AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
11-14-89

Vol. 54 No. 218

# federal register

Tuesday
November 14, 1989

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

11-14-89
Vol. 54 No. 218
Pages 47339-47506

# federal register

Tuesday
November 14, 1989

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For information on briefings in San Francisco, CA, Seattle, WA, and Washington, DC, see announcement on the inside cover of this issue.

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

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

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

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

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

### SAN FRANCISCO, CA

**WHEN:** November 29; at 9:00 a.m.
**WHERE:** Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
**RESERVATIONS:** Call Mary Walters at the San Francisco Federal Information Center, 415–556–6600.

### SEATTLE, WA

**WHEN:** November 30; at 1:00 p.m.
**WHERE:** South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.
**RESERVATIONS:** Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
Seattle: 206–442–0570,
Tacoma: 206–383–7970,
Portland: 503–326–2222.

### WASHINGTON, DC

**WHEN:** December 7, at 9:00 a.m.
**WHERE:** Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
**RESERVATIONS:** 202–523–5240.

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

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# Presidential Documents

Title 3—

The President

Proclamation 6064 of November 9, 1989

## National Women Veterans Recognition Week, 1989

By the President of the United States of America

A Proclamation

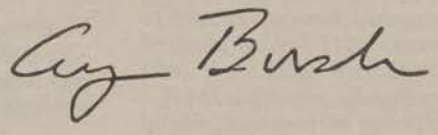
For more than 50 years, our Nation has benefitted from the service of women in every branch of our Armed Forces. Women have served with distinction in every overseas combat theater of every conflict since World War I. Some have been wounded in the line of duty, and others have given their lives for our country, but all have been a vital element in the success of America's Armed Forces. Bringing their talent, skill, and vision to a variety of occupations, they have made a lasting mark upon the military history of the United States.

The contributions and the sacrifices of the women who have served in our Armed Forces merit the respect and admiration of the people of the United States. Thus, it is most fitting that we set aside a special time to honor our women veterans.

In grateful recognition of the women who have served in the Armed Forces of the United States, the Congress, by House Joint Resolution 35, has designated the week beginning November 5, 1989, as "National Women Veterans Recognition Week" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning November 5, 1989, as National Women Veterans Recognition Week. I call upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



[FR Doc. 89-26904
Filed 11-9-89; 4:37 pm]
Billing code 3195-01-M

# Rules and Regulations

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

## OFFICE OF SPECIAL COUNSEL

### 5 CFR Chs. II and VIII

### Implementation of the Whistleblower Protection Act

**AGENCY:** Office of Special Counsel.

**ACTION:** Interim regulations; request for comments.

**SUMMARY:** The Whistleblower Protection Act of 1989, Pub. L. No. 101-12, 103 Stat. 16, effective July 9, 1989, establishes the Office of Special Counsel (formerly the Office of the Special Counsel of the U.S. Merit Systems Protection Board) as an independent agency. Accordingly, the Office of Special Counsel (OSC) publishes these regulations to implement provisions of the new law. The OSC is also republishing certain regulations.

**EFFECTIVE DATE:** Interim regulations effective November 14, 1989, except for §§ 1800.1, 1800.2, 1830.1, and 1830.3. These sections will be made effective only after review and approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act. Upon approval by the Office of Management and Budget a document will be published in the Federal Register announcing the effective date of these sections.

**COMMENT DATE:** Comments received on or before December 14, 1989, will be considered.

**ADDRESSES:** Comments should be directed to Henry Darnell Lewis, Office of Special Counsel, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005. Comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday, except federal holidays. Any comments on sections 1800.1, 1800.2, 1830.1, and 1830.3 should additionally be filed with the Office of Management and Budget (See "Paperwork Reduction Act" below).

**FOR FURTHER INFORMATION CONTACT:** Henry Darnell Lewis, (202) or FTS 653-8982.

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12291, Federal Regulation

The Special Counsel has determined that these are not major rules as defined in section 1(b) of Executive Order 12291, Federal Regulation.

#### Determination to Issue an Interim Regulation

A determination has been made under the authority of the Special Counsel to issue these regulations as an interim rule. This action is necessary to implement the Whistleblower Protection Act of 1989, Pub. L. No. 101-12. However, public comments received in response to this interim rule will be considered in formulating a final rule. Written comments on these interim regulations may be submitted by any person.

#### Paperwork Reduction Act

Sections 1800.1, 1800.2, 1830.1, and 1830.3 of this regulation contain information collection requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The public reporting burden per response is estimated to be one hour. This average estimated time per response includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As required by the Paperwork Reduction Act, the Office of Special Counsel is submitting to the Office of Management and Budget a request that it approve these information collection requirements. Organizations or individuals desiring to submit comments for consideration by OMB on these information collection requirements should address them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph Lackey.

#### Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the Office of Special Counsel is not required to prepare an initial or final regulatory analysis of these regulations pursuant to the Regulatory Flexibility Act, 5 U.S.C. 603-604, because these regulations will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

Dated: November 7, 1989.

Mary F. Wieseman,
*Special Counsel.*

1. For the reasons set out in the preamble, chapter II of title 5 of the Code of Federal Regulations is amended as set forth below, and chapter VIII of title 5, Code of Federal Regulations, is hereby established and parts 1800, 1810, 1820, 1830, and 1840 are added to the newly established chapter VIII to read as follows:

## CHAPTER VIII—OFFICE OF SPECIAL COUNSEL

## PART 1800—FILING OF COMPLAINTS AND ALLEGATIONS

Sec.
1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.
1800.2 Filing disclosures of information.
1800.3 Advisory opinions.

**Authority:** 5 U.S.C. 1212(e).

### § 1800.1 Filing complaints of prohibited personnel practices or other prohibited activities.

(a) Complaints of prohibited personnel practices or other prohibited activities within the investigative authority of the Special Counsel (including complaints of political activities prohibited by 5 U.S.C. 7321-7324) should be submitted to the Office of Special Counsel, Complaints Examining Unit, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

(b) Complaints, allegations, and information may be submitted in any written form, but should include:

(1) The name and mailing address of the complainant, unless the matter is submitted anonymously;

(2) The department or agency, location, and organizational unit complained of;

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological

order, together with any documentary evidence the complainant may have;

(4) In the case of any allegation of a prohibited personnel practice, the personnel action that has been taken or is proposed or threatened to be taken, and the date of the action, proposal, or threat;

(5) In the case of action taken because of an individual's disclosure of information, the information believed to evidence violation of law, rule, or regulation, gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety and when, to whom, and how or in what form it was disclosed; and

(6) A statement as to whether the complainant consents to the disclosure of his or her identify to the agency by the Special Counsel for the purpose of further investigation.

