational structure in accordance with the guidance provided in Generic Letter 88-06. The amendment would also revise the composition of the Plant Review Committee by deleting references to specific job titles for its members.

The TS currently contain organizational charts that depict the reporting chain for some organizational functions. Although it is important to have TS on plant organization, and to ensure that reporting chains for certain organizational functions are such that scheduling and operational pressures are subordinate to safety concerns, it has been the staff's experience that the organizational charts themselves have been of little help. As part of the proposed amendment, the aspects of the organizational charts that are essential to plant safety would be captured elsewhere in the TS.

As the organizational charts are currently a part of the TS, any update of, or title change affected by, these charts can only be accomplished through a license amendment; this places an unnecessary burden on both the licensee and the Commission. Thus, this amendment should reduce the administrative load on all parties.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if 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 licensee has evaluated the proposed changes in light of these criteria. In regard to the first criterion, the licensee found that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated since the essence of the TS will remain in place in more general terms. Thus, the proposed changes are in accordance with Generic Letter 88-06. Furthermore, the removal of the specific titles of the members of the Plant Review Committee were found acceptable as the TS would be modified to require that the members be supervisors from various disciplines.

In regard to the second criterion, the licensee determined that the proposed amendment did not create the possibility of a new or different kind of accident from any accident previously evaluated. This determination was made since the proposed amendment introduces no new mode of plant operation, nor does it involve any physical modification to the plant.

In regard to the third criterion, the licensee determined that the proposed amendment does not involve a significant reduction in a margin of safety. Changes to the organization will still be controlled by the provisions of 10 CFR Part 50 Appendix B, and 10 CFR 50.54(a)(3). Thus, this amendment will reduce the administrative burden on both the licensee and the Commission without a significant decrease in a margin of safety.

The staff, after performing a preliminary review of the licensee's proposed changes, agrees that the criteria of 10 CFR 50.92 are met. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazard considerations.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: July 26, 1989

Description of amendment request: Revises and corrects various technical specification surveillance requirements including reactor protection system.

Basis for proposed no significant hazards consideration determination: GPU Nuclear Corporation has determined that this Technical Specification Change Request poses no significant hazards as defined by the NRC in 10 CFR 50.92. It does not involve significant hazards as evaluated below.

1. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed Technical Specification does not modify or create an accident initiating condition.

2. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed Technical Specification does not modify or create an accident initiating condition.

3. Operation of Three Mile Island Nuclear Station, Unit-1, in accordance with this change would not involve a significant reduction in a margin of safety since all Updated Final Safety Analysis Report (UFSAR) assumptions remain unchanged.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed

amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 1, 1988 as supplemented August 15, 1989

Description of amendment request: The proposed amendment would revise Facility Operating License No. NPF-38 for Waterford 3 to authorize Entergy Operations, Incorporated (EOI) to act on behalf of Louisiana Power and Light (LP&L), with responsibility for the control over the physical construction, operation and maintenance of the facility. This action is proposed in conjunction with EOI becoming the operator of Arkansas Nuclear One, Units 1 and 2 and Grand Gulf Units, 1 and 2. The proposed amendment was originally noticed on August 10, 1988 (53 FR 30136) with System Energy Resources, Inc. as the proposed operator.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (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. LP&L has evaluated the proposed change to Facility Operating License No. NPF-38 and has determined the following.

EOI will be a wholly owned subsidiary of Entergy. The employees of LP&L presently engaged in the operation of Waterford 3 will become employees of EOI. The organizational structure of EOI will provide for clear management control and effective lines of authority and communication among the organizational units involved in the management, operation, and technical support of the facility.

As a result of the proposed amendment, there will not be physical changes to the facility, and all Limiting Conditions for Operation, Limiting Safety System Setting, and Safety Limits specified in the Technical Specifications will remain unchanged. With the exception of administrative changes to reflect the role of EOI, the quality assurance program, security plan, and training program are unaffected. With regard to emergency plans, certain physical and personnel resources, limited to support in administrative areas but not inclusive of decision making authority, will continue to be provided by LP&L in support of these activities. The licensee states that decisional responsibilities related to accident recognition and classification, mitigation and corrective actions, radiological assessment and protective action recommendations and coordination with state and local authorities will rest with EOI personnel. LP&L corporate management will provide direction to other non-nuclear LP&L facilities for support to Waterford 3. Operating agreements will ensure continued compliance with among others, General Design Criterion 17 of Appendix A to 10 CFR Part 50 on Electrical Power Systems. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The design and design bases of Waterford 3 remain the same. Therefore, the current plant safety analyses remain complete and accurate in addressing the licensing basis events and analyzing plant response and consequences. The Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits are not affected by the proposed amendment. With the exception of administrative changes to reflect the role of EOI, plant procedures are unaffected. As such, the plant conditions for which the design basis accident analyses have been performed are still valid. Therefore, the proposed amendment cannot create the possibility of a new or different kind of accident than previously evaluated.

Plant safety margins are established for and reflected in Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these or any other margins. The proposed amendment therefore will not involve a reduction in a margin of safety.

The staff has reviewed the licensee's evaluation and agrees with the conclusions. Therefore, based on the above, the staff proposed to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Frederick J. Hebdon

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 14, 1989

Description of amendment request: The proposed amendment would change the Technical Specifications to allow the control element assembly drop time acceptance to be based on the average drop time rather than the slowest drop time of any control element assembly (CEA).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (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 licensee has performed an analysis as follows.

The proposed change to the CEA drop time requirements have been evaluated for impact on Waterford 3 analyses. Analyses show that assuming the negative reactivity insertion of CEAs falling in a reasonable distribution about the average is the same as the negative reactivity insertion due to all CEAs dropping into the core at the average rod drop time. Thus, the change is equivalent to the current acceptance criteria because the required negative reactivity insertion must be attained within the same 3.0 second limit. Since the negative reactivity insertion during reactor trip assumed in accident analyses is not adversely impacted by assuming all CEAs drop at the rate of the average CEA, the proposed change will not increase the probability or consequences of an accident previously evaluated.

The proposed change does not involve any new or modified structures, systems, or components. Rather, the proposed change affects only an acceptance criteria for confirming the required reactivity insertion performance of the existing CEA hardware. Since the new acceptance criteria preserves the safety analyses reactivity insertion assumptions, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The margin of safety associated with CEA insertion (maximum reactor trip time) is assumed for each of the analyzed events in the Final Safety Analysis Report. Technical Specification 3.1.3.4 ensures actual plant performance stays bounded by the safety analyses assumptions on CEA drop time. As stated above, the proposed change in the CEA drop time requirement is equivalent to the current requirement and will not have any adverse impact upon safety analyses. Therefore, the margin of safety in the analyses is not reduced.

We have reviewed the licensee's analysis for hazards consideration and find it acceptable. Therefore on the basis of the above, the staff proposes to determine that the change does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Frederick J. Hebdon

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: July 25, 1989

Description of amendment request: The proposed change to the Technical Specifications would add the term "Source Check" to the surveillance requirement to administratively eliminate discrepancies between Sections 4.8.A.1, 4.8.B.1 and their referenced tables, Tables 4.8-1 and 4.8-2.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes, in accordance with 10 CFR 50.92 and has concluded and the NRC agrees, that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change involves adding the term "source check" to the surveillance requirement of Specifications 4.8.A.1 and 4.8.A.2 in order to make them consistent with Tables 4.8-1 and 4.8-2. The change does not impact the way the surveillance is currently performed and, therefore, does not impact the consequences or probability of occurrence of any accident.

2. Create the possibility of a new type of accident from those previously analyzed. The change represents only an administrative correction, and as such does not impact any related systems, components, or parameters. Therefore, no new type of accident could be created.

3. Involve a significant reduction in the margin of safety. The original intent of the technical specification remains unchanged by the administrative correction. Therefore, there is no reduction in the margin of safety.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: July 31, 1989

Description of amendment request: The proposed change to the Technical Specifications would add four valves to Table 3.7.1. The addition of these to the table of primary containment isolation valves adds the capability to use the existing drywell compressors to take suction from the torus, and discharge directly into the drywell atmosphere. This also minimizes the purging operations which would have been needed to maintain the required differential pressure between the drywell and torus.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes, in accordance with 10 CFR 50.92 and has concluded and the NRC agrees, that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The addition of the four additional containment isolation valves to Table 3.7.1 of the Millstone Unit No. 1 Technical Specifications will have no impact on the initiation or consequences of any accident previously evaluated. This change will ensure that the additional valves are leak rate tested. Therefore, the aforementioned change does not increase the probability or consequences of a design basis accident nor does it affect the performance or failure probability of any safety system. The change described is administrative in nature and, as such, has no effect on the initiation, probability, or consequences of any previously evaluated accident scenario.

2. Create the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not result in any physical modification to the plant, but only adds to an existing list of containment isolation valves. This administrative change does not result in any new failure mode and, therefore, no new or different kind of accident from any previously evaluated is created.

3. Involve a significant reduction in the margin of safety. Containment integrity will be maintained, and the addition of these valves to the list of Primary Containment Isolation Valves (Table 3.7.1) will have no adverse impact on protective boundaries; therefore no reduction in margin of safety will be created.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: July 31, 1989

Description of amendment request: The proposed change to the Technical Specifications would revise the distribution voltage listed from 27.6KV to 23KV for the primary side of the Emergency Station Services Transformer (ESST). This reflects a previous plant modification.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes, in accordance with 10 CFR 50.92 and has concluded and the NRC agrees, that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. Since the capacity and low-side voltage ratings remain the same and only the high-side voltage has been reduced, the ESST still serves its intended function. The change is administrative in nature and corrects an oversight from the time when physical changes were made to the ESST supply line.

2. Create the possibility of a new or different kind of accident from those previously analyzed, in that the proposed change corrects the Technical Specifications to reflect the actual voltage of the ESST supply, and does not affect the ESST purpose of providing alternate off-site power to Millstone Unit No. 1. The change does not modify plant response nor does it have any new failure modes associated with it.

3. Involve a significant reduction in the margin of safety. The margin of safety is not

affected by this proposed change in that the change is only in the wording of the Technical Specifications and has no effect on plant operation.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: August 8, 1989

Description of amendment request: The proposed change to the Technical Specifications would add a new requirement to maintain an average water temperature of less than 75° F at the intake structure except when the reactor is in the cold shutdown or refueling condition. The design basis for the service water system as stated in the Updated Final Safety Analysis Report is a maximum water temperature of 75° F.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes, in accordance with 10 CFR 50.92 and has concluded and the NRC agrees, that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The change reflects the assumption made for ultimate heat sink in the design basis analysis and is more stringent than the existing Technical Specifications. There are no design accidents adversely affected by the proposed change, and the change cannot result in the initiation of any event. The additional shutdown requirement will maintain the plant with the 75° F design basis service water temperature.

2. Create the possibility of a new or different kind of accident from those previously analyzed. The proposed change has no effect on plant operation within the design basis, no new failure modes are introduced, and no hardware modifications are included in this change.

3. Involve a significant reduction in the margin of safety. The change does not have any adverse impact on the protective boundaries. The change has no effect on the consequences of any accident and there is no reduction in the margin of safety.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: August 2, 1989

Description of amendment request: The proposed amendment would eliminate Table 3.7.1, "Primary Containment Isolation," from the Technical Specifications (TSs). The Updated Safety Analysis Report (USAR), Table 5.2-3b, would replace TS Table 3.7.1 for identification of primary containment isolation valves and descriptive information such as valve closure time, normal position, and isolation group assignment.

The operability of containment isolation valves ensures that the containment atmosphere will be isolated from the outside environment in the event of a release of radioactive material to the containment atmosphere or pressurization of the containment. Although the proposed change involves the removal of the table in the TSs which identifies the valves which must be operable to ensure containment integrity, the basic requirements that ensure operability and periodic surveillance will remain in the TSs. The substitution of USAR Table 5.2-3b for TS Table 3.7.1 is an administrative action to allow future changes to the facility to be made under the authority of 10 CFR 50.59 when appropriate.

Basis for proposed no significant hazards consideration determination: The Commission's staff has evaluated the proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if 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 substitution of TS Table 3.7.1 with USAR information would have no impact on plant operation or safety. The TSs would continue to require containment isolation valves to be operable, appropriate action to be taken in event of inoperable valves, and periodic surveillance testing of the valves. Changes to the USAR Table which would replace Table 3.7.1 would be controlled under the provisions of 10 CFR 50.59.

The Commission's staff finds that the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because the amendment would not eliminate operability or surveillance requirements for isolation valves needed to ensure containment integrity; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because no facility modifications are involved which could create such a possibility; or

3. Involve a significant reduction in a margin of safety because operability and surveillance criteria for valves needed for containment integrity would not be relaxed.

Therefore, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: August 15, 1989 (Reference LAR 89-09)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to (1) allow the use of a temporary source range detector during refueling if one of the two permanently installed excore source range detectors fails, (2) clarify that certain activities, which do not significantly affect core reactivity, are not considered alterations, (3) require containment closure during movement of the reactor upper internals and head, and (4) allow latching the control rod mechanism shaft to the rod cluster control assemblies (RCCAs) and friction testing of individual control rods with one source range detector.

The specific TS changes proposed would include the following:

(1) TS Definition 1.10, "Core Alterations", would be revised to clarify that certain activities, which do not

significantly affect core reactivity, are not considered core alterations.

(2) TS 3.9.2, "Instrumentation", would be revised to allow latching the control rod drive shaft mechanism to the rod cluster control assemblies and friction testing of individual control rods with one source range detector.

(3) Bases for TS 3/4.9.2, "Instrumentation," would be revised to permit use of a temporary source range detector if the temporary detector is functionally equivalent to the permanently installed source range detectors.

(4) TS 3/4.9.4, "Containment Penetrations", would be revised to required containment integrity during movement of the reactor head and upper internals over fuel.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment will 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 licensee, in its submittal of August 15, 1989, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The possibility that the temporary source range detector may contact and damage a fuel element during refueling has been evaluated. Based on the bounding analysis of a dropped fuel assembly presented in FSAR Update Section 15.4.5.1.3, striking of the temporary detector assembly on the fuel element will result in no core damage. The active portion of the fuel is separated from the upper internals by 11 inches. Since material greater than 9 inches from the active core is neutronically decoupled, reinstallation of the reactor vessel upper internals and head will not affect core reactivity. The movement of control rods during latching and friction checks adds an amount of positive reactivity which is accounted for in the shutdown margin requirements of TS 3/4.9.1. Tools and equipment in the core region do not add positive reactivity to the core nor do they pose a fuel damage hazard from dropping into the vessel. The proposed requirement for maintaining containment integrity provides an additional safety measure.

The uncontrolled RCCA bank withdrawal from a subcritical condition and uncontrolled boron dilution accidents were evaluated for impact due to the proposed change. The probability or consequences of these accidents is not increased due to the proposed change to the definition of core alterations. Latching the control rods and performing the friction checks with only one operable excore source range detector would be acceptable because the technical specification shutdown margin requirements are not affected by the proposed change. Further, since the core is fully loaded during latching and friction checks, the core will be geometrically coupled to the operable detector and capable of monitoring reactivity changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The fission chamber does not affect core reactivity. The insertion of the temporary detector in the core increases the source strength slightly but does not affect the k_{eff} value.

The change in the definition of Core Alterations would allow movement of the reactor vessel upper internals and insertion of small components, such as tools, into the reactor core region when core alterations are suspended. A small probability exists for dropping a component into the reactor vessel. The only object of sufficient size that is handled over the reactor vessel that could cause fuel damage is the upper internals package. The proposed changes will still require containment closure when handling the reactor vessel upper internals or reactor vessel head over the fuel. Control rod latching and performing the required friction checks will still be done with the core fully loaded and coupled to at least one operable excore source range detector. Any reactivity changes will still be adequately monitored.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The operability of the source range neutron flux monitors ensures that redundant monitoring capability is available to detect changes in the reactivity condition of the core. Use of the temporary source range detector will provide this redundant capability in the event that an installed source range detector failed. The revision of TS 3/4.9.2 will continue to assure safe operations by continuing to monitor core alterations that may affect reactivity or damage the fuel by requiring that two source range detectors be operable, except for control rod latching and performance of friction checks. These evolutions can be adequately monitored by one operable excore source range detector. The proposed changes still result in the containment being required to be closed when moving the reactor vessel upper internals or reactor vessel head over the fuel.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the proposed changes and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the staff proposes to determine that these changes do not involve significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: August 15, 1989 (Reference LAR 89-10)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to implement a Core Operating Limits Report (COLR) for each unit in accordance with Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications". The licensee requests that the cycle-specific information for Shutdown Rod Insertion Limit, Control Rod Insertion Limits, and Axial Flux Difference (AFD) be relocated to the COLR. The specific TS changes proposed would include the following:

(1) Definition 1.43, "Core Operating Limits Report" would be added in accordance with Generic Letter 88-16.

(2) TS 3.1.3.1, "Movable Control Assemblies", would be revised to reference Specification 3.1.3.6 for rod insertion limits, rather than Figure 3.1-1 (actually 3.1-1a and 3.1-1b), which are being deleted in accordance with Generic Letter 88-16 (See item 4 below).

(3) TS 3.1.3.5, "Shutdown Rod Insertion Limit", and the related Surveillance Requirement, 4.1.3.5, would be revised to delete the insertion limit requirement and reference the COLR.

This change is consistent with Generic Letter 88-16.

(4) TS 3.1.3.6, "Control Rod Insertion Limits", would be revised to delete Figures 3.1-1a and 3.1-1b and reference the COLR. To support this change the reference to these figures in TS 3.1.3.1, "Moveable Control Assemblies", would be deleted and the COLR referenced. These changes are consistent with Generic Letter 88-16.

(5) TS 3.2.1, "Axial Flux Difference", would be revised to delete Figures 3.2-1a and 3.2-1b and reference the COLR. These changes are consistent with Generic Letter 88-16.

(6) Surveillance Requirements (SR) 4.2.2.1.2.c. and 4.2.2.2.2.e would be revised to reference the COLR instead of the Peaking Factor Limit Report. SR 4.2.2.1.2.f would be revised to reference Specification 3.2.1 instead of Figure 3.2-1a. The Bases would be revised to refer to the COLR, rather than the Peaking Factor Limit Report.