**§ 1800.2 Filing disclosures of information.**

(a) Employees, former employees, or applicants for employment having information evidencing violations of law, rule, or regulation or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety should be submitted to the Office of Special Counsel, Disclosure Unit, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

(b) Information may be submitted in any written form, but should include:

(1) The name and mailing address of the individual making the disclosure, unless the matter is submitted anonymously;

(2) The department or agency, location and organizational unit complained of;

(3) A statement as to whether the complainant consents to the disclosure of his or her identify to the agency by the Special Counsel in connection with referral to the appropriate agency.

**§ 1800.3 Advisory opinions.**

The Special Counsel is authorized to issue advisory opinions only concerning Chapter 15 of Title 5, United States Code (dealing with political activity of State or local officers and employees) and Subchapter III of Chapter 73 of Title 5, United States Code (dealing with political activity of Federal officers and employees). Requesters may telephone the Office of Special Counsel toll free at 1-800-872-9855, or (202)/FTS 653-7143 in the Washington, DC, area, or make such requests in writing to the Office of Special Counsel, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

## PART 1810—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

**§ 1810.1 Investigative policy in discrimination complaints.**

The Special Counsel is authorized to investigate allegations of discrimination prohibited by law, as defined in 5 U.S.C. 2302(b)(1). Since procedures for investigating discrimination complaints have already been established in the agencies and the Equal Employment Opportunity Commission, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than initiating an independent investigation.

## PART 1820—PUBLIC INFORMATION

Sec.
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1820.2 Procedures for obtaining records under the Freedom of Information Act.
1820.3 Categories of requesters under the Freedom of Information Act.
1820.4 Free or partially free search time and partially free copying.
1820.5 Waiver or reduction of fees.
1820.6 Fees to be charged.
1820.7 Payments and collections.
1820.8 Appeals.
1820.9 Disclosures by authorized officials.

**Authority:** 5 U.S.C. 552(a)(3), 552(a)(4), 1212(g), 1219.

**§ 1820.1 Public list.**

(a) Pursuant to 5 U.S.C. 1219, the Special Counsel maintains and makes available to the public a list of:

(1) Noncriminal allegations under 5 U.S.C. 1213; and

(2) Special Counsel findings of violations of law, rule, or regulation, together with reports and certifications by heads of agencies.

(b) The list is available to the public between 8:30 a.m. and 5 p.m. weekdays (except legal holidays) in the Office of Special Counsel, 1120 Vermont Avenue NW., Washington, DC 20005.

**§ 1820.2 Procedures for obtaining records under the Freedom of Information Act.**

Requests for records shall be made in writing. Requests should be addressed to the Office of Special Counsel, 1120 Vermont Avenue NW., Suite 1100, Washington, DC 20005. Requests must be clearly and prominently marked "Freedom of Information Act Request" on both the envelope and the letter.

**§ 1820.3 Categories of requesters under the Freedom of Information Act.**

There are four categories of requesters:

(a) *Commercial use requesters.* These requesters seek information for themselves or on behalf of someone else for a use or purpose that furthers commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. A requester will not be presumed to be a "commercial use requester" merely by submitting a request on corporate letterhead without further explanation of the use to which he plans to put the requested information. Similarly, a request submitted on the letterhead of a nonprofit organization without further explanation will not be presumed to be for a noncommercial purpose. The Office of Special Counsel will seek clarification from the requester where there is a reasonable doubt as to the intended use of the information.

(b) *Educational and noncommercial scientific institution requesters.* (1) An "educational institution" requester is associated with a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, or an institution of vocational or professional education, that operates a program or programs of scholarly research, and seeks the information for a scholarly or scientific research goal of the institution, rather than for an individual goal.

(2) A "noncommercial scientific institution" requester is associated with an institution that is not operated on a "commercial" basis (as that term is defined by paragraph (a) of this section), and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(c) *News media requesters.* These requesters actively gather news for entities that are organized and operated to publish or broadcast news to the public. Freelance journalists may be news media requesters if they can demonstrate a solid basis for expecting publication through a news organization (such as by producing a publication contract or citing their past publication records), even though not actually employed by it. "News" means information about current events or information that would be of current interest to the public. News media "entities" include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public.

(d) All other requesters.

**§ 1820.4 Free or partially free search time and partially free copying.**

(a) *Free search time and partially free copying.* Educational and noncommercial scientific institution requesters and news media requesters who are requesting records for noncommercial use are entitled to free copying for the first 100 pages and free search time.

(b) *Partially free search time and partially free copying.* Requesters who are not commercial use requesters, educational or noncommercial scientific institution requesters, or news media requesters are "all other requesters", and are entitled to two hours of free search time and free copying for the first 100 pages. Requests from record subjects for records about themselves filed in a system of records will continue to be treated under the fee provisions of the Privacy Act, which permits the assessment of fees only for copying.

**§ 1820.5 Waiver or reduction of fees.**

(a) The Associate Special Counsel for Investigation, the Deputy Associate Special Counsel for Prosecution, the Associate Special Counsel for Prosecution, the Deputy Special Counsel, and the Special Counsel may authorize waiver or reduction of fees that could otherwise be assessed if disclosure of the information requested:

(1) Is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and

(2) Is not primarily in the commercial interest of the requester.

(b) Satisfaction of paragraph (a)(1) of this section will be determined by all of the following:

(1) Whether the subject of the requested records concerns "the operations or activities of the Government." The requested records concern identifiable operations of activities of the Government, and the connection between the records and the operations or activities is direct and clear, not remote or attenuated;

(2) Whether disclosure is "likely to contribute" to an understanding of Government operations or activities. An analysis of the substantive content of the releasable portions of the requested records reveals meaningfully informative information on the operations or activities of the Government that is not already in the public domain in duplicative or substantially identical form;

(3) Whether disclosure will contribute to "public understanding." Considering the identity of the requester and his qualifications to make use of the information, disclosure will contribute to the understanding of the public at large, and not to the individual understanding of the requester or a narrow segment of interested persons; and

(4) Whether the disclosure is likely to contribute "significantly" to public understanding of Government operations or activities. By an objective standard, the disclosure is likely to enhance the general public's understanding of the subject matter in question more than minimally.

(c) Satisfaction of paragraph (a)(2) of this section will be determined by both of the following:

(1) Whether the requester has a commercial interest to be furthered by the disclosure. The requester does not seek to further a commercial, trade, or profit interest, as those terms are commonly understood; and

(2) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, compared to the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." If the requester has a commercial interest, that interest is not greater than the public interest to be served by disclosure of the requested records.

**§ 1820.6 Fees to be charged.**

(a) Requests for records are subject to the following fees:

(1) *Commercial use requesters.* For search, review, and copying: Photocopies per page, $0.25. Manual record search, $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee. Search fees may be assessed even if the records in question are not located or if the records located are determined to be exempt from disclosure.

(2) *Educational and noncommercial scientific institution requesters, news media requesters.* For copying only: Photocopies per page, $0.25, excluding the first 100 pages.