(7) TS 6.9.1.8, "Peaking Factor Limit Report" would be deleted. TS 6.9.1.8, "Core Operating Limits Report", would be added in accordance with Generic Letter 88-16. The COLR for each unit would contain the information that was provided in the Peaking Factor Limit Report. Since the COLR is required to be submitted to the NRC, it is no longer necessary to have a Peaking Factor Limit Report.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment will 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 licensee, in its submittal of August 15, 1989, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The shutdown rod insertion limit, the control rod insertion limits, and the AFD operational limits of the TS are cycle-specific parameters. This [proposed amendment] is administrative nature as it proposes to relocate these parameter limits to a unit-specific COLR. Eliminating the Peaking Factor Limit Report and placing the contents in the COLR is also an administrative change. The removal of the cycle-specific parameters from the TS has no influence or impact on the probability or consequences of a previously evaluated accident. The cycle-specific parameter limits, although not in the TS, will be maintained via the DCPP TS and the COLR. The proposed amendment still requires the same action to be taken when or if limits are exceeded as is required by the TS. Future reloads will be evaluated using NRC approved methodologies and will be examined per the requirements of 10 CFR 50.59.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

There is no physical alteration to any plant system, nor is there a change in the method by which any safety related system performs its function. As stated above, the proposed change is administrative in nature.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The margin of safety is not affected by the removal of cycle-specific parameter limits from the TS. The proposed amendment still requires operation within the core limits as determined from the NRC-approved reload design methodologies. Appropriate actions will continue to be taken if limits are violated. The development of the limits for future reloads will continue to conform to those methods described in NRC approved documentation. In addition, each future reload will involve a 10 CFR 50.59 review.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC Staff has reviewed the proposed changes and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the Staff proposes to determine that these changes do not involve significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

The Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Dates of amendment request: December 2, 1986, as supplemented on December 19, 1986, and revised on January 15, 1988 and September 13, 1988.

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensee submitted a proposed amendment to the Physical Security Plan for the Trojan Nuclear Power Plant to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.D of Facility Operating License No. NPF-1 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised plan on January 15, 1988 and September 13, 1988 to satisfy the requirements of the amended regulations. The Commission proposes to amend the license to reference the revised plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very

minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 Salmon Street, Portland, Oregon 97204.

NRC Project Director: George W. Knighton

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: August 21, 1989

Description of amendment request: Change the description of fuel and control rod assemblies.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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, (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. In accordance with 10 CFR 50.92 the licensee has reviewed the proposed changes and has concluded as follows that they do not involve a significant hazards consideration:

No Significant Hazards Consideration Evaluation

The proposed changes to the Hope Creek Generating Station (HCGS) Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to section 5.3.1 will enable HCGS to change fuel assemblies without a license amendment. The core operating limits will still be based on the NRC approved methodology of GESTAR II. Since NRC approval of GESTAR II is predicated on review of specific fuel assembly designs, HCGS will still be using NRC approved fuel designs.

The proposed revision to Section 5.3.2 will allow HCGS to use ABB-ATOM hafnium tipped control blades as replacements for the existing General Electric control blades. These control blades have been previously approved by the NRC on a generic basis. The 10 CFR 50.59 evaluation that will be performed prior to control blade replacement will address any plant specific concerns and will assure that the probability or consequences of an accident will not be increased. The requirements of specification 3/4.1.3 will continue to assure that the control rods are OPERABLE, with acceptable scram times. The NRC approved methodology of ABB-ATOM will be applied specifically to HCGS.

Therefore, PSE&G has concluded that this amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

NRC approved methodologies and fuel/control rod designs will be required for use in HCGS and plant specific evaluations pursuant to 10 CFR 50.50 will be performed for each fuel cycle. The fuel bundles, control rods assemblies and related operating limits used at HCGS will remain bounded by the current UFSAR accident analyses.

Therefore, PSE&G has concluded that this amendment request does not introduce any new or different kind of accident from those previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

The core operating limits which are affected by the fuel and control rod assemblies will continue to be done using the methods of GESTAR II, which have been previously approved by the NRC. These methods will set the limiting parameters for core operation such that the Safety Limits as defined by the Technical Specifications and UFSAR safety analyses are not challenged. The removal of specific design information from sections 5.3.1 and 5.3.2 of the Technical Specifications does not result in a reduction in the margin of safety since NRC approved methodologies are still applied to reactor core design. Design changes are still subject to the provisions of 10 CFR 50.59.

Therefore, this amendment request does not involve a significant reduction in a margin of safety as defined in the basis for any Technical Specification.

The staff reviewed the licensee's determination that the proposed license amendment involves no significant hazards consideration and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: May 9, 1989. The request includes References 1 and 2.

Description of amendment request: The purpose of this amendment is to incorporate additional Specifications and Action Statements regarding required operability of the Ginna Station motor-driven and turbine-driven auxiliary feedwater pumps. In particular, additional Action Statements have been added for the turbine-driven feedwater system and its relationship to 10 CFR 50.63, the Station Blackout Rule. Also, the format of the Specifications and Action Statements have been modified for clarification.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if 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; (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 licensee's analyses contained in the May 9, 1989, letter states the following:

The Action Statements for the turbine-driven auxiliary feedwater system have been incorporated. In accordance with 10 CFR 50.63, the Station Blackout Rule, one AC-independent means of providing auxiliary feedwater is required. Thus, with one of the two steam supply or discharge flow paths inoperable, the requirements of 10 CFR 50.63 are met. Since service water is not AC-independent, it also need not be available to meet Station Blackout. Thus, startup or continued operation is considered acceptable under such circumstances; however, a Special Report to the NRC is considered prudent and has been incorporated into the proposed Technical Specifications. The Technical Specifications have been modified to specify testing requirements of the turbine-driven auxiliary feedwater pump if the pump has one operable discharge flow path. With both steam supply or discharge flow paths, or the pump itself inoperable, Rochester Gas and Electric Corporation has evaluated Station Blackout risk. Based on Reference (1), an allowable unavailability of 27 days/year is acceptable, with a diesel generator reliability of 0.95. RG&E's reliability is greater than 0.975, based on their response to the Station Blackout Rule. A prudent maximum

out-of-service duration of 7 days has been chosen.

Following a reactor/turbine trip, the motor-driven auxiliary feedwater pumps are automatically started on a low steam generator level or a trip signal from both main feedwater pumps. The motor-driven auxiliary feedwater pump will also automatically start on a safety injection actuation. With one motor-driven auxiliary feedwater pump inoperable, the turbine-driven auxiliary feedwater can be started and deliver flow to one or both steam generators. In addition, the two standby auxiliary feedwater pumps can deliver flow to either steam generator. Because of the number and diverse means of acceptable backup to the auxiliary feedwater pumps, it is considered acceptable to require the submittal of a Special Report to the NRC as the Action Statement, when one motor-driven auxiliary feedwater flow path is declared inoperable, rather than requiring a shutdown Action Statement.

If two motor-driven auxiliary feedwater pumps are inoperable, the turbine-driven auxiliary feedwater pump can supply 100% of the required accident flow rate to both steam generators. In addition, each of the two standby auxiliary feedwater pumps can supply 100% of the required service water flow to its associated steam generator. A 72-hour duration has been selected to restore one of the two motor-driven auxiliary feedwater pumps to operable status.

Rochester Gas and Electric Corporation has also clarified the case where the turbine-driven and one motor-driven auxiliary feedwater pump associated with the same steam generator would be inoperable. This would result in no automatic actuation of auxiliary feedwater to that steam generator. Although the motor-driven and turbine-driven auxiliary feedwater pumps have provisions for delivering to either steam generator, and the standby auxiliary feedwater system has been shown to meet required delivery requirements under worst-case conditions, Reference (2), a 72-hour duration has been selected to restore one of the two automatic means to service.

As explained in the above discussions, the proposed amendment incorporates additional Action Statements regarding the turbine-driven auxiliary feedwater system, in accordance with Rochester Gas and Electric Corporation's compliance with 10 CFR 50.63, the Station Blackout Rule. These proposed changes do not increase the probability or consequences of a previously-evaluated accident, or create a new or different kind of accident. Furthermore, there is no significant reduction in the margin of safety for any particular Technical Specifications, and the addition of restrictions, such as for the turbine-driven auxiliary feedwater pump and flow paths, has increased the margins of safety.

Therefore, Rochester Gas and Electric submits that the issues associated with this amendment request are outside the criteria of 10 CFR 50.91 and a no significant hazards finding is warranted.

The Commission has provided guidance concerning the application of the standard in 10 CFR 50.92 for determining whether a significant hazards consideration exists by providing certain examples of amendments that will likely be found to involve no significant hazards considerations. The changes to the Technical Specifications proposed in this amendment request are similar to NRC example (ii). Example (ii) relates to changes that constitute additional limitation restrictions and controls not presently included in the Technical Specifications.

Based on this guidance and the reasons discussed above, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The Commission agrees with this conclusion.

References:

(1) Allowable Unavailability of the Turbine-Driven Auxiliary Feedwater System, Rochester Gas and Electric Corporation 88-11, dated February 1989.

(2) Feedwater System Pipe Breaks, System Evaluation Program Topic XV-6, NRC Safety Evaluation Report, dated September 4, 1981.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, Le Boeuf, Lamb, Leiby and McRae, Suite 1100, 1133 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Richard H. Wessman

Southern California Edison Company, et al., Docket Nos. 50-206, 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 1, 2, and 3, San Diego County, California

Date of amendment request: April 28, 1989

Description of amendment request: Southern California Edison Company (SCE) requests changes to the operating licenses of the three San Onofre units to reflect changes in the ownership which would result from the merger of SCE and San Diego Gas and Electric Company.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis about the issue of no significant hazards consideration which is quoted below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not involve a significant increase in the probabilities or consequences of accidents previously evaluated because it only revises the operating licenses to reflect the merger of two entities which are currently licensees. This revision represents an administrative change and therefore has no impact on accidents previously evaluated.

2. Will operation of the facility in accordance with the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not modify the facility or the manner in which it operates. SCE will continue to act as operating agent for the co-owners with exclusive responsibility and control over the physical construction, operation, and maintenance of SONGS. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed change is administrative in nature and as such will not impact any margin of safety.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: George W. Knighton

System Energy Resources, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 15, 1989, as revised August 22, 1989

Description of amendment request: The proposed amendment would revise Facility Operating License No. NPF-29 for Grand Gulf Nuclear Station, Unit 1 (GGNS-1 or the facility) to authorize Entergy Operations, Incorporated (EOI) to act on behalf of System Energy Resources, Inc. (SERI) and South Mississippi Electric Power Association with responsibility for and control over the physical construction, operation and maintenance of the facility. This action is proposed in conjunction with EOI becoming the operator of Arkansas Nuclear One, Units 1 and 2 and

Waterford Steam Electric Station, Unit 3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license involves no significant hazards consideration if 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. SERI has evaluated the proposed change to Facility Operating License No. NPF-29 and has determined the following.

EOI will be a wholly owned subsidiary of Entergy Corporation (Entergy), formerly known as Middle South Utilities, Inc. The employees of SERI presently engaged in the operation of GGNS-1 will become employees of EOI. The organizational structure of EOI will provide for clear management control and effective lines of authority and communication among the organizational units involved in the management, operation, and technical support of the facility.

As a result of the proposed amendment, there will be no physical changes to the facility, and all Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications will remain unchanged. With the exception of administrative changes to reflect the role of EOI, the quality assurance program, the emergency plan, security plan, and training program are unaffected. Operating agreements will ensure continued compliance with General Design Criterion 17 of Appendix A to 10 CFR Part 50 regarding Electric Power Systems and EOI control over all activities within the exclusion area. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The design and design bases of GGNS-1 remain the same. Therefore, the current plant safety analyses remain complete and accurate in addressing the licensing basis events and analyzing plant response and consequences. The Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits are not affected by the proposed amendment. With the exception of administrative changes to reflect the role of EOI, plant procedures are unaffected. As such, the plant conditions for which the design basis accident analyses have been performed are still valid. Therefore, the proposed amendment cannot create the possibility of a new or different kind of accident than previously evaluated.

Plant safety margins are established for and reflected in Limiting Conditions for Operation, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications. Since there will be no change to the physical design or operation of the plant, there will be no change to any of these or any other margins. The proposed amendment therefore will not involve a reduction in a margin of safety.

The staff has reviewed the licensee's evaluation and agrees with the conclusions. Therefore, based on the above, the staff proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Cook, Purcell, and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Elinor G. Adensam

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: August 23, 1989

Description of amendment request: The amendment requests changing the Technical Specifications by deleting specification 4.0.2b which limits the combined surveillance intervals of three successive surveillance tests to 3.25 times the specified interval for individual surveillance tests. The limit of 25 percent extension for individual surveillance intervals would be retained.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazard exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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; (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 licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazard consideration.

The proposed changes do not involve a significant hazard because the operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1. Not involve a significant increase in the probability or consequences of an accident previously evaluated because surveillance intervals will still be limited by TS 4.0.2a. Additionally, the 3.25 surveillance interval extension criteria of TS 4.0.2b was not considered in the plant accident analysis.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not add or modify any system design nor does it involve a change in operation of any plant system. The surveillance interval will continue to be constrained by the 25 percent interval extension criteria of TS 4.0.2a.

3. Not involve a significant reduction in a margin of safety because surveillance intervals will continue to be constrained by TS 4.0.2a which provides allowable tolerances for performing surveillance requirements beyond those specified in the normal surveillance interval.

The NRC staff has reviewed and agrees with the licensee's evaluation. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazard consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: August 2, 1989.

Description of amendment request: The proposed amendment would revise Technical Specification Figures 5.1-1, 5.1-2, 5.1-3 and 5.1-4 (exclusion area, low population zone, site boundary for gaseous effluents, and site boundary for liquid effluents). The proposed figures have been clarified and updated to show the additional areas closed to public use by the Reform Wildlife Management Agreement dated April 10, 1989.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (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 licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. This change does not affect any equipment important to safety. The proposed revision to the Technical Specification figures does not change the location of the Exclusion Area, Low Population Zone, or the site boundary for radioactive gaseous or liquid effluents as described in the Callaway Final Safety Analysis Report (FSAR) and Technical Specifications.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes or mechanism associated with the proposed change. This change does not involve any modification in operational limits or physical design of equipment important to safety.

The proposed change does not involve a significant reduction in a margin of safety. This change does not affect any Technical Specification margin of safety.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; does not involve a reduction in the required margin of safety. The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: August 11, 1989

Description of amendment request: The proposed changes would amend the North Anna Power Station, Unit Nos. 1 and 2 (NA-1&2) Technical Specifications (TS) which govern the control rod insertion limits. The changes would allow greater operational flexibility with respect to control rod bank positioning in order to minimize localized Rod Control Cluster Assembly (RCCA) wear.

Based on control rod examinations (hot cell data), Westinghouse (W) has determined that the RCCA fretting wear may reach the W recommended maximum as early as 74,000 hours of critical operation time. Repositioning the RCCA banks is estimated to result in a gain of 37,000 additional hours of critical operation time. As both NA-1&2 have used the same fully withdrawn position for their entire operation to date, these units are approaching the recommended maximum W criteria. The licensee projects that this limit will occur at the end of cycle 8, which is late 1990 for NA-1 and late 1991 for NA-2. TS changes are therefore being requested to change the fully withdrawn position from 228 steps to a range varying from 225 to 229 steps. To minimize the wear and maximize the RCCA operating life, the NA-1&2 RCCA fully withdrawn positions would change routinely, with the fully withdrawn position being defined at the beginning of each operating cycle. The fully withdrawn position would be between 225 and 229 steps (inclusive). This change is similar to requests approved by the NRC for other operating facilities. The proposed changes would also add a definition of Fully Withdrawn to the TS, which allows positioning of the RCCAs between 225 and 229 steps withdrawn from the core. A modification to the TS on rod drop time is also proposed, which will require that measurements of actual drop times start from the maximum withdrawn position of 229 steps. TS Figure 3.1.1 for both NA-1&2 would also be modified to reflect the change in the fully withdrawn position. The actual insertion positions as a function of power will not change. The only changes from the current figures are the redefinition of the upper bound of the y-axis from 228 steps to "FULLY WITHDRAWN", and definition of the fraction of reacted thermal power for Bank C fully withdrawn positions between 225 and 229 steps, inclusive. Although the fully withdrawn position may change during the middle of the cycle in which the change is first implemented, the fully withdrawn position applicable to a given cycle would normally be defined prior to starting the nuclear design of that cycle, and would not change during the cycle. The fully withdrawn position to be used for a given cycle would be specified in the reload Safety Evaluation and the nuclear design report, and would be provided to the operators in the form of a cycle-specific rod insertion limit operator curve.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if 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 licensee has evaluated the proposed changes in accordance with the criteria above and has made the following determination that the proposed changes do not involve a significant hazards consideration as defined in 10 CFR 50.92 because the changes would not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated. The extremely small impact on power distributions and core physics key analysis parameters resulting from the change in the fully withdrawn position can be accommodated within the existing [NA-1&2] core design limits. None of the parameter changes exceed the available margin to the key parameter safety analysis limits. The current control rod drop times and other tripped rod characteristics assumed in the safety analyses will not be changed as a result of the RCCA fully withdrawn position change. Therefore the current safety analyses will remain bounding.

2. Create the possibility of a new or different kind of accident than previously evaluated. The proposed change[s] [do] not involve any alterations to plant equipment or procedures which would introduce any new or unique operational modes or accident precursors.

3. Involve a significant reduction in the margin of safety. The parameter changes do not exceed the available margin to the key

parameter safety analysis limits. Thus, the current [Updated Final Safety Analysis Report] analyses remain bounding and there is no reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with the above conclusion. Therefore, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 1989

Description of amendment request: The proposed technical specification change would revise Surveillance Requirement 4.9.6.1 to require the Refueling Machine to be demonstrated operable within 100 hours prior to the movement of fuel assemblies within the Reactor Vessel. The proposed change would also revise Surveillance Requirement 4.9.6.2 to require the Auxiliary Hoist to be demonstrated operable within 100 hours prior to the movement of drive rods within the Reactor Vessel. As Technical Specifications currently read, the Refueling Machine and the Auxiliary Hoist both must be proven operable 100 hours prior to lifting the Reactor Vessel Head.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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, (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 licensee has reviewed the proposed change and has determined the following:

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change only involves whether the Refueling Machine has to be demonstrated operable prior to Reactor Vessel Head Lift, or prior to when it is required. The Refueling Machine and the Auxiliary Hoist do not perform any function until after the Head has been lifted and the Refueling Pool has been partially flooded.

Standard 2 - Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated.

This proposed change does not create the possibility of a new or different kind of accident previously evaluated. This change does not involve any setpoints or change when any equipment is operated. It only requires that the Surveillance Requirements for the Refueling Machine and the Auxiliary Hoist be performed prior to using the equipment.

Standard 3 - Involve a Significant Reduction in a Margin of Safety.

The proposed change does not involve a significant reduction in a margin of safety. This change only involves when a Surveillance Requirement is required, it makes no significant changes to any margin to safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Frederick J. Hebdon

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: August 3, 1989

Brief description of amendment: The proposed amendments would revise the Technical Specifications (TS) to reduce from 75% to 50% the number of moveable incore detector thimbles in McGuire Unit 1 required to be available during the remainder of the present fuel cycle for the Moveable Incore Detection System to be deemed operable.