(3) *All other requesters.* For search and copying only: Photocopies per page (excluding the first 100 pages), $0.25. Manual record search (excluding the first two hours), $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

(b) *Method of search.* (1) Any "search", which includes all time spent looking for material that is responsive to a request, will be done in the most efficient and least expensive manner in order to minimize costs for both the agency and the requester.

(2) For researches made by computer, costs will be assessed when the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent equals the equivalent dollar amount of two hours of salary of the person performing the search.

(c) *Review charges.* Only commercial use requesters will be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. These charges will be assessed only for initial review (i.e., the review undertaken when first analyzing the applicability of a specific exemption to a particular record or portion of record), and not for review at the administrative appeal level of an exemption already applied. However, charges will be assessed for a second review of records of portions of records withheld in full under an exemption which is subsequently determined not to apply in order to determine the applicability of other exemptions not previously considered. Review charges shall not include costs incurred in resolving issues of law or policy that may be raised in the course of processing a request.

(d) *Copying.* A "page" of copying refers to a paper copy of standard size, normally 8½'x11' or 11x14'. However, copies may also take the form of microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(e) *Nonassessment of fees.* No fees will be assessed to any requester, including commercial use requesters, if the cost of routine collection and processing of the fee would be equal to or greater than the fee itself. To make this determination, the OSC will consider the administrative costs of receiving and recording a requester's remittance and processing the fee for deposit.

(f) *Other charges.* Complying with requests for special services, such as certification of records as true copies and sending records by special methods (e.g., express mail) is entirely at the discretion of the Office. Since neither the Freedom of Information Act nor its fee structure covers these kinds of services, the OSC will assess fees to recover the full costs of providing these services should the Office elect to provide them.

(g) *Aggregating requests.* If the Office of Special Counsel reasonably believes that a requester or a group of requesters acting in concert is filing a series of requests for the purpose of evading the assessment of fees, the OSC may aggregate the requests and assess fees accordingly. One element to be considered in determining reasonable belief is the time period within which

the requests are filed. Multiple requests of this type filed within a 30-day period may be presumed to have been made to avoid fees. In no case will the Office aggregate requests on unrelated subjects from one requester.

(h) *Advance notice of fees.* If it is likely that fees will exceed $25, the requester will first be notified of the estimated amount, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. The notice will offer the requester the opportunity to confer with personnel of the Office of the Special Counsel with the object of reformulating the request to meet his or her needs at a lower cost.

**§ 1820.7 Payments and collections.**

(a) *Payments.* Payment of fees shall be made by check or money order payable to the United States Treasury.

(b) *Advance payments.* A requester is not required to make an advance payment unless:

(1) The OSC estimates or determines that the requester may be required to pay fees in excess of $250, in which case the requester will be notified of the estimated cost. The requester must then furnish satisfactory assurance of full payment if the requester has a history of prompt payment of Freedom of Information Act fees. If the requester has no history of payment, then the requester may be required to furnish an advance payment up to the full estimated cost; or

(2) The requester has previously failed to pay a fee assessed in a timely fashion (i.e. within 30 days of the date of billing), in which case the requester may be required to—

(i) Pay the full amount owed plus any applicable interest as provided in paragraph (d) of this section, or prove payment of the alleged amount in arrears, and

(ii) Make an advance payment of the full amount of the estimated cost before a new or pending request will be processed.

(c) *Effect of nonpayment.* When the OSC acts under either paragraph (b)(2)(i) or (b)(2)(ii) of this section, the administrative time limits prescribed in 5 U.S.C. 552(a)(6) of the Freedom of Information Act will begin only after the fee payments described above have been received.

(d) *Interest charges.* Interest may be charged to any requester who fails to pay fees assessed within 30 days of the date of billing. Interest will be assessed on the 31st day following the day on which the bill for fees was sent, and will be calculated at the rate prescribed in 31 U.S.C. 3717. Receipt of fees, even if not processed, will stay the accrual of interest.

(e) *Collections.* If the OSC deems it appropriate in order to encourage repayment of fees assessed in accordance with these regulations, the OSC will use the procedures authorized by the Debt Collection Act of 1982 (Public Law No. 97-365), including disclosure to consumer reporting agencies and use of collection agencies.

**§ 1820.8 Appeals.**

Any denial, in whole or in part, of a request for records of the Office of Special Counsel shall advise the requester of his right to appeal the denial to the Special Counsel or the Special Counsel's designee. The requester shall submit his appeal in writing within 30 days of the denial. The appeal shall be addressed to the Special Counsel at 1120 Vermont Avenue NW., Suite 1100, Washington, DC 20005. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

**§ 1820.9 Disclosures by authorized officials.**

No employee or former employee of the Office of Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as part of the performance of his official duties or because of his official status without the prior approval of the Special Counsel or the Special Counsel's duly authorized designee.

## PART 1830—PRIVACY

Sec.
1830.1 Access to records and identification.
1830.2 Medical records.
1830.3 Requests for amendment of records.
1830.4 Appeals.
1830.5 Exemptions.

Authority: 5 U.S.C. 552a(f), 1212(g).

**§ 1830.1 Access to records and identification.**

(a) Individuals may request access to records pertaining to them that are maintained as described in the Privacy Act, 5 U.S.C. 552a, by addressing an inquiry to the Office of Special Counsel either by mail or by appearing in person at the Office of Special Counsel at 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request." Requests for copies of records shall be subject to duplication fees set forth in § 1820.6 of this chapter.

(b) Individuals making a request in person shall be required to present satisfactory proof of identity, preferably a document bearing the individual's photograph. Requests by mail or submitted other than in person should contain sufficient information to enable the Office of Special Counsel to determine that the requester and the subject of the record are one and the same. To assist in this process, individuals should submit their names and addresses, dates and places of birth, social security number, and any other known identifying information such as an agency file number or identification number and a description of the circumstances under which the records were compiled.

**§ 1830.2 Medical records.**

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

**§ 1830.3 Requests for amendment of records.**

Individuals may request amendment of records pertaining to them that are subject to this part. Requests should be addressed, in writing, to the Special Counsel at 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005, and be clearly and prominently marked "Privacy Act Request." Requests for amendment should include identification of records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requests for amendment shall be acknowledged not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

**§ 1830.4 Appeals.**

When a request for access or amendment has been denied, in whole or in part, the requester shall be advised of his right to appeal to the Special Counsel or the Special Counsel's designee. The requester shall submit his appeal in writing within 30 days of the denial. A final determination on the appeal shall be issued within 30 days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional 30 working days.

**§ 1830.5 Exemptions.**

The Office of Special Counsel will claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of Special Counsel may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

## PART 1840—SUBPOENAS

Sec.
1840.1 Service of subpoenas by mail.
Authority: 5 U.S.C. 1212(e).

**§ 1840.1 Service of Subpoenas by mail.**

In addition to all other methods of authorized service, an Office of Special Counsel subpoena may be served by mailing a copy to the person at his or her residence or place of business by certified or registered mail.

## PART 1262—[REDESIGNATED AS PART 1850]

2. Part 1262 of subchapter B, chapter II of Title 5, Code of Federal Regulations, is redesignated as Part 1850 and added to chapter VIII of title 5, Code of Federal Regulations.

4. The title of the newly designated Part 1850 is amended to change the words "OFFICE OF THE SPECIAL COUNSEL" to "OFFICE OF SPECIAL COUNSEL."

**§ 1850.170 [Amended]**

5. Section 1850.170(c) of the newly designated Part 1850 is amended to change "Managing Director for Operations" to "Director for Management," and to add "N.W." after "Avenue."

**SUBCHAPTER B—[REMOVED]**

6. Subchapter B (consisting of parts 1250, 1251, 1252, 1253, 1254, 1255, 1260 and 1261) of chapter II of title 5, Code of Federal Regulations, is hereby removed.

[FR Doc. 89-26707 Filed 11-13-89; 8:45 am]

BILLING CODE 7400-02-M

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## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

### 7 CFR Part 1980

### Form FmHA 1980-27 "Contract of Guarantee" (Line of Credit)

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

**ACTION:** Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) amends Form FmHA 1980-27, "Contract of Guarantee (Line of Credit)," for clarification. A change was made in section (1)(b) of the form to add the word "delinquent" preceding the word "taxes" so that the form would agree with present regulations. The change of significance is made under "When Guarantee Terminates". The intended effect of this action is to clarify that the loan outstanding balance may float between $0 and the loan ceiling amount during the advance period (up to 3 years) rather than the present method which requires the lender to maintain a balance at all times in order to keep the guarantee in effect. The other changes are made to eliminate confusion between a Line of Credit Agreement and a Promissory note. The use of either of these two debt instruments are acceptable for a line of credit, provided they meet all requirements of the regulations.

**EFFECTIVE DATE:** November 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Paul D. Hardin, Loan Officer, USDA FmHA, Farmer Programs Loan Making Division, Guaranteed Branch, Room 5439-S, 14th Street and Independence Avenue SW, Washington, DC 20250, Telephone: (202) 382-1657.

**SUPPLEMENTARY INFORMATION:** The agency published a proposed rule on June 6, 1989, 54 FR 24177, with a comment period of 30 days from the date of publication. The comment period ended on July 6, 1989, with no comments being received regarding the proposed changes. Therefore, the agency adopts the proposed rule.

This action has been reviewed under USDA procedures established in Department of Regulation 1512-1 which implements Executive Order 12291, and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant adverse increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

**Program Affected**

The program which this form affects is listed in the Catalog of Federal Domestic Assistance under No. 10.406, Farm Operating Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

**Environmental Impact Statement**

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program". It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 19-190, an Environmental Impact Statement is not required.

**List of Subjects in 7 CFR Part 1980**

Loan programs—Agriculture, Loan progams—Business and industry—Rural development assistance, Loan programs—Housing and community development.

Therefore, chapter XVIII, part 1980, title 7, of the Code of Federal Regulations is amended as follows:

## PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

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

### Subpart A—General

2. Appendix D of subpart A of part 1980 is revised to read as follows:

BILLING CODE 3410-07-M

Appendix A

USDA-FmHA
Form FmHA 1980-27
(Rev. 10-89)

## CONTRACT OF GUARANTEE
### (Line of Credit)

| | |
|---|---|
| Type of Loan | ☐OL ☐EL or ☐EE |
| Case No. | |
| State | |
| County | |
| Lender / Lender's IRS Tax No. | Date of Line of Credit Agreement/Note |
| Lender's Address | Line of Credit Ceiling $ |
| Borrower's Name and Address | |

The guaranteed portion of this line of credit is_____% of the principal balance owed at any one time on advances made within an approved line of credit by the above-named Lender to the above-named Borrower.

In consideration of making advance(s) by the Lender within the line of credit ceiling pursuant to the Line of Credit Agreement, the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.), the Emergency Livestock Credit Act of 1974 (P.L. 93-357), as amended, or the Emergency Agricultural Credit Adjustment Act of 1978 (P.L. 95-334) agrees that in accordance with and subject to the conditions and requirements in this agreement, it will pay to the Lender who holds the line of agreement(s) (and note(s), if any exist) for said advance(s) (or assumption agreement) covered by this contract the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:
   a. Principal and interest indebtedness as evidenced by said line of credit agreement(s) (and note(s), if any exist) or by assumption agreement(s), and
   b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for delinquent taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral; or
2. The guaranteed principal advances to or assumed by the Borrower under said line of credit agreement(s) (and note(s), if any exist) or assumption agreement(s) and any interest due thereon.

If an Operating Loan Line of Credit is involved, advances under that line of credit must be made within three years from the date of this Contract. Advances made after that date will not be covered by this Contract. If FmHA conducts the liquidation of the line of credit, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Contract of Guarantee. If Lender conducts the liquidation of the line of credit, accruing interest shall be covered by this Contract of Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

## CONDITIONS OF GUARANTEE

1. Line of Credit Servicing

Lender will be responsible for servicing the entire line of credit, and Lender will remain mortgagee and/or secured party of record. The Lender agrees that, if liquidation of the account becomes imminent, the Lender will consider the Borrower of an Operating Loan Line of Credit for an Interest Rate Buydown under Exhibit C of Subpart B of 7 CFR, Part 1980, and request a determination of the Borrower's eligibility by FmHA. The Lender may not initiate foreclosure action on the line of credit until 60 days after a determination has been made with respect to the eligibility of the Borrower to participate in the Interest Rate Buydown Program.

2. Priorities

The entire line of credit will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the line of credit. The unguaranteed portion of the line of credit will not be paid first nor given any preference or priority over the guaranteed portion.

3. Full Faith and Credit

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. If the line of credit agreement or note to which this Contract of Guarantee is attached provides for the payment of interest on interest, this Contract of Guarantee is void. In addition, the Contract of Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

4 Protective Advances

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Contract of Guarantee.

5. Custody of Unguaranteed Portion

The Lender may retain or sell the unguaranteed portion of the line of credit only through participation. Participation, as used in this instrument, means the sale of an interest in the line of credit in which the Lender retains the line of credit agreement (and note, if one exists), collateral securing the line of credit, and all responsibility for servicing and liquidation of the line of credit.

6. When Guarantee terminates

This Contract of Guarantee will terminate automatically (a) upon full payment of the guaranteed line of credit occurring after the advance period has expired; or (b) upon full payment of any loss obligation under this Contract; or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice, provided the Contract is returned to FmHA to be cancelled.

7. Settlement

The amount due under this instrument will be determined and paid as provided in the applicable Subpart of Part 1980 of Title 7 CFR in effect on the date of this instrument.