Date of publication of individual notice in **Federal Register:** August 21, 1989 (54 FR 34633)

Expiration date of individual notice: September 21, 1989

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: August 2, 1989

Description of amendment request: The proposed amendments would revise the Surry Units 1 and 2 Technical Specifications by allowing the removal of one service water suppy line from service at a time for a series of modifications which will upgrade the service water system.

Date of publication of individual notice in **Federal Register:** August 16, 1989 (54 FR 33788)

Expiration date of individual notice: September 15, 1989

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following

amendments. The Commission has determined for each of these amendments that the application 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 to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. 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 rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: May 1, 1989

Description of amendments: The amendments change Technical Specification Section 4.6.1.2, Containment Leakage, by deleting the requirement to use only the mass point method for Type A containment integrated leak rate testing. The amendments allow use of any containment leak rate determination method permitted by Appendix J.

Date of issuance: August 4, 1989

Effective date: August 4, 1989

Amendment Nos.: 136 and 166

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: June 14, 1989 (54 FR 25369). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 4, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: June 23, 1987, as supplemented May 19, 1989.

Description of amendments: The amendents change the Technical Specifications to delete the words "a storage capacity limited to" from Technical Specification 5.6.3.

Date of issuance: August 11, 1999

Effective date: August 11, 1989

Amendment Nos.: 137 and 167

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27223). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 11, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Station, Units 1 and 2, Ogle County, Illinois

Date of application for amendments: May 24, 1989, supplemented July 20, 1989 and August 1, 1989.

Brief description of amendments: These amendments modify Technical Specification 3.7.5 to utilize seismic qualification of the deep well pumps by allowing these pumps to be used in several instances instead of the essential service water make-up pumps to satisfy the design bases of the ultimate heat sink.

Date of issuance: August 15, 1989

Effective date: August 15, 1989

Amendment Nos.: 32, 32

Facility Operating License Nos. NPF-37 and NPF-66. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 12, 1989 (54 FR 29402). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 15, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: December 21, 1988 and supplemented May 4, 1989.

Brief description of amendments: The amendments primarily revise the testing requirements for other systems or subsystems of the Emergency Core Cooling System (ECCS) or Standby Gas Treatment System (SGTS) when one system or subsystem is inoperable. In addition, operability requirements for several ECCS systems or subsystems were revised and some administrative changes were made.

Date of issuance: August 10, 1989

Effective date: August 10, 1989

Amendment Nos.: 107, 102

Provisional Operating License Nos. DPR-19 and DPR-25. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 17, 1989 (54 FR 21300), June 14, 1989 (54 FR 25372). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 10, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: September 23, 1988 supplemented by letter dated January 16, 1989

Brief description of amendment: This amendment revises the Technical Specification requirements relating to administrative controls. The proposed changes establish the Plant Manager as Chairman of the Plant Review Committee, eliminate the Plant

Engineering organization, and establish the Plant Safety and Licensing Department and the Nuclear Safety Services Department.

Date of issuance: August 16, 1989
Effective date: August 16, 1989
Amendment No.: 127

Provisional Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: May 31, 1989 (54 FR 23311). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 16, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: December 4, 1987, as supplemented December 7, 11, and 29, 1987, March 29, May 4 and 18, June 16, July 1, August 8 and 24, and December 15, 1988, and June 12 and 28, 1989.

Brief description of amendments: The amendments modified the Technical Specifications by adding requirements for the steam generator power operated relief valves.

Date of issuance: August 15, 1989
Effective date: August 15, 1989
Amendment Nos.: 68 and 62

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 12, 1989 (54 FR 29404). Because the June 28, 1989, submittal clarified and corrected certain aspects of the original request, the substance of the changes noticed in the Federal Register and the proposed no significant hazards consideration determination were not affected.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 15, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 1, 1989

Brief description of amendment: The amendment revised Technical Specifications (TS) 3/4.1 and 3/4.2 of Appendix A by replacing the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report (COLR), which contains the values of those limits. In addition, the COLR was included in the Definitions Section of the TS to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes the values of those cycle-specific parameter limits are determined in accordance with Specification 6.9.1.6. The Specification requires the Core Operating Limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with applicable limits of the safety analysis. The Specification states that the report and any mid-cycle revisions will be provided to the NRC. Figure 3.1-3 was also deleted from the TS. Generic Letter 88-16, dated October 4, 1988, provided guidance to licensee on requests for removal of the values of cycle-specific parameter limits from TS. The licensee's amendment was in response to this Generic Letter.

Date of issuance: July 31, 1989
Effective date: July 31, 1989
Amendment Nos.: 9 and 1

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27229). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Illinois Power Company, Docket No. 50-461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: February 5, 1988

Description of amendment request: The title of "Power Plant Manager" is changed to the more specific "Manager - Clinton Power Station."

Date of issuance: August 22, 1989
Effective date: August 22, 1989
Amendment No.: 26

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 13, 1988 (53 FR 26524). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 22, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Illinois Power Company, Docket No. 50-461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: May 18, 1989

Description of amendment request: The change adds a note clarifying the channel configuration for the Main Steam Line Turbine Building Temperature - High trip channels.

Date of issuance: August 17, 1989
Effective date: August 17, 1989
Amendment No.: 25

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 18, 1988 (53 FR 50329). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 17, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: June 30, 1987

Brief description of amendment: This amendment revised Technical Specification 3.5.G.3 to clarify the Limiting Condition for Operation (LCO) which requires that certain emergency core cooling equipment be available when work is performed which has the potential for draining the reactor vessel. Additional restrictions (TS 3.5.G.4(d) and 3.5.G.5) would prohibit operations which have the potential for draining the reactor vessel when the suppression pool water supply is not adequate. Moreover, various administrative

changes were made to the above Specifications and to the Bases.

Date of issuance: August 15, 1989

Effective date: August 15, 1989

Amendment No.: 162

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27230). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 15, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: April 14, 1989

Brief description of amendments: Technical Specification changes to support Emergency Service Water System modifications resulting from compliance with the requirements of 10 CFR Part 50, Appendix R.

Date of issuance: August 16, 1989

Effective date: Effective as of its date of issuance

Amendment Nos.: 92 and 56

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 21314). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 16, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: April 14, 1989

Brief description of amendment: The amendment revised the provisions in the Technical Specifications relating to radiological effluents. In particular, this amendment changed Environmental Limiting Condition of Operation (ELCO) 8.1.1, Environmental Surveillance Requirement (ESR) 8.1.1, and ESR 8.1.2.

Date of issuance: August 14, 1989

Effective date: August 14, 1989

Amendment No.: 71

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27239). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 14, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: February 27, 1989 and supplemented on April 3, 1989.

Brief description of amendment: The amendment added clarification and consistency to the refueling specifications with respect to reference measurements, load setpoints and travel limits. An additional change conservatively raised the minimum allowable source range monitor (SRM) count rate in Sections 4.9.2 and 4.3.7.6 of the Technical Specifications to agree with SRM requirements imposed elsewhere in the Specifications. The supplemental information added an additional SRM change that did not alter the technical content of the original change request.

Date of issuance: August 21, 1989

Effective date: August 21, 1989, but implementable within sixty days to allow for any germane procedural revisions.

Amendment No.: 31

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29410). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 21, 1989.

No significant hazards consideration comments received: Yes. The comments received from the Bureau of Nuclear Engineering of the State of New Jersey were addressed in the Safety Evaluation issued with the amendment.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: December 27, 1988

Brief description of amendments: Replaced Environmental Technical Specifications with an Environmental Protection Plan.

Date of issuance: August 21, 1989

Effective date: As of the date of issuance and shall be implemented within 45 days of the date of issuance.

Amendment Nos.: 100 and 77

Facility Operating License Nos. DPR-70 and DPR-75. These amendments replaced the Environmental Technical Specifications with an Environmental Protection Plan.

Date of initial notice in **Federal Register:** May 3, 1989 (54 FR 18957). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 21, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Tennessee Valley Authority, Docket No. 50-260, Browns Ferry Nuclear Plant, Unit 2, Limestone County, Alabama

Date of application for amendment: February 17, and June 20, 1989 (TS 266)

Brief description of amendment: The amendments correct errors in the Browns Ferry Nuclear Plant (BFN), Unit 2, Technical Specifications (TS) as follows: (1) Table 3.2.F (Page 3.2/4.2-32), Instrument Number (RR-90-322A) - change the instrument number to read "RM-90-306 and RR-90-360," correct typographical error in the Type Indication and Range column (correct units from curies per cubic centimeter to microcuries per cubic centimeter), delete the Iodine and Patriculate indications and range, (2) Notes to Table 3.2.F (Pages 3.2/4.2-33) - correct typographical errors in footnote 7 (change TS 6.7.2 to 6.9.1.4 and 6.7.2 and 6.9.2) and add footnote 9 (clarifies the function of subject instrument to noble gas only); (3) Table 4.2.F, Item 23 (Page 3.2/4.2-55) - correct instrument number and type to read "Wide Range Gaseous Effluent Radiation Monitor and Recorder (RM-90-306 and RR-90-360);" (4) Page 6.0-29, Item 6.9.2.10 - correct the word "high-range" to "wide-range."

Date of issuance: August 22, 1989

Effective date: August 22, 1989, and shall be implemented within 60 days

Amendment No.: 171

Facility Operating License No. DPR-52: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29412). The Commission's related evaluation of the

amendment is contained in a Safety Evaluation dated August 22, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 2, 1988 (TS 88-14)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications. The changes revise Table 3.3-12, "Radioactive Liquid Effluent Monitoring Instrumentation," to require a minimum of one liquid effluent radiation monitor channel to be operable for each header for the effluent from the essential raw cooling water system.

Date of issuance: August 14, 1989

Effective date: August 14, 1989

Amendment Nos.: 125, 114

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53098). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 14, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: May 26, 1989, revised July 10, 1989

Brief description of amendment: The amendment revises the restrictions on intervals between functional testing of snubbers by deleting the applicability of Specification 4.0.2b to this surveillance requirement for the present cycle of operation only. Specification 4.0.2b would limit the total maximum combined interval for any three consecutive tests to 3.25 times the 18-month individual intervals, or approximately 60 months.

Date of issuance: August 15, 1989

Effective date: August 15, 1989

Amendment No.: 136

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27242). At the NRC staff's request, the licensee made a submittal dated July 10, 1989, that would limit the proposed change to the present surveillance interval. Since this reduced the scope and safety significance of this request, the no significant hazards determination published in the original notice in the **Federal Register** was not affected.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 15, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: April 26, 1989

Brief description of amendments: The amendments clarified the reporting requirements for operation of the Overpressure Mitigating System (OMS) and deleted two schedular commitments which have been implemented.

Date of issuance: August 24, 1989

Effective date: August 24, 1989

Amendment Nos.: 124, 127

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29415). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 24, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that 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.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant

hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. 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 for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By October 6, 1989, 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. 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 particularity 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, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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 (*Project Director*): 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 the 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).

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 2, 1989 (TS 89-38)

Brief description of amendments: These amendments temporarily revise Surveillance Requirement (SR) 4.4.11.a of Section 3/4.4.11, Reactor Coolant System Vents, of the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specification (TS). The changes add a footnote to the requirement for both units that the manual isolation valves for the reactor vessel head vent system must be locked open. The footnote states that "the requirement to verify that the upstream manual isolation valves are locked in the open position is waived until the Cycle 4 refueling outage. This waiver is granted on a one-time basis. At the first Mode 5 outage following the issuance of the above waiver, a flow verification test will be performed to verify that the manual isolation valves are open." The changes apply for both Units 1 and 2 until the next refueling outage, which is the Cycle 4 refueling outage for both units. The Cycle 4 refueling outages are scheduled for Spring of 1990 for Unit 1 and Fall of 1990 for Unit 2.

The Commission (1) granted a Waiver of Compliance to the Tennessee Valley Authority (TVA) at 4:00 p.m. on July 31, 1989 to return power to the reactor vessel head vent system for both units

until the staff could act on this application and (2) determined pursuant to 10 CFR 50.91 that these amendments should be implemented as soon as possible. The amendments permit the licensee to continue operating the units until the Cycle 4 refueling outage. The changes have no adverse effect on safety and would be beneficial to overall plant safety because the units would not be forced into an unnecessary shutdown. Because the manual isolation valves are not locked, the reactor vessel head vent system is considered inoperable and the TS require that power be removed from the system. The Waiver of Compliance, to return power to the reactor vessel head vent system, was temporary until this application for amendments was acted on but for not later than August 27, 1989. Consequently, the NRC staff determined that exigent circumstances existed which justify reducing the public notice period normally provided for licensing amendments. A Public Notice that the NRC staff proposed to amend the TS was published in the *Chattanooga News-Free Press* and the *Chattanooga Times* on Tuesday, April 8, 1989. The Public Notice stated that the NRC staff proposed to issue these amendments at the close of business on August 10, 1989. No comments on the Amendments and no requests for a hearing were received by the staff by the close of business on August 10, 1989.

Date of issuance: August 11, 1989

Effective date: August 11, 1989

Amendment Nos.: 123, 112

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: No notice was published. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 7, 1989, as revised August 10, 1989 (TS 89-37)

Brief description of amendments: These amendments temporarily add two additional Action Statements for the Limiting Condition for Operation (LCO) 3.5.1.1, Cold Leg Injection Accumulators, of the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specification (TS). The Action statements for an LCO state the actions to be taken by the licensee if the unit does not meet the LCO. These two additional Action statements state that (1) with one water level or pressure channel inoperable per accumulator, return the inoperable channel to operable status within 30 days or be in at least hot standby within the next six hours and in hot shutdown within the following six hours and (2) with more than one channel, water level or pressure, inoperable per accumulator, immediately declare the affected accumulator(s) inoperable and enter Action statement "a" to return the inoperable channels to operable status in one hour or shut down the unit. The Action statements for LCO 3.5.1.1 previous to these amendments did not specifically address the inoperability of instrumentation channels for the accumulators. These changes are temporary because they are only effective for each unit from the date of issuance of these amendments until the restart of Unit 2 from the Unit 2 Cycle 4 refueling outage.

These amendments were issued under the emergency provisions of 10 CFR 50.91 without the normal 30-day public comment period after the Notice of Consideration of Issuance of an amendment is issued in the **Federal Register.** As explained in the application dated August 7, 1989, one water level channel on an accumulator for each unit is inoperable and the TS did not specifically address inoperable instrumentation channels for the accumulators. The Action statement for an inoperable accumulator is to repair the cause of the inoperability within one hour or proceed to shut down the affected units. The licensee concluded that the inoperable water level channel did not warrant shutting down the two units because the accumulators were still meeting the LCO using the remaining operable instrumentation channels. The licensee requested emergency relief from the TS to prevent shutting down the two units.

As discussed in the Safety Evaluation issued with these amendments, the Commission (1) granted the licensee a Waiver of Compliance at 1:30 p.m. on August 7, 1989 for Sequoyah to not have to comply with Surveillance Requirement 4.5.1.1.2 until the staff could act on this application but no later than September 6, 1989 and (2) determined pursuant to 10 CFR 50.91 that emergency conditions existed and these amendments should be implemented as soon as possible to prevent shutdown of Units 1 and 2. We conclude that the licensee acted in good faith to promptly address the inoperability of the level channel for each unit but could not avoid the need for an emergency TS change.

Date of issuance: August 11, 1989

Effective date: August 11, 1989

Amendment Nos.: 124, 113

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: No notice was published. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Washington Public Power Supply System, et al., Docket No. 50-397, Nuclear Project, No. 2, Benton County, Washington

Date of application for amendment: August 13, 1989, as supplemented August 14, 1989.

Brief description of amendment: This amendment revised Technical Specification Table 3.8.4.2-1, "Primary Containment Penetration Conductor Protective Devices," by changing the backup protection device for the 480VAC fused disconnects from a 125 ampere circuit breaker to a fused disconnect.

Date of issuance: August 16, 1989

Effective date: This license amendment is effective as of the date of issuance.

Amendment No.: 72

Facility Operating License No. NPF-21: Amendment revised the Technical Specifications.

Public Comment requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Washington, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated August 16, 1989.

Attorneys for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G. E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352

Dated at Rockville, Maryland, this 29th day of August, 1989.

For the Nuclear Regulatory Commission

Gary M. Holahan,

Acting Director, Division of Reactor Projects - III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 89-20795 Filed 9-5-89; 8:45 am]

BILLING CODE 7590-01-D

Materials Licensee Financial Assurance Guidance Related to Decommissioning: Availability

The Nuclear Regulatory Commission has published NUREG–1336, Rev. 1 entitled, "Standard Format and Content Guide for Financial Assurance Mechanisms Required for Decommissioning Under 10 CFR parts 30, 40, 70 and 72" and NUREG–1337, Rev. 1 entitled, "Standard Review Plan for the Review of Financial Assurance Mechanisms for Decommissioning Under 10 CFR parts 30, 40, 70 and 72."

NUREG–1336, Rev. 1, discusses the information to be provided in a materials license application and establishes a uniform format for presenting the information required to meet the decommissioning licensing requirements. NUREG–1337, Rev. 1, is prepared for the guidance of Nuclear Regulatory Commission staff reviewers in performing reviews of applications from materials licensees. The document identifies who performs the review, the matters that are reviewed, the basis for the review, how the review is performed, and the conclusions that are sought.

Copies of NUREG–1336, Rev. 1 and NUREG–1337, Rev. 1, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA. 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Dated at Washington, DC, this 29th day of August, 1989.

For the Nuclear Regulatory Commission.

Michael J. Bell,

Chief, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 89–20874 Filed 9–5–89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Co., et al.[1] Issuance of Amendment to Construction Permits

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Construction Permit CPPR–126 and Amendment No. 10 to Construction Permit CPPR–127 for the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, respectively, to show a change in ownership interest.

By letter dated May 4, 1989, Texas Utilities Electric Company (TU Electric) requested amendment of Construction Permit Nos. CPPR–126 and CPPR–127 for the CPSES, Units 1 and 2, to reflect the transfer of a 2⅛% interest in CPSES ownership from Tex-La Electric Cooperative of Texas, Inc. to TU Electric. These amendments will become effective as of the date of completion of the transfer of the ownership interest.

The issuance of these amendments to Construction Permit Nos. CPPR–126 and CPPR–127 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the regulations in 10 CFR chapter I, which are set forth in Amendments No. 11 and No. 10. Prior public notice of Amendments No. 11 and No. 10 was not required since the amendments do not involve a significant hazards consideration.

The staff has prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on August 29, 1989 (54 FR 35737). The staff has concluded that this action will not have a significant impact on the quality on the human environment.

For further details with respect to this action, see (1) the application for amendment dated May 4, 1989, (2) Amendments No. 11 and No. 10 to Construction Permit Nos. CPPR–126 and CPPR–127, respectively, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and the local public document room at Somervell County Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043.

In addition, copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland, this 29th day of August, 1989.

For the Nuclear Regulatory Commission,

Christopher I. Grimes,

Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89–20873 Filed 9–5–89; 8:45 am]

BILLING CODE 7590-01-M

[1] The current construction permit holders for the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric) and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendments No. 9 and No. 8 to Construction Permits CPPR–126 and CPPR–127, respectively, on August 25, 1988 to take place in 10 installments as set forth in the agreement attached to the application for amendment dated March 4, 1988. At the completion thereof, TMPA is no longer an applicant or construction permit holder.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting Change

Notice is hereby given that the time of the Nuclear Waste Technical Review Board's Environmental and Public Health Panel meeting announced in the **Federal Register** on August 30, 1989 (FR 35957), has been changed. The Panel will meet on Thursday, September 14, 1989, from 8:00 a.m. to 5:00 p.m., in Room 256, 2000 L Street, NW., Washington, DC 20036.

Further information can be obtained from William W. Coons, Executive Director, Nuclear Waste Technical Review Board, 1111 18th Street, NW., Washington, DC 254–4792.

Dated: September 1, 1989.

William W. Coons,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 89–20976 Filed 9–5–89; 8:45 am]

BILLING CODE 6820-AM-M

PEACE CORPS

Information Collection Request Under OMB Review

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) this notice announces that the information collection request abstracted below has been forwarded to the Office of Management and Budget for review and is available for public review and comment. A copy of the information collection may be obtained from Ms. Charlotte Storti, Office of Medical Services, Peace Corps, 1990 K

Street, NW., Washington, DC 20526. Ms. Storti may be called at 202–254–6914. Comments on this form should be addressed to Mr. Donald Arbuckle, Desk Officer, Office of Management and Budget, Washington, DC, 20503.

Information Collection Abstract:

(1) *Title:* Medical Exam Reimbursement Forms.

(2) *Need for and Use of the Information:* Peace Corps needs this information in order to reimburse Volunteer applicants for the cost of medical and dental examinations required prior to their entry into service.

(3) *Respondents:* Individuals who apply and are nominated for Peace Corps Volunteer service.

(4) *Burden on the public:*

a. Annual reporting burden: 342 hours.

b. Annual recordkeeping burden: 0 hours.

c. Estimated average burden hours per response: 5 minutes.

d. Frequency of response: on occasion.

e. Estimated number of likely respondents: 4,100.

This notice is issued in Washington, DC, on August 30, 1989.

Margaret H. Thome,

Associate Director for Management.

[FR Doc. 89–20807 Filed 9–5–89; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142

Upon Written Request, Copy Available From: Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–1002.

Extension: File No. 270–303—Rule 6c–9 and Form N–6C9.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 6c–9 and Form N–6C9 under the Investment Company Act of 1940 (the "Act"). The rule permits a foreign bank or the bank's finance subsidiary to sell its debt securities or non-voting preferred stock in the United States without registering as an investment company under the Act. Each of the estimated fifty respondents annually incurs an average estimated one burden hour to comply with this requirement.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street, NW., Washington, DC 20549–6004, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Project (3235–0344), Room 3208 New Executive Office Building, Washington, DC 20543.

Dated: August 29, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20896 Filed 9–5–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27189; File Nos. SR–CBOE–89–16; SR–PSE–87–21, Amendment No. 5; SR–Phlx–89–46]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc.; Notice and Order Granting Accelerated Approval to Proposed Rule Changes Relating to Extension of the Market Index Option Escrow Receipt Pilot Program

On July 21, 1989, the Chicago Board Options Exchange, Inc. ("CBOE"), and the Pacific Stock Exchange, Inc. ("PSE") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] proposed rule changes to extend the market index option escrow receipt ("MIOER") pilot program until January 1, 1990.[3]

In August 1985, the Commission approved a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options.[4] The proposed rule changes are designed to extend the pilot program until such time as the exchanges and the Options Clearing Corporation ("OCC") resolve certain matters concerning the format of the receipt and administration of the program. The proposed rule changes also are designed to provide the CBOE the opportunity to update its report concerning the effectiveness of the MIOER program [5] and provide the Commission the opportunity to review the updated information.

The Commission finds good cause both for approving the proposed rule changes and approving them prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** for several reasons. First, an extension of the pilot, retroactive from April 30, 1989 through January 1, 1990, will allow for the uninterrupted continuation of a program designed to reduce operational difficulties of banks and trust companies while the options exchanges and the OCC continue their review of the receipt format. Second, the extension will allow the Commission to continue its evaluation of the program's effectiveness. Third, the pilot was previously approved by the Commission and no adverse comments have been received regarding its operation.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [6] that the proposals to extend the operation of the pilot, retroactive from April 30, 1989 through January 1, 1990 (SR–CBOE–89–16; SR–PSE–87–21, Amendment No. 5; and SR–Phlx–89–46) be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: August 28, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20894 Filed 9–5–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27190; File SR–MCC–89–10]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp. Relating to Technical Changes to MCC's Fund/Serv Service

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1988).

[3] On August 7, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx") submitted a substantially identical proposal for the extension of the MIOER pilot. *See* File No. SR–Phlx–89–46. Hereinafter, the terms "self-regulatory organizations" and "exchanges" refer to the CBOE, PSE, and Phlx.

[4] *See* Securities Exchange Act Release No. 22323 (August 13, 1985), 50 FR 33439 for a description of the pilot.

[5] *See* Chicago Board Options Exchange, Inc., *Market Index Option Escrow Receipt Pilot Report* (February 6, 1987).

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30–3(a)(12) (1988).

that on August 17, 1989 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed change would make the technical changes described below to the Midwest Clearing Corporation's ("MCC") Fund/Serv Service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to make certain technical changes to MCC's Fund/Serv rules to more accurately reflect the way that exchanges are handled and have been handled. Exchanges allow a mutual fund owner the ability to switch from one fund to a different mutual fund investment within the same family of funds without incurring additional charges and without having to exchange money.

Commencing August 25, 1989, MCC will no longer accept for processing through Fund/Serv exchanges where the mutual shares are held in physical form. Due to the short settlement period, there is not sufficient time to perform the operational arrangements necessary to complete the work involved in the cancellation of physical shares involved in an exchange. These transactions have not been able to be processed since initiation of Fund/Serv since the mutual funds themselves do not accept physical shares in these circumstances. Accordingly, this filing is correcting the language to the present Fund/Serv rule to conform to existing practice.

The proposed rule change is consistent with section 17A of the Securities Exchange Act of 1934 (the "Act") in that it promotes the prompt and accurate clearance and settlement of mutual fund transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

MCC has not solicited or received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities & Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to file number SR-MCC-89-10 and should be submitted by September 27, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 28, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-20693 Filed 9-5-89; 8:45 am]

BILLING CODE 8010-01-M

[34-27193; File No. SR-PTC-89-02]

Self-Regulatory Organizations; The Participants Trust Co.; Order Approving a Proposed Rule Change Eliminating the Right of a Receiving Participant, Acting as an Agent, To Reverse a Transfer if it Determines in Good Faith That its Principal May Be Unable To Fulfill its Reciprocal Obligations

August 29, 1989.

On July 11, 1989, the Participants Trust Company ("PTC") filed a proposed rule change (SR-PTC-89-2) pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposed rule change appeared in the Federal Register of July 26, 1989.[2] No comments were received. As discussed below, the Securities and Exchange Commission ("Commission") is approving the proposed rule change.

I. Description of the Proposal

The proposed rule filing amends Article II, Rule 13, section 6 of PTC's rules by deleting the provision that allows a receiving participant,[3] acting in an agency capacity, to reverse a transfer.[4] Currently, a PTC participant may reverse a transaction to either its agency account or pledgee account, if it determines, in good faith, that its principal may be unable to fulfill all of its obligations to the participant. In order to reverse a transaction, a participant must notify PTC of its intention to reverse a delivery before 3:30 p.m. [New York Time [NYT]] on the day settlement would have occurred (forty-five minutes before final payment

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[1] 15 U.S.C. 78s(b)(1) (1981).

[2] Securities Exchange Act Release No. 27046 (July 19, 1989), 54 FR 31,134 (July 26, 1989).

[3] PTC's rules define a "Receiving Participant or Limited Purpose Participant" as the "intended recipient of an Account Transfer * * *." PTC Rules, Art. I, Rule 1.

[4] The term "transfer" within the context of the proposed amendment refers to an "Account Transfer," which is defined by PTC's rules as a "a requested book-entry transfer from one account on the books of * * * [PTC] to another Account * * *." *Id.*

is due, at 4:15 p.m. [NYT]).[5] The participant will be held liable for the account transfer if it fails to give notice within the time frame specified by PTC.

Pursuant to PTC's current rules a transfer reversal must comply with the account transfer rules. According to these rules the reversal must be fully collateralized by the remaining equity in the corresponding transfer account.[6] PTC measures the level of collateralization at the time the receiving participant issues the reversal instructions. PTC will not process a reversal if a pledge or liquidation of the equity remaining in the transfer account would be insufficient to cover a potential participant's default on its net debit balance.

II. PTC's Rationale for the Proposed Rule Change

According to PTC, the proposed rule change will enhance the finality of the PTC settlement system. Settlement finality has been a constant concern of the industry, the Commission and the Board of Governors of the Federal Reserve System ("FRS"). PTC believes that the proposed rule change will eliminate the uncertainty, delay and confusion prompted by reversals, thus improving the finality of its settlement system and placating the regulatory and industry concerns over the lack of settlement finality.

In this regard, PTC also believes that the proposal complies with section 17A(b)(3)(F) of the Act,[7] because it provides for the prompt and accurate settlement of securities transactions at PTC.

III. Discussion

Sections 17A(b)(3) (A) and (F) of the Act require that a clearing agency have the capacity and the rules necessary to promote the prompt and accurate clearance and settlement of securities transactions for which it is responsible.[8] The Commission believes that PTC's proposal is consistent with these objectives. The proposal is one of several rule changes PTC undertook to implement when it applied for registration as a clearing agency [9] and membership in the FRS.[10] PTC's current rule limits transfer reversals to transactions involving participants acting in an agency capacity. This rule operates to allocate losses among financial intermediaries acting on behalf of one customer in the event of that customer's default.

Transfer reversals, however, affect the net position of a receiving participant who has incurred obligations with other participants in reliance on the temporary cash credit resulting from the transaction subsequently cancelled by the agent. This situation potentially could cause succeeding failures, if the reversal results in further defaults and reversals.[11] Moreover, since a participant can reverse a delivery at the end of the day (*i.e.*, forty-five minutes before final payment is due), the potential for a liquidity crisis can be particularly acute.

The Commission believes that the additional protection offered by settlement finality, as set forth in PTC's proposal, will enhance PTC's capacity to safeguard securities and funds while promoting the prompt and accurate settlement of securities as required by section 17A(b)(3)(A) of the Act.[12] Eliminating delivery reversals will require participants acting in an agency capacity to exercise greater control over their customer accounts. In particular, if a customer fails to deposit sufficient funds with a participant who can not reverse a delivery, the participant, acting in an agency capacity, will have greater incentive to obtain the necessary funds from their customers in time to meet its settlement obligations.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed filing (SR–PTC–89–02) be, and is hereby, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20895 Filed 9–5–89; 8:45 am]

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[Release No. 34–27170; File No. SR–Phlx–89–05]

Self-Regulatory Organization; Order Approving Proposed Rule Changes by Philadelphia Stock Exchange Relating to the Automated Submission of Customer and Proprietary Trading Data by Member Firms

I. Introduction

The Philadelphia Stock Exchange ("Phlx" or "Exchange") has submitted for Commission consideration, pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] proposed rule changes that would require member firms to submit certain customer and proprietary trading information in an automated format.[2] The information to be submitted is what the Exchange routinely requests in connection with its market surveillance inquiries (so-called "blue sheet information").

Under the proposal, where the Phlx requests information on proprietary transactions by a member or member firm, the member firm must submit specified information to the Exchange in the designated automated format.[3] Where an information request to a member firm from the Phlx involves transactions executed for a customer's account, the proposed rules require submission, in the automated format, of the information required for proprietary trades plus additional data identifying the customer.[4] The proposed rules also

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[5] Telephone conversation with Kathryn S. Pruim, Vice President and Secretary, Participants Trust Company (August 18, 1989).

[6] PTC Rules, Art. II, R. 13 section 1(b).

[7] 15 U.S.C. 78q–1(b)(3)(F) (1981).

[8] 15 U.S.C. 78q-1(b)(3) (A) & (F) (1981).

[9] *See* Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13,266, 13,267 (March 31, 1989). *See also* Letter from Lois J. Radisch, Attorney, Milbank, Tweed, Hadley & McCloy (Counsel to PTC), to Jonathan Kallman, Assistant Director Division of Market Regulation, Securities and Exchange Commission (February 8, 1989) (Representing PTC's intention to amend its rules in order to disallow the reversal of transfers).

[10] Letter from William W. Wiles, Secretary of the Board of Governors of the FRS, to Thomas A. Williams, Attorney Milbank, Tweed, Hadley & McCloy (March 27, 1989). PTC filed the instant proposal with the FRS. The Federal Reserve Bank of New York has responded, stating no objection to the proposed rule change. Letter from Ernest T. Patrikis, General Counsel and Executive Vice President, Federal Reserve Bank of New York, to Kathryn S. Pruim, Vice President and Corporate Secretary, PTC (June 27, 1989).

[11] *See* Staff FRS, Proposals for Modifying the Payments System Risk Reduction Policy 90 (May 1989).

[12] 15 U.S.C. 78q-1(b)(3)(A). As explained in PTC's Temporary Registration Order, the Commission believes that PTC has sufficient capabilities to safeguard funds and securities in a manner consistent with the Act, without having to rely on reversals. These safeguarding capabilities include: Membership applicant standards and continuing financial qualifications for participants, a participants funds, full collateralization of delivery obligations, net debit caps, specific procedures to manage participant defaults and insolvencies, including committed lines of credit to allow PTC to meet its immediate settlement obligations if a participant defaults and rules allocating losses in the event any occur. *See* Securities Exchange Release No. 26671, *supra* note 9, at 13,270.

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[1] 15 U.S.C. 78s(b).

[2] The Phlx proposal was noticed in Securities Exchange Act Release No. 26536 (February 15, 1989), 54 FR 7117 (February 16, 1989). No comments were received on the proposal.

[3] The proposed rule specify that member organizations will submit in an automated format the following information for proprietary trades: Clearing house member for the organization submitting the data, and the member or member firm on the opposite side of the trade; symbol identifying the security; date of transaction; number of shares in each transaction and description of the type of transaction (*e.g.*: Purchase, sale, short sale); transaction price; account number; and the market center where the transaction was executed.

[4] The proposed rules provide that the additional information required for these non-proprietary

Continued

provide that the Exchange may require that additional types of information be submitted in an automated format,[5] and permit the Exchange to grant exceptions to member firms from the requirement that requested blue sheet information be submitted in an automated format.

In its filing, the Phlx states that a universal automated format for the transmission of member firms' proprietary and customer transaction data has been developed by the Intermarket Surveillance Group and the Securities Industry Association, working in conjunction with the self-regulatory organizations. The Exchange believes that its adoption of this automated blue sheet format will significantly enhance its regulatory and surveillance capabilities by enabling its surveillance staff to review and analyze blue sheet information more rapidly and more effectively. Receiving the data in a compatible automated format will permit the Exchange to enter the data directly into its computer systems for analysis. In addition, the Exchange believes that the new automated format will enable member firms complying with the proposed rule to respond to such information requests with greater speed and efficiency since complying firms will no longer have to manually assemble the requested blue sheet information.

The Commission has closely reviewed the provisions of the proposed Phlx rules, and believes that they are consistent with the requirements of the Act, particularly sections 6(b)(1) and 6(b)(5). The adoption of the universal automated format for blue sheet information under the proposed rules will significantly improve the ability of the Phlx's regulatory and surveillance staffs to conduct their market surveillance and monitoring responsibilities under sections 6(b)(1) and 6(b)(5) and other provisions of the Act. The Commission also believes that adoption of the automated format will make it easier for member firms complying with the proposed rules to gather and submit information in response to requests from the Exchange in a timely manner and will thus reduce the regulatory burden on those firms. Further, receipt of such market surveillance information in an automated format will permit the Exchange's surveillance staff to review and analyze the data more rapidly and effectively by enabling them to enter the data directly into the Exchange's own computer systems for analysis. In addition, in instances where the Exchange refer matter to the Commission for further action, availability of the pertinent blue sheet information in an automated format will also facilitate the Commission's ability to analyze and evaluate relevant trading and market surveillance data. Finally, the proposal is identical to proposals by other exchanges that the Commission has approved previously.[6]

It is therefore, ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Dated: August 23, 1989.

Shirley E. Hollis,

Assistant Secretary.

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BILLING CODE 8010-01-M

trades includes: customer name; address; branch office number; registered representative number; whether the order was solicited or unsolicited; date account was opened; employer name; tax identification number(s); and, if the customer was also a member broker-dealer, whether the firm executing the order was acting as a principal or agent on the transaction.

[5] Any proposed rule requiring submission of additional information in an automated format would have to be submitted to the Commission for approval pursuant to the requirements of section 19(b) of the Act and Rule 19b-4 thereunder.

[6] *See* Securities Exchange Act Release No. 26536 (February 10, 1989).

[Release No. 34-27178; File No. S7-24-89]

Joint Industry Plan; Notice of Filing of a Proposed Reporting Plan for NASDAQ/NMS Securities Traded on an Exchange on an Unlisted or Listed Basis by the National Association of Securities Dealers, Inc., and the American, Boston, Midwest, and Philadelphia Stock Exchanges

On June 21, 1989, pursuant to Rules 11A3-2 and 11A3-1 under the Securities Exchange Act of 1934 ("Act"), the National Association of Securities Dealers, Inc. ("NASD"), together with the American ("Amex"), Boston ("BSE"), Midwest ("MSE"), and Philadelphia ("Phlx") Stock Exchanges filed with the Securities and Exchange Commission ("Commission") a proposed Joint Industry Plan ("Plan") governing the collection, consolidation and dissemination of quotation and transaction information for NASDAQ/National Market System ("NMS") Securities listed on an exchange or traded on an exchange pursuant to a grant of unlisted trading privileges ("UTP").

I. Background

On September 16, 1985, the Commission announced its willingness to grant UTP to national securities exchanges in NMS securities if certain terms and conditions were met.[1] The Commission determined to establish a one-year pilot program during which each exchange requesting UTP would be permitted to trade up to 25 OTC securities designated as NMS Securities pursuant to Rule 11A2-1 under the Act. The Commission's willingness to grant UTP was conditioned, in part, on its approving a plan submitted by certain exchanges and the NASD to consolidate and disseminate exchange and OTC quotation data and transaction data in OTC securities upon which UTP is granted ("Joint Industry Plan").[2] The exchanges and the NASD have been negotiating the terms of the transaction reporting plan since that time.