8. Notices

All notices and actions will be initiated through the FmHA County Supervisor for _____ (County)

_____ (State) with mailing address at the date of this instrument:

_____

_____

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

_____ (Date)

By: _____

Title: _____

Assumption Agreement by _____ dated _____, 19___

Assumption Agreement by _____ dated _____, 19___

Dated: 9-18-89

NEAL SOX JOHNSON
Acting Administrator
Farmers Home Administration

Certified to be a true copy of the original

RICHARD A. GARTMAN
Certifying Officer
Farmers Home Administration

[FR Doc. 89-26560 Filed 11-13-89; 8:45 am]

BILLING CODE 3410-07-C

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 103 and 245

[Atty. Gen. Order No. 1375-89]

### Immigration and Naturalization Service and the Executive Office for Immigration Review; Fee Review

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the fee schedule of the Immigration and Naturalizaiton Service (INS) and the Executive Office for Immigration Review (EOIR). These changes are necessary to place the financial burden of providing special services and benefits, which do not accrue to the public at large, on the recipients of these special services and benefits. Charges have been adjusted to more nearly reflect the current cost of providing the services and benefits, taking into account public policy and other pertinent facts.

**EFFECTIVE DATE:** December 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Charles S. Thomason, Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-4705.

Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Falls Church, VA. 22041, Telephone: (703) 756-6470.

**SUPPLEMENTARY INFORMATION:** The INS and EOIR published a proposed rule on June 13, 1989, at 54 FR 25125, to amend the schedule of fees charged by the INS and EOIR for processing and adjudication of applications, petitions, motions, and requests submitted by the public by charging a fee for certain special services and benefits which are currently adjudicated free of charge. These changes are necessary to place the financial burden of providing these special services and benefits, which do not accrue to the general public at large, on the recipients of those special services and benefits. Charges reflect the current recovery cost of providing these special services and benefits, taking into account public policy and other pertinent facts.

No comments were received. Accordingly, fee changes are adopted as proposed. In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule would not have a significant economic impact on a substantial number of small entities.

This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

This rule contains information collection requirements which have been submitted and approved by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act. OMB control numbers are listed in 8 CFR 299.5.

### List of Subjects in 8 CFR Parts 103 and 245

Administrative practice and procedures, Archives and records, Authority delegation, Fees, Forms.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

## PART 103—POWERS AND DUTIES OF SERVICE OFFICERS: AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

**Authority:** 5 U.S.C. 522(a); 8 U.S.C. 1101, 1103, 1201, 1301-1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C 9701; E.O. 12356, 3 CFR 1982 Comp., p. 166, 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by adding the following in numerical order:

### § 103.7 [Amended]

* * * * *

*Form I-485A.* For filing application by Cuban refugee for permanent residence—$60.00.

* * * * *

*Form N-400.* For filing application to file petition for naturalization—$60.00.

*Form N-402.* For filing application to file naturalization petition on behalf of child—$50.00.

* * * * *

## PART 245—[AMENDED]

3. The authority citation for part 245 of title 8 is revised to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255 and 1257.

### § 245.2 [Amended]

4. In § 245.2, paragraph (a)(3)(iv) is amended by removing the second sentence, which reads "There is no fee required in the application for the benefits of this Act."

Dated: November 3, 1989.

**Dick Thornburgh,**

*Attorney General.*

[FR Doc. 89-26609 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Ch. I

RIN 1515-AA61

### Customs Regulations Amendments To Conform With Harmonized System of Tariff Classification; Extension of Time for Comments; Notice of Public Meetings

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

**ACTION:** Extension of time for comments; Notice of public meetings.

**SUMMARY:** In a document published in the **Federal Register** on December 21, 1988 (53 FR 51244), Customs issued interim regulations effective on January 1, 1989, that amended the Customs Regulations to correspond to the use of the Harmonized Tariff Schedule of the United States (HTSUS). The interim regulations changed all Tariff Schedules of the U.S. (TSUS) references as needed throughout the Customs Regulations to HTSUS references and modified other sections as needed to accommodate the new tariff schedule's adoption. One of the amended sections of the Customs Regulations was § 141.89(a), which concerns invoice requirements. The interim regulations solicited public comments on the correctness of the changes. The comment period expired on March 21, 1989. After the interim regulations went into effect, guidelines were drafted by the National Import Specialist Division of Customs to assist the trade and Customs field personnel to apply uniformly criteria for accurate and complete invoices for various specific HTSUS item numbers. After reviewing the comments received in response to the interim regulations and the draft guidelines, Customs believes it would be beneficial to obtain further information from the importing community relating to the invoice requirements under 19 CFR 141.89(a) and the draft guidelines. This document reopens the comment period of the interim regulations solely regarding the invoice requirements and announces open meetings that will be held in New York on the invoice requirements.

**DATES:** Open meetings relating to invoice requirements will be held

November 27 (for paper), December 1 (for chemicals), December 4 (for footwear), December 5 (for wearing apparel), December 6 (for business machines and parts), December 7 (for toys), and December 8, 1989 (for all other commodities). All meetings will start at 9:30 a.m. Comments will be accepted regarding the invoice requirements on or before February 7, 1990.

**ADDRESSES:** All meetings will be held at U.S. Customs, 6 World Trade Center, New York, Room 770 on the specified day. Written comments should be brought to the meetings or submitted to the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Richard Dunkel, Quality Assurance Branch, (202-377-9239).

**SUPPLEMENTARY INFORMATION:**

### Background

Classification of imported merchandise for rates of duty and statistical purposes is determined by reference to the Harmonized Tariff Schedule of the United States (HTSUS) which went into effect on January 1, 1989. In a document published in the **Federal Register** (53 FR 51244) on December 21, 1988, Customs issued interim regulations that were effective on January 1, 1989, that amended the Customs Regulations to correspond to the HTSUS. The interim regulations changed all Tariff Schedules of the United States (TSUS) references to HTSUS throughout the Customs Regulations and modified other sections as needed to accommodate the new tariff schedule's adoption. One of the amended sections of the Customs Regulations is § 141.89(a), which concerns invoice requirements. The interim regulations solicited public comments on the correctness of the changes. Another document related to the interim regulations was published in the **Federal Register** (54 FR 6681) on February 15, 1989; this document set forth technical corrections to the authority citations provided in the interim regulations. Comments were originally to have been received on the interim regulations on or before February 21, 1989. However, a request was received from the public to extend the comment period; and Customs, in view of the complexity of the issues involved with the interim regulations, extended the comment period until March 21, 1989, by a notice published in the **Federal Register** (54 FR 9429) on March 7, 1989.

After the interim regulations went into effect, the National Import Specialist Division drafted guidelines intended to assist the trade and Customs field personnel to uniformly apply criteria for accurate and complete invoices for various specific HTSUS item numbers. After reviewing the comments received in response to the interim regulations and the draft guidelines on invoice requirements, Customs believes it would be beneficial to obtain further information from the importing community relating to the invoice requirements.