Because of the protracted negotiations, the MSE decided in 1986 to enter into an interim transaction reporting plan with the NASD that was significantly more limited than the plan now under consideration.[3] On April 29, 1987, the Commission approved the MSE's application for UTP in 25 OTC securities [4] and simultaneously

[1] *See* Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38235 ("OTC/UTP Release"). The grant of UTP in specific securities would be pursuant to section 12(f) of the Act, and only after the notice and comment period specified in that section. Furthermore, section 12(f)(2) requires that the Commission, prior to granting UTP for any security, must find that the grant is consistent with the maintenance of fair and orderly markets and the protection of investors. Before granting a UTP application in an OTC stock, the Commission must also consider, among other things, the public trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

[2] OTC/UTP Release, *Supra* note 1, 50 FR 38235.

[3] For example, under the interim plan, the NASD and MSE use the existing NASDAQ System and the NASD's transaction reporting system to collect, consolidate and disseminate quotation and transacation information received from NASDAQ market makers and the MSE in eligibile securities. The NASD disseminates on NASDAQ Level I service (which provides the best bid and offer quotations in each NASDAQ security without identifying market makers) a consolidated best bid and offer quotation with size based upon quotation information for eligible securities received from the MSE and NASDAQ market makers. The best bid and offer quotation and transaction reports do not contain market identifiers. *See* Securities Exchange Act Release No. 24635 (June 23, 1987), 52 FR 24149.

[4] *See* Securities Exchange Act Release No. 24407 (April 29, 1987), 52 FR 17349.

approved the interim transaction reporting plan submitted by the MSE and the NASD ("MSE/NASD Plan").[5] If the Commission approves the Joint Plan, it is anticipated that the MSE/NASD Plan ultimately will be superceded by the Joint Industry Plan.

II. Description of the Plan

The proposed Joint Industry Plan provides for the collection from the Plan Participants, and the consolidation and dissemination to vendors, subscribers and others of quotation and transaction information in "eligible securities," *i.e.*, NMS Securities traded on an exchange on a listed or UTP basis.[6] The following is a summary of the major provisions of the Plan. The full text of the Plan, as well as a "Concept Paper" describing the requirements of the Plan, are contained in the original filing which is available for inspection and copying in the Commission's Public Conference Room.

A. Implementation of the Plan

In its submission, the NASD stated that it will implement the Plan when (a) the Commission approves the Plan, and (b) the Commission grants an Exchange Participant's application for UTP in NASDAQ/NMS securities pursuant to Section 12(f) of the Act.[7] When the Plan Processor, which under the terms of the Plan will be NASDAQ, Inc. for at least the first 5 years, reports that the necessary modifications to the NASDAQ System have been completed and that it is ready to initiate operations, Exchange Participants will transmit quotation information and transaction reports in eligible securities to the Processor via computer-to-computer interfaces ("CTCI"), except that Limited Participants, and any Exchange Participant that is not yet ready with its CTCI, will transmit information through the NASDAQ System, using the NASDAQ Workstation Service.

B. Manner of Collecting, Processing, Sequencing, Making Available, and Disseminating Last Sale Information

Section VI.B. of the Plan provides that the Processor shall be capable of receiving last sale information on transactions in eligible securities received from Exchange Participants using a CTCI, and from NASDAQ market makers using NASDAQ-approved devices. The Processor will use the NASDAQ System and the NASD's Transaction Reporting System, modified to include marketplace identifiers, to consolidate last sale information in eligible securities received from the Participants and disseminate it to authorized vendors, subscribers, and news services in a fair and nondiscriminatory manner, via the NASDAQ/NMS Last Sale Information Service, as specified in the Concept Paper. Limited Participants and Exchange Participants that have not yet implemented a CTCI will utilize the NASDAQ Workstation Service, and will not market identifiers on their trade reports. The Processor will accept transaction reports in eligible securities from Exchange Participants, Limited Participants, and NASDAQ market makers and include them in a consolidated last sale data stream on a first-in, first-out basis.

C. Reporting Requirements

Pursuant to Section XI of the Plan, Participants will be required to report transactions in eligible securities executed between 9:30 a.m. and 4:00 p.m. Eastern Time ("ET") to the Processor between the hours of 9:30 a.m. and 4:01:30 p.m. ET on all days the Processor is in operation. Transaction reports may be entered after 4:01:30 p.m. ET, but they shall be reported as "late," in accordance with the rules of the Participant in whose market the transaction occurred. At the expense of any requesting Participant(s), the Processor will disseminate last sale trade reports until 4:30 p.m. ET.

D. Standards and Methods Ensuring Promptness, Accuracy, and Completeness on Transaction Reports

Section XII of the Plan requires that each participant enforce compliance by its members with the Plan's provisions. The rules of each Participant, to the extent they are not inconsistent with the Plan, will apply to the actions of the Participant's members in reporting quotation and transaction data in eligible securities executed through the Participant's facilities.[8]

The NASD stated that it would monitor members' compliance with the requirement that transaction reports be promptly reported, accurate and complete, primarily through examinations of NASDAQ market makers' books and records. Should the NASD discover apparent rule violations, the NASD will ocnsider possible disciplinary action. The NASD stated that it believed the other Participants will use similar methods to ensure the promptness, accuracy, and completeness of transaction reports.

The Processor also will check the accuracy and completeness of transaction reports by using the automatic validation feature of the NASD's Transaction Reporting System. That system automatically will check data transmitted by a NASDAQ market maker or Exchange Participant to ensure that all required information has been reported and that the reported price is reasonable as measured against the current market price. If information is missing or improperly reported, or if the reported price exceeds established parameters, the Processor will reject the report and will notify the reporting party through its CTCI or terminal.

E. Terms and Conditions of Access

As required by the 1985 UTP Release, the Plan provides that NASDAQ market makers shall have access to the exchange markets to the same extent that NASDAQ market makers provide access to OTC trading facilities. Section IX.A of the Plan provides that each Exchange Participant and Limited Participant shall provide each NASDAQ market maker with direct telephone access to the specialist post in each Eligible Security in which the NASDAQ market maker is registered as a market maker. Similarly, pursuant to section IX.B., the NASD shall ensure that each Exchange Participant, Limited Participant, and their members have direct telephone access to the trading desk of each NASDAQ market maker in each eligible security in which it displays quotations.

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[5] *See* Securities Exchange Act Release No. 24635 (June 23, 1987), 52 FR 24149.

[6] The signatories of the Plan, *i.e.*, the NASD, Amex, MSE, Phlx, and the BSE, are the "Participants." The BSE, however, has joined the Plan as a "Limited Participant," and only will report quotation information and transaction reports in NASDAQ/NMS securities listed on the BSE. (The BSE is not now interested in trading OTC securities on an unlisted basis but, because it has listed several NASDAQ/NMS securities that it wishes to continue trading, it is participating on a limited basis in the Plan.) The Plan provides that any other national securities association or exchange in whose market eligible securities are or become traded may become a Plan Participant by executing a copy of the Plan and paying its share of development costs. (Limited Participants, however, do not pay development costs.) "Participant" is used in this release to refer both to full and Limited Participants, unless otherwise indicated.

[7] The NASD also noted that the BSE's participation is contingent upon the Commission granting it an exemption from the requirement of paragraph (b)(2)(iii) of Rule 11Aa3-1 under the Act to provide market identifiers on transaction reports or last sale data. *See* letter from George W. Mann, Jr., Senior Vice President and General Counsel, BSE, to Christine Sakach, Branch Chief, Division of Market Regulation, SEC, data August 17, 1989, and discussion at pp. 11-12 *infra*.

[8] In its submission to the Commission, the NASD noted that the pertinent rules include Article III, sections 1, 5 (and accompanying Interpretation), 6 (and accompanying Policy), and 18 of the NASD's Rules of Fair Practice, and applicable provisions of Schedule D of the NASD By-Laws.

F. Description of Operation of Facility Contemplated by the Plan

The Plan makes specific provision for administration of the UTP Service by the Participants through an Operating Committee.[9] As noted above, NASDAQ, Inc. will, at least initially, be the Plan Processor. In that capacity, NASDAQ, Inc. will modify the NASDAQ System to permit the Participants to report to NASDAQ quotation and trade data for eligible securities. The basic operations of the UTP Processor are described in the Concept Paper.

G. Method and Frequency of Processor Evaluation

Section V.A. of the Plan provides that the Processor's performance is subject to review by an Operating Committee during the fifth year of its initial five-year term, and periodically thereafter (at least every two years, or from time to time upon the request of any two Participants but not more frequently than once each year).

Section V.B. provides that, in evaluating the Processor's performance, the Operating Committee shall consider whether the Processor has performed its functions in a reasonably acceptable manner in accordance with the provisions of the Plan, and whether its reimbursable expenses are excessive and not justified on a cost basis. Among the factors the Operating Committee may consider in evaluating whether the Processor has performed its functions in a reasonably acceptable manner are the reasonableness of its response to requests from Exchange or Limited Participants for technological changes or enhancements pursuant to Section IV.C.2. of the Plan. Section V.B. also provides that if the Operating Committee determines that the Processor has failed to perform its functions in a reasonably acceptable manner in accordance with the provisions of the Plan or that its reimbursable expenses have become excessive and not justified on a cost basis, the Processor may be terminated by a majority vote of the Operating Committee; provided, however, that Limited Participants shall not vote. Pursuant to Section IV.C.1.b. of the Plan, replacement of the Processor for any reason other than termination for cause requires the Operating Committee's unanimous vote.

[9] Unanimous votes would be required for certain matters, including amendments to the Plan, reduction of fees charged, and replacement of the Processor.

H. Dispute Resolution

The Plan does not include any provision for a specialized mechanism for the resolution of disputes arising under the Plan. Section IV.A. of the Plan authorizes the Operating Committee to make decisions and take action within specified areas of responsibility, and provides that such decisions or action are binding upon each Participant, without prejudice, however, to the rights of any Participant to seek redress from the Commission pursuant to Rule 11Aa3–2 or in any other appropriate forum.

I. Method of Determination and Imposition, and Amount of, Fees and Charges

With the exception of standard charges to Limited Participants and Exchange Participants using NASDAQ Workstation Service, the Plan does not provide for the imposition of any fees or charges in connection with the collection, consolidation, and dissemination of information regarding eligible securities. Section IX.A of the Plan prohibits an Exchange or Limited Participant from imposing or permitting the imposition of any access or execution fee, or any other fee or charge, with respect to transactions in eligible securities effected with NASDAQ market makers that are communicated to the exchange floor by telephone.

Section XIV of the Plan provides that the NASD shall recover from exchange participants a sum of money to be negotiated.[10] The Plan also provides for revenue sharing, but states that the method of revenue sharing shall not be included in the Plan at this time. The method of revenue sharing is to be resolved within one year of the commencement of the UTP Service. Net revenues will be distributed to Participants (but not Limited Participants) in a manner to be determined. Prior to any such distribution, however, all operating and administrative expenses of the Processor in connection with the Plan shall be offset against operating revenues.

[10] Section XIV of the Plan states that "[i]t is expressly agreed and understood among the Participants that specific provisions governing the issues of cost allocation and revenue-sharing among the Participants will not be included in the Plan at the time of execution thereof, but will be resolved within one year from the commencement of the Plan's operation. The provisions agreed upon by the Participants will be applied on a retroactive basis by means of an amendment to the Plan. There shall be no retroactive application if the Participants are unable to agree upon a cost allocation and revenue-sharing provision or the amount of recapture. * * *"

J. Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan

The Participants have entered into an agreement, memorialized in an Undertaking dated April 1, 1989, which provides that for the one-year period following the date on which the UTP Processor commences operations, each initial entry or update of quotation information in Eligible Securities shall be effected by an individual at a computer terminal and shall not be programmed or automated. A copy of the Undertaking is attached to the filing.

III. The Boston Stock Exchange's Request for Exemption

As described above, the Plan does not provide for market identifiers for transaction reports and the inclusion of Limited Participants in the consolidated best bid and offer quotation.[11] Subsection (b)(2)(viii) of Rule 11Aa3–1, however, requires that any transaction reporting plan submitted to the Commission must provide market identifiers for transaction reports or last sale data made available to vendors.[12] Thus, the BSE, as the only Limited Participant under the Plan, requested that the Commission exempt it from this requirement.[13] The BSE stated that it has signed the Plan only because it seeks to continue to provide trading facilities for 21 dually listed (*i.e.*, listed on the BSE and traded in NASDAQ) stocks that it listed on the BSE as of the date the Plan was filed with the Commission and does not wish to apply for OTC/UTP.[14] To accommodate the

[11] Limited participants will send transaction and quotation data to the processor through the NASDAQ system, specifically through Workstation Terminals, in the same manner of OTC market markes. The NASDAQ system has never disseminated market identifiers for transaction and quotation reports for NMS securities.

[12] Rules 11Ac1–1 and 11Ac1–2 also require market identifiers for transaction and quotation reports. The Commission previously provided NASDAQ and vendors exemptions, however, under these rules. *See* Securities Exchange Act Release No. 18585 (March 23, 1982), 47 FR 13265; letter from Richard G. Ketchum, Associate Director, Division of Market Regulation, SEC, to James M. Yates, Bridge Data Company, dated March 30, 1982. These exemptions will continue to apply to dissemination under the Plan.

[13] Letter from George W. Mann, Jr., Senior Vice President and General Counsel, BSE, to Christine Sakach, Branch Chief, Division of Market Regulation, SEC, dated August 17, 1989.

[14] Any exchange that trades securities covered by the Plan is required to sign the Plan or delist such securities. Therefore, the BSE was required to sign the Plan to continue trading the 21 dually listed stocks, or delist those 21 issues.

BSE, the Plan Participants created the category of "Limited Participants," which do not pay any of the development costs of modifying NASDAQ to accommodate OTC/UTP and have limited voting rights under the Plan.[15] Limited Participants will not be permitted to either expand the number of dually listed issues or to apply for OTC/UTP.[16]

IV. MSE Comment Letter

The Commission has received one comment letter from the MSE on the proposed Plan.[17] The MSE stated that two issues were not resolved to its satisfaction during the negotiations among the Participants under the Plan.

First, the MSE stated that the Plan provides that nothing therein will affect existing agreements between the NASD and the International Stock Exchange and the Singapore Stock Exchange. The MSE stated that it is troubled by this provision for two reasons. First, the NASD has not made these agreements available for inspection, despite requests to do so. The MSE maintains that the Plan Participants have been asked to accept this provision without the opportunity to assess the potential effect of these agreements on the Participants or the Plan. Second, the MSE is troubled by the fact that there are no restrictions on further amendments to the agreements. Thus, according to the MSE, there is nothing to prohibit further amendments that may affect the rights and obligations of the Participants.

The second issue that has not been resolved to the MSE's satisfaction concerns the best bid and offer ("BBO"). The Plan provides that, in calculating the BBO disseminated to vendors, if quotations of more than one Participant are identical, the earliest in time shall be the best.[18] The MSE believes, however, that the BBO should be determined by size, not time priority, and referred to the Commission's adoption of Rule 11Ac1–2 in 1979 and the accompanying release in support of its position.[19]

In addition to the two issues mentioned above, the MSE also opposes the separate formal agreement that the participants would not allow their members to use Autoquote systems for a period of one year for those securities subject to the Plan.[20] The MSE stated that the NASD declined to sign the Plan if the exchanges were permitted to use Autoquote for NASDAQ stocks, and that the NASD introduced this condition immediately prior to the scheduled sign-up date for the Plan, after 3 years of negotiations. The MSE noted that it agreed to refrain from using Autoquote for one year, along with the other Participants, despite its belief that the condition is inappropriate. The MSE asked that the Commission consider whether to approve the one year prohibition.

Finally, the MSE requested that the grant of OTC/UTP be expanded to allow each exchange to trade 100 OTC Securities on an unlisted basis.[21] Since May 1987, the MSE has traded 25 NASDAQ/NMS securities pursuant to its interim UTP Plan with the NASD. Based on its experience during this period, the MSE believes that the Commission should expand the program from 25 to 100 OTC stocks.[22] The MSE, in addition to requesting that the interim Plan be expanded to 100 OTC stocks, has requested that the proposed Joint Industry Plan also encompasses 100 stocks.

V. Request for Comment

Interested persons are invited to submit written data, views and arguments concerning: (1) The provisions of the Joint Industry Plan; (2) the BSE's request for an exemption from the Rule 11Aa3–1 requirement that transaction reporting plans provide that transaction reports include market identifiers; and (3) the MSE's request to expand the pilot program to 100 securities.[23] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposal that are filed with the Commission, and all written communications relating to the proposal between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by September 27, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: August 24, 1989.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20892 Filed 9–5–89; 8:45 am]

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[34–27192; File No. SR–NSCC–87–04; SR–MCC–87–03; SR–SCCP–87–03]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the National Securities Clearing Corp., Midwest Clearing Corp., and Stock Clearing Corp. of Philadelphia on a Temporary Basis

August 29, 1989.

The National Securities Clearing Corporation ("NSCC"), Midwest Clearing Corporation ("MCC"), and Stock Clearing Corporation of Philadelphia ("SCCP") have filed proposed rule changes permitting them to guarantee at an earlier time settlement of member trades in their respective Continuous Net Settlement ("CNS") systems. The proposals also would permit NSCC, MCC, and SCCP (collectively, "the Clearing Corporations") to revise the CNS portion

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[15] While Limited Participants are permitted to attend all meetings, they are permitted to vote only on those matters that directly effect them.

[16] Limited participants could, however, become full Participants, pay their share of the development costs and apply for OTC/UTP.

[17] Letter from J. Craig Long, Vice President, General Counsel and Secretary, MSE, to Jonathan G. Katz, Secretary, SEC, dated July 7, 1989.

[18] NASDAQ calculates the BBO based on price and time priority for all securities traded in the NASDAQ system.

[19] The MSE stated that the relevant parts of that Release provide that time receipt is a "less useful" factor as orders are not routed on the basis of quotation time, and, if anything, the "oldest" quotation is more likely to be stale. Size, alternatively, provides investors with the depth of the market displaying the best price. *See* Securities Exchange Act Release No. 16590 (February 19, 1980), 45 FR 12391.

[20] Autoquote systems allow specialists automatically and instantaneously to update their quotes when some predesignated condition occurs (for example, the primary market in a security changes its quote). The MSE stated that the regional exchanges developed Autoquote systems to permit specialists to eliminate stale quotations.

[21] As noted above, the Commission has indicated a willingness to approve a one-year pilot program during which each exchange will be permitted to trade up to 25 OTC stocks on an unlisted basis. *See* OTC/UTP Release, *supra* note 1, 50 FR 38235.

[22] The MSE stated in its comment letter that there had been no disruption of the OTC market during the pendency of the interim plan, that pricing efficiency generally had improved in all 25 securities, and that it has been very difficult to attract order flow with only 25 stocks.