### Announcement of Open Meetings

To this end, Customs will be holding open meetings at U.S. Customs, 6 World Trade Center, New York in Room 770 to discuss invoice requirements with the importing community. As the invoice requirements in interim § 141.89(a), Customs Regulations, and the draft guidelines require different information to be submitted on invoices, depending on the specific HTSUS item number under which the merchandise for which the invoice is being submitted is classified, different open meetings will be held for different commodities. The schedule of meetings is as follows:

Meeting on invoice requirements for paper: November 27
Meeting on invoice requirements for chemicals: December 1
Meeting on invoice requirements for footwear: December 4
Meeting on invoice requirements for wearing apparel: December 5
Meeting on invoice requirements for business machines and parts: December 6
Meeting on invoice requirements for toys: December 7
Meeting on invoice requirements for all other commodities: December 8

All meetings will be held at 9:30 a.m. on the scheduled day. Representatives from the National Import Specialists Divisions will be present at these meetings.

### Comments

From these open meetings, Customs hopes to develop ideas on how to refine the invoice requirements in § 141.89(a) and/or the guidelines. At the meetings, questions will be accepted and written comments may be submitted. Customs will consider any written comments submitted at the meetings on the subject of invoice requirements as well as comments submitted on the subject to the address listed in the "ADDRESS" section at the beginning of this document. The comment period has been extended 60 days from the last scheduled meeting to allow sufficient time for attendees who develop new ideas at the meetings to submit their comments.

If comments have already been submitted, there is no need to resubmit comments. Previously submitted comments will be reconsidered with any new comments received in response to this notice. It is emphasized that the comment period is only being reopened regarding the subject of invoice requirements.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)) between 9:00 a.m. and 4:30 p.m. on normal business days at the Regulations and Disclosure Law Branch, Room 2119, 1301 Constitution Avenue, NW., Washington, DC.

### Interim Regulations

Until such time as Customs publishes another document in the **Federal Register** stating otherwise, the interim regulations published in the **Federal Register** are still in effect.

Dated: November 8, 1989.

Carol B. Hallett,

*Commissioner of Customs.*

[FR Doc. 89-26753 Filed 11-9-89; 8:45 am]

BILLING CODE 4820-02-M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 436, 440, 442, 446, and 452

**[Docket No. 89N-0129]**

## Antibiotic Drugs; Updatings and Technical Changes

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by updating and making noncontroversial technical changes in accepted standards of antibiotic and antibiotic-containing drugs for human use. These amendments will result in more accurate and usable regulations.

**DATES:** Effective December 14, 1989; comments, notice of participation, and requests for a hearing by December 14,

1989; data, information, and analyses to justify a hearing by January 16, 1990.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Peter A. Dionne, Center for Drug Evaluation and Research (HFD-520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

**SUPPLEMENTARY INFORMATION:** FDA is amending the antibiotic drug regulations by updating and making noncontroversial technical changes in certain antibiotic drug regulations that provide for accepted standards of antibiotic and antibiotic-containing drugs intended for human use.

1. In 21 CFR 436.216, the system suitability test procedures in paragraphs (c) (1) and (2) are revised and paragraph (c)(5) is added to provide testing procedures most often required on high-performance liquid chromatographic assays.

2. In 21 CFR 440.103b(b)(4), the preparation of the sample solution for the identity test of amoxicillin trihydrate is revised to reflect the same concentration as that of the standard preparation.

3. In 21 CFR 442.19(b)(1)(iv), the formulas for calculating micrograms of cefuroxine per milligram and the ratio of iosmer A to total isomer content of cefuroxime are revised to state the correct formulas.

4. In 21 CFR 442.106b(a)(1), the description of cefadroxil monohydrate tablets is revised to provide for a film-coated tablet. The sole manufacturer has submitted adequate data to support this revision.

5. In 21 CFR 442.119(b)(1)(iii), the formula for calculating the milligrams of cefuroxime per tablet is revised to state the correct formula.

6. In 21 CFR 442.212b(a)(1), the description of cefoperazone sodium injection is revised to provide for a 20-milligram-per-milliliter dosage strength. The sole manufacturer has submitted adequate data to support this revision.

7. 21 CFR 446.115c, 446.116b, 446.116d, 446.165c, 446.165e, 446.180a, 446.180b, 446.181a, and 446.181b are removed, including the editorial notes following each of these sections.

In Drug Efficacy Study Implementation (DESI) notices published in the **Federal Register** of August 8, 1985 (50 FR 32112) and February 19, 1988 (53 FR 5044), FDA withdrew approval of the new drug applications for certain fixed-combination antibiotic/antifungal products on the basis that the products lack substantial evidence of effectiveness.

Therefore, the monographs (regulations) providing accepted standards are removed for the following products: Declostatin Oral Suspension containing demeclocycline and nystatin; Declostatin Tablets containing demeclocycline hydrochloride and nystatin; Declostatin Capsules containing demeclocycline hydrochloride and nystatin; Terrastatin Capsules containing oxytetracycline and nystatin; Terrastatin for oral suspension containing oxytetracycline and nystatin; Tetrex-F Oral Suspension containing tetracycline phosphate complex and nystatin; Mysteclin "F" syrup containing tetracycline and nystatin; Tetrex-F for Oral Suspension, Achrostatin V for Oral Suspension, and Tetrastatin for Oral Suspension containing tetracycline and nystatin; Comycin Half-Strength Capsules, Comycin Capsules, and Tetrex-F Capsules containing tetracycline phosphate complex and nystatin; and Achrostatin V Capsules, Tetrastatin Capsules, Mysteclin-V Capsules, Mysteclin "F" Capsules, and Mysteclin "F" 125 Capsules containing tetracyline hydrochloride and nystatin.

8. In 21 CFR 452.510b(a)(2), the packaging standard for erythromycin topical solution pledgets is revised to provide for a 60-pledget containing jar. The sole manufacturer has submitted adequate data to support this revision.

**Environmental Impact**

The agency has determined under 21 CFR 25.24(c)(6) 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.

**Submitting Comments and Filing Objectives**

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. This final rule, therefore, becomes effective December 14, 1989. However, interested persons may, on or before December 14, 1989, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before December 14, 1989, a written notice of participation and request for hearing, and (2) on or before January 16, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects**

*21 CFR Part 436*

Antibiotics.

*21 CFR Part 440*

Antibiotics.

*21 CFR Part 442*

Antibiotics.

*21 CFR Part 446*

Antibiotics.