[23] In the alternative, commenters also are requested to address whether OTC/UTP should be expanded to all NASDAQ/NMS securities included on NASDAQ on or after April 26, 1979, in order to parallel the Commission's Rule 19c–3 which removed all off-board trading restrictions on securities listed on an exchange after that date. *See* Rule 19c–3 under the Act, 17 CFR 240.19c–3 (1989). In this regard, commentators should estimate the number of securities as well as the percentage of transaction and dollar volume which would be covered by such a requirement.

of their respective clearing fund formulas to protect against increased risk posed by an earlier guarantee.[1] The Commission requested public comment on the proposals,[2] and no comments were received. This Order approves the proposals on a temporary basis until December 31, 1990.[3]

I. Description of the Proposals

The proposals permit the Clearing Corporations to guarantee settlement [4] of CNS trades [5] at an earlier time. Under the proposals, "locked-in" trades [6] are guaranteed as of midnight on the day after trade date (T+1), while other trades are guaranteed as of midnight on the day they are reported to members as compared (usually the second day after trade date (T+2)).[7] Prior to the proposals, the Clearing Corporations guaranteed settlement of CNS trades on the fourth day after trade date (T+4). The proposals reduce the time during which clearing members are exposed to the risk of *contra*-side default but increase the time during which the Clearing Corporations are exposed to such risk.

To protect against increased CNS system risk associated with an earlier guarantee, each Clearing Corporation proposes to revise the CNS portion of its clearing fund formula. NSCC's revised CNS clearing fund formula [8] includes the following components: (a) 2 percent of the member's projected total long CNS positions;[9] plus (b) the net of each day's difference between the contract price of pending, compared CNS trades and the current market price for all guaranteed pending CNS trades which have not yet reached settlement;[10] plus (c) .25 percent of the net of all guaranteed pending CNS trades and open CNS positions.[11]

NSCC calculates CNS clearing fund requirements daily and collects clearing fund deposits monthly, unless circumstances justify, as described below, additional deposits on a more frequent basis. NSCC may collect additional intra-month clearing fund deposits from a member if: (a) That member's current clearing fund requirement (based on the previous 20 business day's activity) for CNS activity is more than 25% higher than its present clearing fund deposit; or (b) the average of that member's last five days' clearing fund requirements (each day's requirement based on the previous 20 days' activity) for CNS activity is more than 15% higher than its present clearing fund deposit.[12] NSCC collects intra-month deposits on the day these parameter breaks occur. NSCC does not require an increased contribution if the deficiency is less than 10% of the member's clearing fund deposit or $10,000 and may grant exemptions from the additional deposit requirement in certain instances.[13]

MCC also has revised the NCS portion of its clearing fund formula.[14] Prior to implementation of its revised formula, MCC established, for a selected 20-day period,[15] each member's pre-settlement long and short positions for NCS trades. Each day during that period that a member had a net debit exposure,[16]

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[1] NSCC filed its proposed rule change (SR-NSCC-87-04) on February 27, 1987, and amendments to that proposal on March 11, 1987, and October 1, 1987. In its March 11, 1987 amendment, NSCC proposed that when-issued trades not be subject to its earlier CNS guarantee. *See* Letter from Michael Simon, Associate General Counsel, NSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, dated March 22, 1987. As described in detail *infra*, in its October 1, 1987 amendment, NSCC established standards for the imposition of intra-month clearing fund deposit requirements. MCC filed its proposed rule change (SR-MCC-87-03) on June 2, 1987. SCCP filed its proposed rule change (SR-SCCP-87-03) on October 26, 1987, and an amendment to that proposal on June 8, 1989. As noted *infra*, SCCP's amendment conformed its earlier guarantee time frames to those proposed by NSCC and MCC.

[2] *See* Securities Exchange Act Release Nos. 24301 (April 3, 1987), 52 FR 11892; 24705 (July 15, 1987), 52 FR 27486; and 26954 (June 22, 1989), 54 FR 27260.

[3] NSCC and MCC, following notification to the Division of Market Regulation ("Division"), implemented their earlier guarantee proposals prior to this Order, based on authority granted the Clearing Corporations in their rules prior to the proposed amendments. *See* Rule 18 of NSCC's Rules. *See* also, Article VII, Rules 2 and 3 and Article X, Rule 11 of MCC's Rules. SCCP has not implemented its earlier guarantee proposal. Since 1982, however, SCCP has guaranteed, as of trade date, all trades executed by a specialist with a SCCP participant recorded in a SCCP margin account. Such trades are guaranteed up to 1,000 shares.

[4] Until the Clearing Corporation guarantees settlement of a trade, each side to the trade bears the risk of the *contra*-side defaulting if the Clearing Corporation ceases to act for a defaulting member. Once the Clearing Corporation guarantees settlement, the original contractual obligations between the two parties are discharged and replaced by contracts between the Clearing Corporation and each of the original parties (*i.e.*, the Clearing Corporation becomes the buyer to every seller and the seller to every buyer).

[5] Two other accounting systems, the Balance Order and Trade-by-Trade systems, are used to process transactions not eligible for CNS. Under the Balance Order system, balance orders, in the form of receive and deliver tickets, are netted by the Clearing Corporation and guaranteed on settlement date. Under the Trade-by-Trade system, transactions are cleared through the Clearing Corporation but are settled by the individual parties to the transaction.

[6] Locked-in trades (*i.e.*, trades executed through automated order routing and trade execution systems) are reported to members as compared on T+1.

[7] Originally, SCCP proposed to guarantee locked-in trades as of midnight on T+2 and non-locked-in trades as of midnight on the day after the trades were reported to members as compared. SCCP's June 8, 1989 amendment conforms its proposal to the time frames described above.

[8] Under NSCC's prior CNS clearing fund formula, a member was required to deposit 2.5% of its average daily settlement debits and credits, other than the member's envelope settlement system debits and credits.

[9] NSCC believes this component of its revised formula protects against the risk that a member purchasing securities will be unable to pay for those securities upon delivery (*i.e.*, allocation risk).

[10] NSCC believes this component of its revised formula protects against the risk that the market price of compared trades will move away from their contract price before settlement (*i.e.*, mark-to-the-market risk). This component represents the absolute dollar value of mark-to-the-market risk. Credits are not factored into the mark-to-the-market calculation.

[11] When an NSCC member becomes insolvent, NSCC ceases to act for that member and liquidates the member's positions. Even if the member has made mark-to-the-market payments prior to becoming insolvent, the liquidation price may differ from the current price in the CNS system. NSCC believes this third component guards against current market price to liquidation price risk.

In addition to the three components described above, NSCC requires members to deposit 2.5% of the member's average daily envelope settlement system debits and credits or 5% of its average daily envelope settlement system debits, whichever is greater, subject to a $10,000 minimum contribution.

[12] For example, assume that on July 20, 1989, Broker A's clearing fund requirements is $782,366. Further assume Broker A's end of June clearing fund requirement was $617,968. Broker A could be assessed an intra-month clearing fund deposit under part (a) of the formula above, because its July 20, 1989 requirement would exceed its end of June clearing fund requirement by 27%. Alternatively, if on July 20, 1989, the average of Broker A's last five days' clearing fund requirements is $777,685, it could be assessed an intra-month clearing fund deposit under part (b), because that weekly requirement would exceed Broker A's end of June requirement by 26%.

[13] NSCC would grant an exemption from the additional deposit requirement if it determines that (1) a member does not pose additional risk that would require an additional deposit prior to the month-end review, or (2) the increase appears to be due to general market conditions unrelated to risk posed by the member (*e.g.*, a single trade inconsistent with a member's normal business causes a parameter break or a mispriced trade results in a parameter break).

[14] Under MCC's prior CNS clearing fund formula, a member was required to deposit 2% of its daily average short value positions (*i.e.*, a member's position when its net open commitments from sales and borrowings of a security exceed its net open commitments from purchases of the security) plus .5% of its daily average long value positions (*i.e.*, a member's position when its net open commitments from purchases of a security exceed its net open commitments from sales and borrowings of the security) and loan value positions (*i.e.*, position of a member with respect to a security loaned by the member under CNS), with a minimum deposit requirement of $5,000 in cash.

[15] That period was September 27, 1987 through October 19, 1987.

[16] Net debit exposure is the net amount payable by a member to MCC on account of securities movements, settling trades, changes in value positions ("marks-to-the-market"), and other amounts payable by the member as a result of services provided by MCC. Credits are not factored into the net debit exposure calculation.

MCC assessed that member at a rate of 102% of that exposure. The average dollar amount each member was assessed during the 20-day period became that member's initial clearing fund requirement.[17]

MCC calculates CNS clearing fund requirements daily. If a member's average net debit exposure for a particular day (each day's average based upon the member's previous 20 business days' activity) exceeds the member's current clearing fund requirement (as derived from adjustments to the initial clearing fund requirement described above) by more than 10%, it is assessed an additional clearing fund contribution that day. Additional clearing fund requirements not exceeding this parameter break are collected weekly.

SCCP also has revised the CNS portion of its clearing fund formula. Under that revised formula, members are required to deposit the larger of: (a) The member's monthly average trading activity based on the preceding quarter, $1,000 for every 25 trading units of 100 shares, with a $5,000 minimum and $50,000 maximum contribution (*i.e.*, SCCP's current CNS clearing fund formula) and (b) the aggregate dollar amount of the member's long trades at their execution price for each quarter divided by the number of days in such quarter, multiplied by 2%. The maximum amount collectable per participant under the revised formula is $100,000.

SCCP would calculate clearing fund requirements quarterly but would monitor member mark-to-the-market exposure daily. If a participant has mark-to-the-market exposure[18] exceeding $10,000 for a particular day, it would be assessed that amount that day as an additional clearing fund requirement.

During the temporary approval period ("Period"), the Division will collect data from the Clearing Corporations to assess the ability of their proposed CNS clearing fund formulas to guard against increased risk posed by an earlier CNS guarantee.[19] Specifically, the Clearing Corporation will select 30 members (including five members in each of six categories: retail, specialist, market-maker, clearing, institutional, and arbitrage members). The Clearing Corporations will provide, with respect to each sample member, (a) the dollar value of daily mark-to-the-market exposure for guaranteed trades that have not reached settlement, (b) the dollar value of the clearing fund deposit held by the Clearing Corporation, and (c) the daily clearing fund calculation produced under the revised formula, including identification of parameter breaks and intra-month deposits.

II. Rationale for the Proposals

The Clearing Corporations believe their proposed rule changes are consistent with the purposes and requirements of section 17A of the Act. Specifically, they believe their proposals, in guaranteeing at an earlier time the settlement of CNS system trades, provide increased stability and certainty in the securities markets. Moreover, they believe proposed revisions to the CNS portion of their respective clearing fund formulas adequately protect against increased risk posed by earlier guarantees.

III. Discussion

The Commission believes the proposals to expand the number of trades subject to Clearing Corporation guarantees are consistent with the Act, and Section 17A in particular. Specifically, the Commission believes the proposals are designed to increase trade settlement certainty without compromising the safety of clearing member funds and securities. The Commission is approving the proposals on a temporary basis, however, while it monitors the adequacy of Clearing Corporation safeguards applicable to earlier CNS guarantees.

The Commission believes the proposals are designed to increase the certainty of CNS trade settlement.[20] Prior to the proposals, clearing members were exposed to the risk of *contra*-side default from the date of comparison until T+4. Under the proposals, members are relieved of that potential financial exposure to the extent the Clearing Corporations assume responsibility to settle compared CNS trades on T+1 or T+2.

The Commission recognizes that earlier CNS guarantees, without appropriate safeguards, may pose increased risk to member funds and securities. A clearing agency's primary protection against member default is the defaulting member's clearing fund contribution. Upon default, the clearing agency liquidates the defaulting member's open commitments through purchases and sales in the open market. The clearing agency covers any loss from liquidation with the defaulting member's clearing fund deposit. The clearing agency is authorized to assess non-defaulting members, on a *pro-rate* basis, if the defaulting member's deposit is insufficient to cover that loss.[21] An earlier clearing agency guarantee increases exposure to market risk for guaranteed trades, thereby increasing exposure to clearing members that if a member defaults, the liquidation losses of the defaulting clearing member will be greater and so too will be *pro-rata* assessments.

During the Market Break, Clearing Corporation safeguards applicable to

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[17] Members with a 20-day average below MCC's $5,000 minimum clearing fund deposit requirement were not required to provide additional funds.

[18] Marking-to-the-market refers to the process by which the difference between securities' market value and the contract price is collected from parties to a transaction. Unlike NSCC and MCC, SCCP's daily calculation of member mark-to-the-market exposure would be based on that day's exposure rather than average exposure for a 20-day period.

[19] As discussed *infra*, the Commission is concerned that daily clearing fund calculations based on mark-to-the-market average exposure for a rolling 20-day period may not reflect actual mark-to-the-market exposure as well as, for example, daily collection of marks-to-the-market ("marks"). As discussed *infra*, data provided by the Clearing Corporations during the temporary approval period will be used to evaluate this concern.

[20] Prior to implementation of the proposals, earlier guarantees were discussed at the 1984 Securities Processing Roundtable ("Roundtable"). Roundtable participants urged clearing agencies "to investigate the feasibility of earlier trade guarantees, in conjunction with a marking system, to increase safety and service quality in the National [Clearance and Settlement] System and to provide an early warning about potential defaults by participants that are unable to meet their obligations." Roundtable participants believed earlier guarantees would increase trade settlement certainty and benefit trading strategies coupling stock trades with options or futures trades. *See* U.S. Securities and Exchange Commission, *Report of the Division of Market Regulation 1984 Securities Processing Roundtable* (May 31, 1984) at viii ("Roundtable Report").

[21] The risk of *Pro-rata* assessment was most evident during the October 1987 Market Break ("Market Break"). On October 21, 1987, NSCC, as well as other clearing agencies, ceased to act for Metropolitan Securities ("Metropolitan"), because Metropolitan failed to meet its settlement obligations on October 20, 1987. NSCC liquidated 166 Metropolitan positions from October 22, through November 3, with a total contract value of $58,438,000 and reversed CNS allocations from Metropolitan's account totaling approximately $5.6 million in value. NSCC's loss prior to applying Metropolitan's clearing fund contribution was approximately $570,000. After applying Metropolitan's $175,000 clearing fund contribution, NSCC sufferend a loss of approximately $395,000. That loss was covered by NSCC retained earnings and no *pro-rate* assessments occurred. *See The October 1987 Market Break, A Report by the Division of Market Regulation, U.S. Securities and Exchange Commission (February 1988)* ("Market Break Report") at 10–17.

NSCC and the Options Clearing Corporation ("OCC") ceased to act for H.B. Shaine & Co. Inc. ("Shaine") on October 20, 1987. In that liquidation, OCC suffered an $8.5 million loss and allocated that loss on a *pro-rata* basis among its clearing members, marking the first time a clearing agency's members have had their clearing fund deposit assessed in connection with the default of another member. NSCC did not suffer a loss in the Shaine liquidation. *See* Market Break Report at 10–18 and 10–44.

earlier CNS guarantees were tested. Although the Clearing Corporations maintained aggregate CNS clearing funds sufficient to cover aggregate mark-to-the-market exposure,[22] some clearing members had CNS clearing fund deposits insufficient to cover individual mark-to-the-market obligations.[23] To guard against mark-to-the-market exposure, the Division suggested that the Clearing Corporations consider collecting marks on all open obligations from the time of guarantee (generally T+1 or T+2 under the proposal) through the scheduled settlement date [the fifth day after trade date (T+5)], instead of collecting such marks on settlement date, which is current Clearing Corporation practice.[24] The Division believed this process would reduce Clearing Corporation risk to one-day price fluctuations (and liquidation risks) on guaranteed trades, compared with three or four-day price fluctuations (and liquidation risks) inherent in trade guarantees on T+1 or T+2.[25] As described above and discussed below, NSCC and MCC would calculate market exposure on guaranteed, pending trades, but would collect only a percentage of that exposure in the ordinary course.

Data provided by the Clearing Corporations during the temporary approval period should address whether their revised formulas adequately address increased risk posed by an earlier guarantee or whether additional safeguards, such as collection of marks from the date of trade guarantee through settlement, should be implemented. As indicated below, the Commission is concerned that daily clearing fund calculations based on a member's average mark-to-the-market exposure for a rolling 20-day period may not reflect that member's actual daily mark-to-the-market exposure. The data should permit the Commission to compare a member's daily mark-to-the-market exposure with that member's daily clearing fund requirement and determine whether the revised formulas adequately account for daily mark-to-the-market exposure. The data also should permit the Commission to monitor Clearing Corporation intra-month deposit requirements and determine whether those requirements are adequate safeguards.

In addition to their revised clearing fund formulas, the Clearing Corporations employ other safeguards designed to protect against member default and the possibility of *pro-rata* assessment. Specifically, the Clearing Corporations monitor extensively member financial condition, review member settlement activity in relation to prior activity, and monitor securities settled in its systems for volatility. The Clearing Corporations can collect additional marks or clearing fund deposits if a member's financial condition deteriorates or its settlement activity increases dramatically or becomes concentrated in volatile securities. The Clearing Corporations also routinely review clearing member CNS contractual obligations to identify delivery obligations that have not been affirmed by cash account customers through depository institutional delivery systems, thereby enabling the Clearing Corporations to identify CNS obligations members may not be able to settle on T+5 (*e.g.*, because their customers have not acknowledged the terms of the trade or have not authorized settlement with those clearing members) and take appropriate action (*e.g.*, require additional marks or clearing fund deposits) to protect against member default. The Clearing Corporations are enhancing their risk monitoring systems in response to Commission recommendations.[26]

[22] For example, on October 20 and October 21, 1987, NSCC's CNS market risk exposure was approximately $90.7 million and $92.25 million respectively. NSCC's clearing fund, with approximately $437 million in deposits on October 31, 1987, was sufficient to cover that risk exposure. *See* Market Break Report, *supra* note 21, at 10–24.

[23] For example, in a sample of 30 NSCC members (including five members in each of six categories: retail, specialist, market-maker, clearing, institutional, and arbitrage members) four members on October 19, 1987, six members on October 20, 1987, and seven member on October 21, 1987, would have had daily marks in excess of their clearing fund deposits. *See* Market Break Report, *supra* note 21, at 10–24.

[24] *See* Market Break Report, *supra* note 21, at 10–24 and 10–25.

[25] *Id.* Roundtable participants also discussed an earlier mark-to-the-market system to guard against increased clearing corporation exposure resulting from an earlier guarantee. Many broker-dealers believed that for customer-related activity, they would be forced to fund earlier marks themselves, because institutional customers generally settle on a cash-on-deliver basis and would be unwilling to, or legally restrained from, paying marks prior to settlement. Those brokers, however, believed they could fund non-cash marks by depositing letters of credit or valued securities with the clearing corporation. It was suggested that smaller broker-dealers could have difficulty even with non-cash marks. *See* Roundtable Report, *supra* note 20, at viii.