*21 CFR Part 452*

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 436, 440, 442, 446, and 452 are amended as follows:

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. The authority citation for 21 CFR Part 436 continues to read as follows:

**Authority:** Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 436.216 is amended by revising paragraphs (c) (1) and (2) and by adding paragraph (c)(5) to read as follows:

**§ 436.216 High-performance liquid chromatographic assay.**

* * * * *

(c) * * *

(1) *Trailing factor or asymmetry factor.* Calculate either the trailing factor ($T$), from distances measured along the horizontal line at 5 percent of the peak height above the baseline or the asymmetry factor ($A_s$) measured at a point 10 percent of the peak height from the baseline; whichever is required in the appropriate monograph, as follows:

$$T = \frac{W_{0.05}}{2f}$$

where:

$W_{0.05}$ = Width of peak at 5 percent height; and

$f$ = Horizontal distance from point of ascent to a point coincident with maximum peak height.

$$A_s = \frac{a+b}{2a}$$

where:

$a$ = Horizontal distance from point of ascent to point of maximum peak height; and

$b$ = Horizontal distance from the point of maximum peak height to point of descent.

(2) *Efficiency of the column.* Calculate the number of theoretical plates ($n$) of the column as follows:

$$n = 5.545 \left[ \frac{t_R}{W_h} \right]$$

where:

$n$ = Efficiency, as number of theoretical plates for column;

$t_R$ = Retention time of solute; and

$W_h$ = Peak width at half-height.

Calculate the absolute efficiency of the column, (reduced plate height) ($h_r$) if required in the monograph, as follows:

$$h_r = \frac{(L)\ (10{,}000)}{(n)\ (d_p)}$$

where:

$L$ = Length of column in centimeters;

$n$ = Number of theoretical plates; and

$d_p$ = Average diameter of the particles in column packing in micrometers.

* * * * *

(5) *Capacity factor.* Calculate the capacity factor ($k$), if required in the monograph as follows:

$$k = \frac{t_r - t_m}{t_m}$$

where:

$t_r$ = Retention time of solute; and

$t_m$ = Retention time of solvent or unretained substance, calculated as follows:

$$t_m = \frac{(3.1416)(D^2)(L)\ (0.75)}{4F}$$

where:

$D$ = Column diameter in centimeters;

$L$ = Column length in centimeters;

0.75 = Average total column porosity; and

$F$ = Flow rate in milliliters per minute.

## PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR Part 440 continues to read as follows:

**Authority:** Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

4. Section 440.103b is amended by revising paragraph (b)(4) to read as follows:

**§ 440.103b Amoxicillin trihydrate for oral suspension.**

* * * * *

(b) * * *

(4) *Identity.* Proceed as directed in § 436.311 of this chapter, preparing the sample solution as follows: From an aliquot of suspension prepared in accordance with the label, make either a 6.25:1 dilution for the 25-milligrams-per-milliliter dosage; or a 12.5:1 dilution for the 50-milligrams-per-milliliter dosage, with 0.1$N$ hydrochloric acid. The slight dilution of the acid does not have a significant effect on the test.

## PART 442—CEPHA ANTIBIOTIC DRUGS

5. The authority citation for 21 CFR Part 442 continues to read as follows:

**Authority:** Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

6. Section 442.19 is amended by revising paragraph (b)(1)(iv) to read as follows:

**§ 442.19 Cefuroxime axetil.**

* * * * *

(b) * * *

(1) * * *

(iv) *Calculations*—(A) Calculate the micrograms of cefuroxime per milligram of sample as follows:

Micrograms of cefuroxime per milligram =

$$\frac{R_u \times P_s \times 100}{R_s \times C_u \times (100 - m)}$$

where:

$R_u$ = Sum of the peak height of the cefuroxime axetil sample isomer A and isomer B peaks/Peak height of the internal standard;

$R_s$ = Sum of the peak heights of the cefuroxime axetil working standard isomer A and isomer B peaks/Peak height of the internal standard;

$P_s$ = Cefuroxime activity in the cefuroxime axetil working standard solution in micrograms per milliliter;

$C_u$ = Milligrams of sample per milliliter of sample solution; and

$m$ = Percent moisture content of the sample.

(B) Calculate the ratio of isomer A to total isomer content as follows:

$$\text{Ratio of isomer A to isomer content} = \frac{\text{Peak height of isomer A peak}}{\text{Peak height of isomer A peak} + \text{Peak height of isomer B peak}}$$

* * * * *

7. Section 442.106b is amended by revising the first sentence in paragraph (a)(1) to read as follows:

**§ 442.106b Cefadroxil monohydrate tablets.**

(a) * * *

(1) * * * Cefadroxil monohydrate tablets are composed of cefadroxil monohydrate and one or more suitable and harmless binders and lubricants, and with or without coloring and film-coating substances. * * *

* * * * *

8. Section 442.119 is amended by revising paragraph (b)(1)(iii) to read as follows:

**§ 442.119 Cefuroxime axetil tablets.**

* * * * *

(b) * * *

(1) * * *

(iii) *Calculations.* Calculate the cefuroxime content as follows:

$$\text{Milligrams of cefuroxime per tablet} = \frac{R_u \times P_s \times d}{R_s \times n}$$

where:

$R_u$ = Sum of the peak heights of the cefuroxime axetil sample isomer A and isomer B peaks/Peak height of the internal standard;

$R_s$ = Sum of the peak heights of the cefuroxime axetil working standard isomer A and isomer B peaks/Peak height of the internal standard;

$P_s$ = Potency of the cefuroxime axetil working standard in milligrams of cefuroxime activity milliliter;

$d$ = Dilution factor of the sample; and

$n$ = Number of tablets in the sample assayed.

* * * * *

9. Section 442.212b is amended by revising the second sentence in paragraph (a)(1) to read as follows:

**§ 442.212b Cefoperazone sodium injection.**

(a) * * *

(1) * * * Each milliliter contains cefoperazone sodium equivalent to either 20 milligrams or 40 milligrams of cefoperazone per milliliter. * * *

* * * * *

## PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

10. The authority citation for 21 CFR part 446 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

**§ 446.115c [Removed]**

11. Section 446.115c *Demeclocycline-nystatin for oral suspension* is removed.

**§ 446.116b [Removed]**

12. Section 446.116b *Demeclocycline hydrochloride-nystatin tablets* is removed.

**§ 446.116d [Removed]**

13. Section 446.116d *Demeclocycline hydrochloride-nystatin capsules* is removed.

**§ 446.165c [Removed]**

14. Section 446.165c *Oxytetracycline-nystatin capsules* is removed.

**§ 446.165e [Removed]**

15. Section 446.165e *Oxytetracycline-nystatin for oral suspension* is removed.

**§ 446.180a [Removed]**

16. Section 446.180a *Tetracycline-nystatin oral suspension; tetracycline phosphate complex-nystatin oral suspension (tetracycline phosphate complex-nystatin oral drops)* is removed.

**§ 446.180b [Removed]**

17. Section 446.180b *Tetracycline-nystatin for oral suspension* is removed.

**§ 446.181a [Removed]**

18. Section 446.181a *Tetracycline hydrochloride-nystatin tablets* is removed.

**§ 446.181b [Removed]**

19. Section 446.181b *Tetracycline hydrochloride-nystatin capsules; tetracycline phosphate complex-nystatin capsules* is removed.