[26] For example, in the Market Break Study, the Division recommended that NSCC enhance its current risk monitoring system. As discussed above, NSCC monitors its member's guaranteed positions that have not reached settlement to assess its liquidation exposure. NSCC marks the member's open but unsettled positions to the closing prices of the previous day to determine the potential cost of liquidation to NSCC if that firm defaults. Previously, NSCC's monitoring system could not provide real-time estimates of liquidation cost (*i.e.*, it marked positions to yesterday's close but did not take into account today's price movements or, perhaps more importantly, potential price movements tomorrow). Thus, if current prices varied significantly from yesterday's close, NSCC did not have an accurate, up-to-the-minute cost of liquidation. NSCC is in the process of developing, implementing, and testing systems to provide those estimates.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes are consistent with the Act and, in particular, section 17A. The Commission believes the proposals are designed to increase CNS trade settlement certainty. The Commission also believes, pending review of data submitted by the Clearing Corporations during the temporary approval period, the revised clearing fund formulas are designed to protect against increased risk posed by an earlier guarantee.

It is therefore ordered, pursuant to section 19(b) of the Act, that the proposed rule changes (SR–NSCC–87–4, SR–MCC–87–3, and SR–SCCP–87–3) be, and hereby are, approved on a temporary basis until December 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89–20891 Filed 9–5–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974

The Department of Transportation (DOT) herewith publishes a proposal to amend a system of records.

Any person or agency may submit written comments on the proposed altered system to: Lieutenant Commander C.M. Rich, U.S. Coast Guard, Office of the Chief Counsel, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593–0001. Comments must be received within 30 days to be considered.

If no comments are received, the proposed changes will become effective 30 days from the date of issuance. If comments are received, the comments will be considered and, where adopted, the document will be republished with the changes.

Issued in Washington, DC, August 25, 1989.

Melissa J. Allen,

Acting Assistant Secretary for Administration.

Narrative Statement—Department of Transportation, Office of the Secretary, on Behalf of the United States Coast Guard for Alteration of the Claims and Litigation Program Record System DOT/CG–508

The Office of the Secretary, on behalf of the Coast Guard, proposes to amend the Claims and Litigation Record System, DOT/CG–508, to permit the use of collection agencies and the International Revenue Service (IRS) tax refund offset for indebtedness to the United States.

The purpose of this notice is to revise the system to reflect the reorganization and centralization of the claims and litigation function at three units in the Coast Guard and to authorize the use of this system by collection agencies and as part of the IRS tax refund offset program. These changes should improve the effectiveness of the affirmative actions for civil penalty collection.

The changes include amendment to:

a. System location. This was changed to reflect the three locations where claims and litigation files are maintained.

b. Categories of individuals. This was changed to clarify which individuals could expect to find records located in this system.

c. Routine uses. This was changed to permit use of records within this system by collection agencies that are hired by the government to collect delinquent debts and to permit the records to be used as part of the IRS tax refund offset program.

d. Storage, retrievability, accessing, retaining, safeguards. This was changed to reflect the increased use of computers and magnetic disks for record storage.

Since this proposal is an amendment to an existing record system, the probable effects of this proposal on the privacy interests of the general public is minimal.

Authority for maintenance of the system is contained in 5 U.S.C. 3301.

Access to these records is controlled by the supervising attorneys for the respective commands. As a result, the probable or potential effects of this proposal on the privacy of the general public is minimal. Any interest that an individual had would have been waived by the filing of the claim or lawsuit.

A description of the steps taken by the Department of Transportation to safeguard these records is given under the appropriate heading of the attached Federal Register system of records notice.

The purpose of this report is to comply with Office of Management and Budget Circular A–130 Appendix I, dated December 12, 1985.

Amendment—DOT/CG–508

System Location: Amended to reflect the centralization of the Coast Guard claims and litigation function as a result of the reorganization of the Coast Guard. This more accurately reflects the location of the records for the various types of activities.

Categories of individuals covered by the system: Amended to clarify by explicitly stating the categories of individuals who could expect to find a record within this system.

Categories of records in the system: Amended to clarify the nature of the records maintained.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Amended to reflect the use of the records for offset against tax refund, and referral to the collection agencies.

Storage, retrievability, accessing, retaining, safeguards: Amended to include the use of computer and magnetic disks and to conform to amended record retention guidelines.

Record source categories: Revised to more accurately reflect sources of information that are used.

DOT/CG 508

SYSTEM NAME: Claims and Litigation. DOT/CG.

SYSTEM LOCATION: Department of Transportation (DOT). Litigation records are primarily located at Coast Guard Headquarters. Claims records are located at Coast Guard Headquarters and at the two Maintenance and Logistics Commands.

a. Litigation:

United States Coast Guard (CG), Commandant (G–LCL), 2100 2nd Street, SW., Washington, DC 20593–0001

b. Claims:

United States Coast Guard (CG), Commandant (G–LCL), 2100 2nd Street, SW., Washington, DC 20593–0001

Commander, Maintenance and Logistics Command Atlantic (ml), Governors Island, Building 400, New York, New York 10004–5098

Commander, Maintenance and Logistics Command Pacific (ml), Coast Guard Island, Alameda, California 94501–5100

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Persons who have filed a claim initiated litigation, or are the subject of an affirmative claim or litigation on behalf of the Coast Guard. Persons would include corporations, estates, insurance companies or other legal entities authorized by Federal law to file a claim or lawsuit against the United States or United States Coast Guard.

CATEGORIES OF RECORDS IN THE SYSTEM: Lawsuits and claims for and against the Coast Guard. Files may include all background information obtained in adjudicating or deciding the Coast Guard's position on the lawsuit or claim.

ROUTINE USES OF RECORDS IN THE SYSTEM including categories of users and the purposes of such uses:

a. Disclosures from this system may be made to Federal employees responsible for collecting debts owed the United States pursuant to 5 U.S.C. 5514, 31 U.S.C. 3716 and 37 U.S.C. 1007(c), including collection by means of referral to the IRS for deduction from tax refunds pursuant to 31 U.S.C. 3720a, or by means of withholding, revoking, suspending, or collecting by means of not renewing documents, licenses, loans or other privileges when authorized by law.

b. Disclosures from this system may be made to individuals, corporations, private counsel and other entities contracted by the United States to collect debts owed the United States pursuant to 31 U.S.C. 3718 and any other applicable statutes. The contracted collection agency, individual or counsel shall be subject to the Privacy Act.

c. Disclosures from this system may be made to other Federal, state and local agencies for assistance in resolving the claim or lawsuit.

d. See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCY: Disclosures from this system may be made to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12). The Coast Guard may disclose to a consumer reporting to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and the program under which the claim arose. The Coast Guard may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,

RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: Magnetic tape or disk, and file folders.

RETRIEVABILITY: Information is retrieved by individual name in alphabetical file or by taxpayer identification number.

SAFEGUARDS: Information available only to authorized personnel. Data processing access if by password. File folders retained in locked room when unattended.

RETENTION AND DISPOSAL: Record retained for one year at the responsible Coast Guard command and then forwarded to the Federal Records Center where they are destroyed 8 years after the final action on the lawsuit or claim. Card index files and magnetic tape and disk files retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS: Chief Counsel.
Department of Transportation, United States Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593–0001

NOTIFICATION PROCEDURE: Written request must be signed by the individual and be mailed to:
Department of Transportation, United States Coast Guard Headquarters, Commandant (G–TIS), 2100 2nd Street, SW., Washington, DC 20593–0001

RECORD ACCESS PROCEDURE: Procedures may be obtained by writing Commandant (G–TIS) at the address in "Notification Procedure" above. Proof of identity may be required prior to affording access to records.

CONTESTING RECORD PROCEDURE: Same as "Record Access Procedure."

RECORD SOURCE CATEGORIES:

a. Information obtained from Coast Guard military and civilian personnel, Coast Guard investigating officers, other law enforcement investigating officers, and members of the public.

b. Records from CG Privacy Act System DOT/CG 507.

[FR Doc. 89–20805 Filed 9–5–89; 8:45 am]

BILLING CODE 4910–62–17

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. app. I), notice is hereby given for the Executive Committee meeting to be held September 29, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks and introductions; (2) approval of the minutes of meeting held July 21, RTCA Paper No. 276–89/EC–1034; (3) Executive Director's report; (4) Special Committee Activities Report for July-August; (5) approval of RTCA Operations and Special Budgets for 1990 and Operations Planning Budget for 1991; (6) consideration of proposals to establish new special committees; (7) consideration of approval of Special Committee 160 report, "Minimum Operational Performance Standards for 406 MHz Emergency Locator Transmitters (ELT)"; (8) consideration of approval of Special Committee 147 change 6 to RTCA/DO–185, "Minimum Operational Performance Standards for TCAS II"; (9) other business; and (10) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 28, 1989.

Geoffrey R. McIntyre,
Designated Officer.

[FR Doc. 89–20854 Filed 9–5–89; 8:45 am]

BILLING CODE 4910–13–M

Airborne Area Navigation Equipment Using Multi-Sensor Inputs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comments.

SUMMARY: The proposed TSO–C115a prescribes the minimum performance standards that airborne area navigation equipment using mulit-sensor inputs must be identified with the marking "TSO–C115a."

DATE: Comments must identify the TSO file number and be received on or before December 15, 1989.

ADDRESS: Send all comments on the proposed technical standard order to: Technical Analysis Branch, AIR–120, Aircraft Engineering Division Aircraft Certification Service—File No. TSO–C115a. Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

OR DELIVER COMMENTS TO: Federal Aviation Administration, Room 335, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 267–9546.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

Changes incorporated in proposed TSO–C115a are to establish consistence criteria with later navigation equipment standards. TSO–C115 was first in a series of navigation equipment TSO's issued. Changes include new paragraphs addressing Holding Pattern Maneuvering, Automatic Scanning of Sensor, and Sensor Ground Facilities.

How To Obtain Copies

A copy of the proposed TSO–C115a may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT"**. TSO–C115a references Radio Technical Commission for Aeronautics Secretariat (RTCA) Document No. DO–187, dated November 13, 1987, for minimum performance standards, RTCA.CO–160B for the environmental standard, and TRCA/DO–178A for the computer software requirements; RTCA documents may be purchased from the Radio Technical Comission for Aeronautics Secretariat, One McPherson Square, Suite 500, 1425 K Street, NW., Washington, DC 20005.

Issued in Washington, DC, on August 28, 1989.

John K. McGrath,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 89-20855 Filed 9-5-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 89-84]

Approval of Unimar, Inc. as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Approval of Unimar, Incorporated as a commercial gauger.

SUMMARY: Unimar Incorporated of Houston, Texas recently applied to Customs for approval to gauge imported petroleum, petroleum products, organic chemicals, and vegetable and animal oils under § 151.13 of the Customs Regulations (19 CFR 151.13). Customs has determined that Unimar meets all of the requirements for approval as a commercial gauger.

Therefore, in accordance with § 151.13(f) of the Customs Regulations, Unimar, Incorporated, 14511 Woodforest Boulevard, Houston, Texas 77015, is approved to gauge the products named above in all Customs districts.

EFFECTIVE DATE: September 1, 1989.

FOR FURTHER INFORMATION CONTACT: Donald A. Cousins, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2446).

Dated: August 30, 1989.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Service.

[FR Doc. 89-20900 Filed 9-5-89; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 171
Wednesday, September 6, 1989

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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, September 19, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Rule Enforcement Review

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, 254–6314.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–21058 Filed 9–1–89; 3:00 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, September 19, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, 254–6314.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–21059 Filed 9–1–89; 3:00 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, September 26, 1989.

PLACE: 2033 K St., NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Amex Commodities Corporation 10 Year Treasury Note Futures
Minneapolis Grain Exchange Hard Red Spring Wheat Options

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, 254–6314.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–21060 Filed 9–1–89; 3:00 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, September 26, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Rule Enforcement Review

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, 254–6314.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–21061 Filed 9–1–89; 3:00 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, September 26, 1989.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Lynn K. Gilbert, 254–6314.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 89–21062 Filed 9–1–89; 3:00 pm]

BILLING CODE 6351–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

USITC SE–89–31

TIME AND DATE: Monday, September 11, 1989 at 2:00 p.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
   Certain Polymer Geogrid Products and Processes Therefor (Docket No. 1520).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 252–1000.

Dated: August 30, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–21018 Filed 9–1–89; 12:52 pm]

BILLING CODE 7020–02–M

NATIONAL LABOR RELATIONS BOARD

Notice of Meeting

TIME AND DATE: Immediately following a 9:30 a.m. case-adjudicatory meeting, Friday, September 8, 1989.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS CONSIDERED:

Personnel matters

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254–9430.

Dated, Washington, DC, September 1, 1989.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 89–21077 Filed 9–1–89; 3:42 pm]

BILLING CODE 7445–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 4, 11, 18, and 25, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 4

There are no meetings scheduled for the Week of September 4.

Week of September 11—Tentative

Monday, September 11

10:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, September 14

10:00 a.m.
Briefing on Status of NRC Technical Training Programs (Public Meeting)

Friday, September 15

9:00 a.m.
Briefing on Status of Maintenance Initiatives and Schedule (Public Meeting)

Week of September 18—Tentative

Wednesday, September 20

10:00 a.m.
Briefing on EPRI Design Requirements Document for Advanced Light Water Reactors (Public Meeting)

Thursday, September 21

10:00 a.m.
Briefing on Study of Adequacy of Regulatory Oversight of Materials Under a General License (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of September 25—Tentative

There are no meetings scheduled for the Week of September 25.

ADDITIONAL INFORMATION: By a vote of 4–0 on August 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that Commission business required that "Affirmation of Immediate Effectiveness Review for Full Power Licensing of Limerick, Unit 2" (Public Meeting) held on August 25, be held on less than one week's notice to public.

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: August 31, 1989.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 89–21063 Filed 9–1–89; 3:01 pm]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

By telephone and written vote, a majority of the members contracted and voting, the Board of Governors voted to add two items to the agenda for the meeting closed to public observation on September 11, 1989, in Washington, DC. The two items are: (1) Consideration of a proposed filing with the Postal Rate Commission for postal service changes and (2) a capital investment for new facilities at Dulles Airport in northern Virginia. [See 54 FR 36094, August 31, 1989, for prior Notice regarding time and place of this meeting.]

The meeting is expected to be attended by the following persons: Governors Alvarado, del Junco, Griesemer, Hall, Mackie, Nevin, Ryan and Setrakian; Postmaster General Frank; Deputy Postmaster General Coughlin; Secretary for the Board Harris; and General Counsel Cox.

As to the first item, the Board determined that, pursuant to section 552b(c)(3) and (10) of Title 5, United States Code, and section 7.3(c) and (j) of Title 39, Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information in connection with proceedings under chapter 36 of Title 39 [having to do with postal ratemaking, mail classification and changes in postal services], which is specifically exempted from disclosure by section 410(c) (4) of Title 39, United States Code.

As to the second item, the Board determined that, pursuant to section 552b(c)(9)(B), of title 5, United States Code, and section 7.3(i) of Title 39, Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information, the prematrure disclosure of which would likely significantly frustrate implementation of a proposed procurement action.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation, pursuant to section 552b(c)(3), (9)(B) and (10) of Title 5 and section 410(c)(4) of Title 39, United States Code, and section 7.3(c), (i) and (j) of Title 39, Code of Federal Regulations.

Request for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

Paul J. Kemp,

Certifying officer.

[FR Doc. 89–21017 Filed 9–1–89; 12:52 pm

BILLING CODE 7710–12–M

federal register

Wednesday
September 6, 1989

Part II

Environmental Protection Agency

48 CFR Parts 1529 and 1552
Acquisition Regulation; Clarification of Cost-Reimbursable Type Contracts for Determining the Availability of State and Local Tax Exemptions; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1529 and 1552

[FRL-3570-6]

Acquisition Regulation; Clarification of Cost-Reimbursable Type Contracts for Determining the Availability of State and Local Tax Exemptions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the Environmental Protection Agency (EPA) Acquisition Regulation (EPAAR) to clarify Contractor responsibility under cost-reimbursable type contracts for determining the availability of State and local tax exemptions and obtaining such exemptions, when available. The action is necessary to ensure Contractors do not unnecessarily pay State and local taxes for which an exemption is available. This action places the responsibility for determining the availability of an exemption on Contractors.

DATE: Written comments should be submitted not later than October 6, 1989.

ADDRESS: Comments should be addressed to Environmental Protection Agency, Procurement and Contracts Management Division (PM-214F), 401 M Street SW., Washington, DC 20460, attn: Joseph Nemargut, Jr.

FOR FURTHER INFORMATION CONTACT: Joseph Nemargut, Jr. at (202) 475-8176 (FTS 475-8176).

SUPPLEMENTARY INFORMATION:

A. Background

Under cost-reimbursable type contracts, the Environmental Protection Agency (EPA) may authorize a contractor to purchase equipment needed in performance of a contract. Generally in such cases, title to the equipment vests immediately in the EPA. State and local governments may offer contractors and subcontractors exemptions from the payment of State and local taxes, such as a State sales tax on such purchases. The availability of such exemptions depends upon the particular State or local law involved.

This rule places responsibility on contractors to determine the availability of State and local tax exemptions and obtain such exemptions, when available. Under the Federal Acquisition Regulation, the EPA may not reimburse Contractors and subcontractors for payment of State and local taxes for which exemptions were available.

B. Executive Order 12291

OMB Bulletin No. 85-7, dated December 14, 1984, establishes the requirements for Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring OMB review.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not propose any information collection requirements, which would require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Regulatory Flexibility Act

The EPA certifies this rule does not exert a significant economic impact on a substantial number of small entities. The rule merely clarifies contractor responsibility for determining the availability of State and local tax exemptions, and obtaining such exemptions, when available. Reimbursement for payment of State and local taxes for which exemptions are available is already prohibited under the Federal Acquisition Regulation, regardless of the size of the entity.

List of Subjects in 48 CFR Parts 1529 and 1552

Government procurement, Taxes, Solicitation provisions and Contract clauses.

For the reasons set out in the preamble, Chapter 15 of Title 48 Code of Federal Regulations is proposed to be amended as set forth below.

1. Part 1529 is added to 48 CFR Chapter 15 to read as follows:

PART 1529—TAXES

Subpart 1529.3—State and Local Taxes

1529.303 Application of State and local taxes to Government contractors and subcontractors.

Subpart 1529.4—Contract Clauses

1529.401 Domestic contracts.

1529.401-70 Cost-reimbursable type contracts.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1529.3—State and Local Taxes

1529.303 Application of State and local taxes to Government contractors and subcontractors.

Contractors are responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available, unless the Contracting Officer determines under FAR 31.205-41(b)(3) that the administrative burden outweighs the corresponding benefit. Contractors are responsible for ensuring that subcontractors also seek and obtain such exemptions, if available.

Subpart 1529.4—Contract Clauses

1529.401 Domestic contracts.

1529.401-70 Cost-reimbursable type contracts.

Contracting Officers shall insert the clause at 1552.229-70 in all solicitations and contracts when it is anticipated a cost-reimbursable type contract shall be used or a contractor or subcontractor shall be reimbursed for materials at cost.

PART 1552—[AMENDED]

2. The authority citation for Part 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

3. Part 1552 is amended by adding section 1552.229-70 to read as follows:

1552.229-70 State and local taxes.

As prescribed in 1529.401-70, insert the following clause:

State and Local Taxes (Sep 1989)

In accordance with FAR 29.303 and FAR 31.205-41, the Contractor or any subcontractor under this contract shall not be reimbursed for payment of any State and local taxes for which an exemption is available. The Contractor is responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available. The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts at any tier. The Contractor shall notify the Contracting Officer if problems arise in obtaining State and local tax exemption. The contractor may seek a waiver by the Contracting Officer from this requirement if the administrative burden of seeking an exemption appears to outweigh the potential savings to the Government.

(End of Clause)

Dated: August 7, 1989.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 89-20763 Filed 9-5-89; 8:15 am]

BILLING CODE 6560-50-M

federal register

Wednesday
September 6, 1989

Part III

Department of Transportation

Coast Guard

33 CFR Part 151 and 46 CFR Part 25
Prevention of Pollution From Ships;
Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

46 CFR Part 25

[CGD 88-002A]

RIN: 2115-AC89

Prevention of Pollution From Ships

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to require that all manned, oceangoing, U.S. ships 79 feet or more in length engaged in commerce keep records of garbage discharges. The Coast Guard is also proposing to require that all manned oceangoing U.S. ships 40 feet or more in length engaged in commerce, or equipped with galleys and berths, maintain waste management plans. Finally, the Coast Guard is proposing that all U.S. ships 26 feet or more in length prominently post informational placards for crew and passengers. The term "ship" includes fixed and floating platforms and recreational vessels. The proposed regulations would implement requirements of the "Act to Prevent Pollution from Ships," as amended. If these proposals are adopted it will facilitate compliance with the Act and reduce the amount of plastics, including synthetic fishing nets, and other ship generated garbage discharged into the marine environment.

DATES: Comments must be submitted on or before November 6, 1989.

ADDRESSES: 1. Written comments should be submitted to the Executive Secretary, Marine Safety Council (G-LRA-2/3600), U.S. Coast Guard Headquarters, Room 3600, 2100 Second Street, SW., Washington, DC, 20593-0001. Attention: CGD 88-002A. A draft Regulatory Evaluation and Environmental Assessment are available for inspection and copying at the same address. Normal office hours are between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

2. Persons desiring to comment on the information collection requirements in the proposed rules should submit their comments to: Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, Attention: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Carl A. Crampton, Project Manager, Office of Marine Safety, Security and Environmental Protection (G-MPS-3), (202) 267-0491, between 7:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: For the convenience of the reader, the supplementary information explaining this rulemaking is organized as indicated below:

Drafting Information

The principal persons involved in drafting this notice are: Lieutenant Commander Carl A. Crampton, Project Manager, Office of Marine Safety, Security and Environmental Protection and Mr. Stanley Colby, Project Counsel, Office of Chief Counsel.

I. Background

The Act to Prevent Pollution from Ships (33 U S.C. 1901 *et seq.*), hereafter referred to as the Act, requires the Secretary of the Department in which the Coast Guard is operating to administer and enforce the various Annexes of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), done at London on February 17, 1978. Annex V of MARPOL 73/78 is entitled "Regulations for the Prevention of Pollution by Garbage from Ships" and its purpose is to reduce the discharge of ship-generated garbage into the marine environment. A particular focus of Annex V is to prevent the discharge of plastics, including synthetic fishing nets, and other debris which persist in the marine environment. The President signed Pub. L. 100-220, including Title II, known as the the "Marine Plastic Pollution Research and Control Act of 1987" (MPPRCA) on December 29, 1987 which provides the authority to implement the requirements of Annex V of MARPOL 73/78. Annex V and the Act became effective December 31, 1988.

The Coast Guard published an interim rule in the **Federal Register** of April 28, 1989 (54 FR 18384) to implement the requirements of Annex V of MARPOL 73/78 and the Act which concern the actual disposal of plastics and other garbage. In that interim rule, 33 CFR 151.55, 151.57, and 151.59 were reserved for a subsequent rulemaking to implement the recordkeeping and informational requirements of section 2107(b) of title II by specifying which ships must develop waste management plans, maintain records of garbage discharges, or post informational placards for the crew and passengers. This notice proposes regulations to implement these requirements for U.S. ships. In developing the interim regulations published on April 28, 1989, the Coast Guard received comments from government, industry and private environmental organizations as to how the Coast Guard should implement these record keeping and informational requirements. Those comments, along with data extracted from the economic and environmental evaluations conducted for the interim rule were used to develop these proposed rules.

II. Regulatory Approach

The proposed regulations would provide the text to be inserted in the reserved sections in 33 CFR part 151, and revise 46 CFR part 25. The proposal uses terms that are currently defined in title 33, Code of Federal Regulations, § 151.05. Some of the more important definitions are repeated here as an aid to understanding this proposal.

Ship means a vessel of any type whatsoever, operating in the marine environment. This includes hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating drilling rigs and other platforms.

Oceangoing ship means a ship that—

(1) Is operated under the authority of the United States and engages in international voyages;

(2) Is operated under the authority of the United States and is certificated for ocean service;

(3) Is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land;

(4) Is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in 33 CFR 2.05; or

(5) Is operated under the authority of a country other than the United States.

It should be noted that a Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the United States and Canada is not an oceangoing ship.

Person means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

The proposed regulations would apply only to U.S. ships because the Act requires the Coast Guard to prescribe regulations implementing refuse record books, waste management plans and placards applicable to ships of U.S. registry, nationality, or operating under the authority of the United States. The

proposed regulations apply primarily to oceangoing ships because garbage discharge within U.S. navigable waters has long been prohibited. In addition, vessels operating within 3 miles of the coast have frequent opportunity to discharge their garbage to facilities ashore. Oceangoing vessels also have greater chance for undetected illegal garbage discharge. Finally, regulating all ships would create a large and unnecessary burden on the public.

In drafting these proposed rules, the Coast Guard considered the sources and amounts of garbage produced by different categories of vessels. The consideration revealed that although a specific category of vessel can produce a great deal of garbage, the amount of garbage discharged by an individual vessel in that category may be low. These proposed rules establish a scaled approach providing lesser requirements for vessels creating smaller amounts of garbage per ship, while providing greater requirements for those vessels that produce greater amounts of garbage per ship, particularly those that may be operating in areas where indiscriminate discharge overboard could be a temptation. The Coast Guard selected categories of ships for the proposed requirements based on the estimated amount of garbage produced per ship, and the area in which the ship operates.

Section 151.55 proposes the use of a Refuse Record Book because the Coast Guard believes that manned U.S. oceangoing ships 79 feet or more in length engaged in commerce are likely to generate and discharge garbage in areas where there is little outside incentive to comply with the regulations concerning the disposal of garbage. These ships would be required to maintain the Record Book in conformance with the instructions contained in the book. Initially, the Record Books would be issued by local Coast Guard Marine Safety Offices. Following that initial issue the Record Books would be purchased from the Government Printing Office for a nominal fee. The proposed regulations would require that the Record Books be returned to the Coast Guard within 30 days of the first anniversary of the initial entry, when all space for entries has been used, when the ship changes owners, or when the ship is no longer required to keep a Record Book. The Coast Guard expects to use the books as an enforcement tool and as research material for evaluation of this regulatory program and its effect on the environment.

Proposed § 151.57 would require that all manned oceangoing U.S. ships 40 feet or more in length, engaged in commerce or equipped with galleys and berths, prepare waste management plans. The Coast Guard believes these vessels would create significant amounts of garbage per ship because they are large enough to operate in the marine environment for periods that might promote garbage discharge overboard and discourage retention aboard for land disposal. These vessels could also operate in areas where there is little outside incentive to comply with the regulations concerning the disposal of garbage. Written waste management plans would ensure that personnel responsible for the handling of ship generated garbage are aware of the garbage pollution regulations and ensure that a consistent procedure is identified for the handling of garbage aboard the ship. This is particularly desirable for commercial vessels that may have frequent crew changes.

Proposed § 151.57 would require that all U.S. vessels 26 feet in length or more post placards in a prominent location on the vessel as a reminder of the restrictions on garbage disposal and the penalties for non-compliance. Although the additional vessels covered by this section have the capacity to create large amounts of garbage as a group, without galleys and overnight accommodations there is less likelihood for extended voyages requiring the identification of procedures for the retention of garbage aboard. A simple reminder should be sufficient to prevent all but willful violations.

III. Regulatory Evaluation and Environmental Assessment

Regulatory Evaluation

The Coast Guard considers these regulations to be non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979) and non-major under Executive Order 12291. A draft regulatory evaluation has been prepared and placed in the rulemaking docket. Copies of the evaluation may be inspected or copied at the address indicated in the first paragraph of ADDRESSES above.

The Coast Guard determined the implementation costs of these regulations by considering vessel types: passenger vessels, towing vessels, merchant vessels, fishing vessels, recreational vessels, vessels engaged in offshore oil and gas operations, research and other miscellaneous classes of vessels. The costs for each of the actions proposed by these regulations were calculated for each vessel type. The costs for each action were then multiplied by the estimated number of each vessel type that would be subject to the proposed regulations. The total annual projected costs are approximately $7.2 million. This burden is apportioned among the vessel types as follows: Merchant shipping, $0.16 million; passenger vessels, $3.4 million; towing vessels, $.027 million; fishing vessels, $1.08 million; recreational boating, $.87 million; vessels engaged in offshore oil and gas operations including manned fixed and floating platforms, $1.6 million; research and other miscellaneous classes of vessels, $.069 million. The primary difference in these costs is due to the population of vessels subject to the requirements.

Quantifiable and environmental benefits for the proposed regulations are similar to those benefits estimated for the interim rule. The Coast Guard believes that it is impossible to separate benefits deriving from this proposed rulemaking from benefits that were enumerated in the interim rule. Therefore, the potential net benefits of these proposed regulations are estimated to be positive.

Environmental Impact

The proposed regulations have been thoroughly reviewed by the Coast Guard and have been determined to be categorically excluded from further environmental documentation as provided for in 10 CFR 51.22(c)(3). Therefore, neither an Environmental Assessment or Environmental Impact Statement has been prepared for this Interim Rule. A Categorical Exclusion Determination has been made for these regulations and may be inspected or copied at the address indicated in the first paragraph of ADDRESSES above. The regulations are expected to have a positive but not significant environmental impact, as defined in the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*). The regulations are expected to contribute to the reduction of the occurrence of plastic as well as other ship-generated garbage in the marine environment. Since the placarding requirement will remind persons of their responsibilities under the law, and the amounts and locations of discharge of significant quantities of garbage will be recorded, the Coast Guard feels that there can be no negative environmental impact and there will be a beneficial effect, even if not quantifiable.

Regulatory Flexibility Act

A regulatory flexibility analysis was conducted in accordance with the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) to evaluate the impact of the rule

on small entities and it has been made part of the Draft Regulatory Evaluation. The Coast Guard is proposing to adopt the definition of "small business" used when the Small Business Administration is considering loans to concerns engaging in marine transportation (13 CFR 121.2 Table 2) as a definition for small entities. A concern is considered small, under this definition, if its annual receipts do not exceed $3.5 million.

The Coast Guard does not have accurate information on how many vessels would qualify as small entities. However, the Coast Guard estimates that this will affect 2,200 miscellaneous U.S. flag vessels of less than 1,000 gross tons, 14,800 fishing vessels, and 600 vessels engaged in offshore oil and gas operations that would be considered as small entities.

These regulations contain reporting or recordkeeping requirements for small entities. Most vessels which are small entities would have to comply with the requirements for placards and waste management plans but would be exempt from the requirement for Record Books. Based on a calculation that the annualized compliance costs would be less than 1.5 percent of net income or operational costs for representative entities, the Coast Guard certifies that this rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

These regulations will establish information collection requirements at 33 CFR 151.55 and 33 CFR 151.57. Revisions to existing OMB paperwork approvals, which have been assigned RCS/OMB Control Numbers 2115–0025 and 2115–0120 respectively, have been submitted to the Office of Management and Budget (OMB) for this Notice of Proposed Rulemaking. Persons desiring to comment on this information collection requirement should submit their comments to the Office of Management and Budget at the address listed in the second paragraph of ADDRESSES above. It is requested that a copy of these comments also be submitted to the Coast Guard at the address shown in the first paragraph of ADDRESSES above.

Federalism Statement

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

Regulatory Information Number (RIN)

A regulatory information number has been assigned to this regulatory action and it is listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center (RISC) publishes the Unified Agenda in April and October of each year. The RIN number listed at the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

33 CFR Part 151

Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

In consideration of the preceding, it is proposed to amend part 151 of title 33, Code of Federal Regulations, as follows:

PART 151—[AMENDED]

1. The authority citation for subpart A of part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C) and 1903(b); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

2. By amending § 151.05 by adding the definition for the term "Act" in the proper alphabetical sequence to read as follows:

§ 151.05 Definitions.

* * * * *

"Act" means the Act to Prevent Pollution from Ships, as amended (33 U.S.C. 1901, *et seq.*).

* * * * *

3. By adding § 151.55 to read as follows:

§ 151.55 Recordkeeping requirements.

(a) This section applies to each manned oceangoing ship 79 feet or more in length engaged in commerce that is documented under the laws of the United States or numbered by a state, and to each manned fixed or floating platform subject to the jurisdiction of the United States

(b) Each person who is in charge of a vessel described in paragraph (a) shall ensure that a Coast Guard Refuse Record Book, available for purchase from the Government Printing Office is—

(1) Maintained on board the ship;

(2) Completed in accordance with the instructions in the Refuse Record Book each time garbage is—

(i) Discharged overboard in accordance of this part;

(ii) Discharged overboard in accordance with the emergency provisions of this part;

(iii) Discharged overboard for some other reason;

(iv) Discharged to another vessel;

(v) Discharged to a reception facility in a port or terminal; or

(vi) Incinerated on board the vessel; and

(3) Returned to the Commandant (G–MPS), U.S. Coast Guard, 2100 2nd Street SW., Washington, DC 20593–0001 within 30 days of—

(i) The first anniversary date of the initial entry;

(ii) The date all space for entries has been used;

(iii) The date the ship on which the Record Book is being used changes owners; or

(iv) The date the ship is no longer required to keep a Record Book.

4. By adding § 151.57 to read as follows:

§ 151.57 Waste management plans.

(a) This section applies to each manned oceangoing ship 40 feet or more in length that is documented under the laws of the United States or numbered by a state, engaged in commerce or equipped with a galley and berthing, and to each manned fixed or floating platform subject to the jurisdiction of the United States.

(b) Each person in charge of a ship described in paragraph (a) shall ensure that it does not operate unless a written waste management plan meeting paragraph (c) of this section is on board the ship and that each person handling garbage follows the plan.

(c) Each waste management plan required under paragraph (a) of this section must—

(1) Provide for the discharge of garbage by means that meet Annex V of MARPOL 73/78, the Act, and this subpart;

(2) Describe procedures for collecting processing, storing, and discharging the vessel's garbage; and

(3) Designate the person who is in charge of the ship.

5. By adding § 151.59 to read as follows:

§ 151.59 Placards.

(a) Each person who is in charge of a U.S. ship under this part, that is 26 feet in length or more, shall display in a prominent location so that passengers and crew can read its message, a placard that—

(1) Is at least 9 inches wide by 4 inches high with lettering no smaller than ⅛ of an inch in height;

(2) Is made of a durable material; and

(3) Notifies passengers and crew that the—

(i) Discharge of any plastic into any waters is prohibited;

(ii) Discharge of all garbage is prohibited within 3 miles from the seacoast and in the navigable waters of the U.S.;

(iii) Discharge of dunnage, lining, and packing materials that float is prohibited within 25 miles of the seacoast;

(iv) Other garbage may be discharged beyond 12 nautical miles from the seacoast;

(v) Other garbage ground to less than 1 inch may be discharged beyond 3 nautical miles from the seacoast;

(vi) Violation of these requirements may result in civil penalty of up to $25,000, fine and imprisonment.

List of Subjects in 46 CFR Part 25

Fire prevention, Marine safety.

It is proposed to amend chapter I of title 46, Code of Federal Regulations as follows:

PART 25—[AMENDED]

6. The authority citation to part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b), 46 U.S.C. 3306, 4104, and 4302; 49 CFR 1.46.

7. By revising § 25.20–1 to read as follows:

§ 25.20–1 Criteria.

Each uninspected vessel must meet the garbage discharge, record keeping, waste management plan, and placard requirements of 33 CFR part 151.

Note: The Act to Prevent Pollution from Ships, as amended (33 U.S.C. 1901–1911) (the Act), prohibits the discharge of all plastics from vessels, limits discharges of other types of garbage in U.S. waters, and requires certain U.S. vessels to maintain a garbage record book, to operate under a waste management plan, and to have placards outlining provisions of the Act. See 33 CFR 151.05 for definition of "plastic" and "garbage" and 33 CFR 151.55, 151.57, and 151.59 for the record keeping, waste management plan, and placard requirements.

Dated: August 11, 1989.

J.D. Sipes,

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

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Federal Register

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Wednesday, September 6, 1989

INFORMATION AND ASSISTANCE

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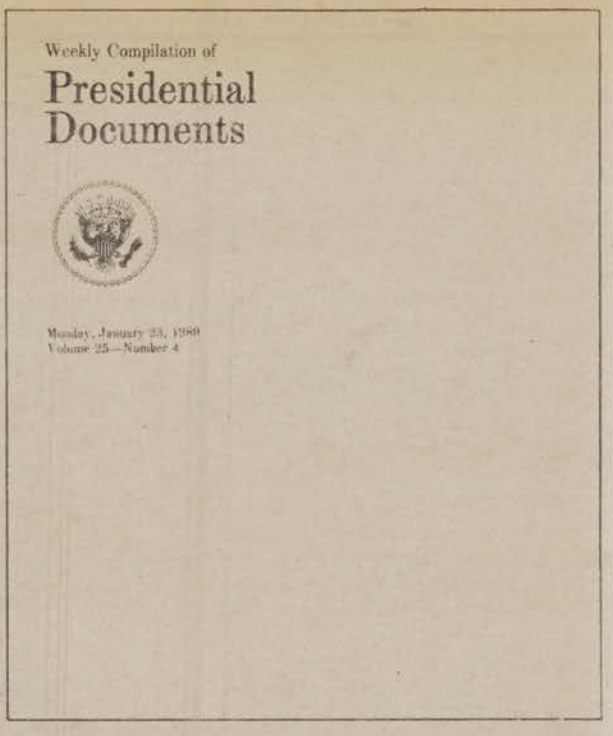

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