## PART 452—MACROLIDE ANTIBIOTIC DRUGS

20. The authority citation for 21 CFR part 452 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

21. Section 452.510b is amended by revising paragraph (a)(2) to read as follows:

**§ 452.510b Erythromycin topical solution.**

(a) * * *

(2) *Packaging.* In addition to the requirements of § 432.1 of this chapter, it may either be dispensed on individually packaged pledgets, each individual pledget containing 0.8 milliliter or erythromycin topical solution, or in a jar containing 60 pledgets. The jar contains 0.8 milliliter of erythromycin topical solution per pledget. Although the pledgets in the jar are not individually packaged, the drug is uniformly distributed throughout the pledgets. The erythromycin topical solution used on the pledgets contains 20 milligrams of erythromycin per milliliter.

* * * * *

Dated: October 31, 1989.

Sammie R. Young,

*Deputy Director Office of Compliance Center for Drug Evaluation and Research.*

[FR Doc. 89-26580 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

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## DEPARTMENT OF JUSTICE

### United States Marshals Service

[Order No. 1376-89]

### 28 CFR Part 0

### Witness Protection Program

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This Order amends the existing delegation of authority to the Director of the United States Marshals Service regarding the administration of the Federal Witness Protection Program. The Order technically corrects the existing delegation to the Director of the

Marshals Service to reflect the new substantive law governing the Witness Protection Program, section 1210 of the Comprehensive Crime Control Act of 1984, Public Law 98–473, the Witness Security Act of 1984, 18 U.S.C. 3521, *et seq.*

**EFFECTIVE DATE:** November 7, 1989.

**FOR FURTHER INFORMATION CONTACT:** Gerald M. Auerbach, General Counsel, United States Marshals Service, Arlington, Virginia; telephone No. (202) 307–9054.

**SUPPLEMENTARY INFORMATION:** The Attorney General has previously delegated his authority regarding administration and operation of the Federal Witness Protection Program to the Director of the United States Marshals Service. 28 CFR 0.111(c). This amendment will technically correct 28 CFR 0.111(c) to reflect the new substantive law governing the Witness Protection Program, section 1210 of the Comprehensive Crime Control Act of 1984, Public Law 98–473, 18 U.S.C. 3521, *et seq.*, and explicitly delegates to the Director of the U.S. Marshals Service the Attorney General's authority under the statute to issue regulations governing the administration of the Program, including but not limited to regulations regarding the sums of subsistence payments and basic living expenses for protected witnesses and their families.

This Order is not a rule within the meaning of Executive Order 12291, section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

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

Authority delegations (Government agencies).

By virtue of the authority vested in me, including 28 U.S.C. 509, 510, 5 U.S.C. 301, and 18 U.S.C. 3521 *et seq.*, part 0, of title 28 of the Code of Federal Regulations is hereby amended as follows:

1. The authority citation for Part 0 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 2303, 3101; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3521, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621–1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 1989b, 2001–2017p; Pub. L. No. 91–513, sec. 501; EO 11919; EO 11267; EO 11300.

2. Section 0.111 is amended by revising paragraph (c) to read as follows:

**§ 0.11 General functions.**

* * * * *

(c) Provisions for the health, safety, and welfare of Government witnesses and their families, including the psychological well-being and social adjustment of such persons, pursuant to 18 U.S.C. 3521, *et seq.*, and issuance of necessary regulations for this purpose on behalf of the Attorney General.

* * * * *

Dated: November 7, 1989.

**Dick Thornburgh,**

*Attorney General.*

[FR Doc. 89–26694 Filed 11–13–89; 8:45 am]

BILLING CODE 4410–01–M

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 904

### Arkansas Permanent Regulatory Program

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

**ACTION:** Final rule; Approval of amendment.

**SUMMARY:** OSM is announcing the approval under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), of an amendment to the Arkansas permanent regulatory program (hereinafter, the Arkansas program). The amendment consists of revisions to Arkansas' regulations pertaining to restrictions on financial interests of State employees, fish and wildlife information, individual civil penalties, and the measurement of revegetation success on prime farmland. Arkansas is modifying its approved program to maintain consistency with SMCRA and the Federal regulations.

**EFFECTIVE DATE:** November 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135, Telephone: (918) 581–6430.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 21, 1980, the Secretary of the Interior approved the Arkansas program. The November 21, 1980, **Federal Register** (45 FR 77003) gives general background information regarding the Arkansas program, including information on the Secretary's findings and the disposition of comments on the program, as well as a detailed explanation of the conditions of its approval. Subsequent actions concerning the Arkansas program are identified at 30 CFR 904.12, 904.15, and 904.16.

**II. Submission of Proposed Amendment**

By letter dated December 22, 1988 (Administrative Record No. AR–346), Arkansas submitted to OSM proposed revisions to the following provisions of Arkansas' regulations: Arkansas Surface Coal Mining and Reclamation Code (ASCMRC) 705.11(a), 705.13(a), and 705.15, restrictions on financial interests of State employees; ASCMRC 780.16(b)(3)(i), and (b)(3)(ii), and (c), 784.21, 816.97(b), and 817.97, fish and wildlife information; ASCMRC 846.1, .5, .12, .14, and .18, individual civil penalties; and ASCMRC 1000(50), measurement of revegetation success on prime farmland.

Arkansas submitted its proposed amendment in response to (1) a letter dated October 21, 1988, that OSM sent to Arkansas in accordance with 30 CFR 732.17(c) (Administrative Record No. AR–344), and (2) required program amendments at 30 CFR 904.16 (a) and (b).

On January 13, 1989, OSM published a notice in the **Federal Register** announcing its receipt of the proposed amendment to the Arkansas program and inviting public comment on the adequacy of the amendment (54 FR 1398). The comment period closed on February 13, 1989.

After reviewing the proposed amendment and all comments it had received during the comment period, OSM notified Arkansas by letter dated March 15, 1989 (Administrative Record No. AR–354) of provisions (ASCMRC 816.116(b)(3)(ii)) in the amendment that appeared to be inconsistent with the Federal regulations. Arkansas took two actions in response to this notification. First, by letter dated April 12, 1989 (Administrative Record No. AR–355), Arkansas informed OSM that it was withdrawing the proposed revision at ASCMRC 816.116(b)(3)(ii) that pertained to revegetation success criteria for bond release as these criteria related to the replacement of trees and shrubs as a normal husbandry practice. Second, by letter dated April 24, 1989 (Administrative Record No. AR–356), Arkansas submitted to OSM a revision to the proposed amendment which would delete ASCMRC 1000(50) so as to remove the suspension of ASCMRC 823.11(c). (ASCMRC 823.11(c) establishes actual crop production on reclaimed prime farmlands as the measure for determining whether or not revegetation has been successful.)

To allow the public an opportunity to comment on this twofold response, on May 24, 1989, OSM published a notice in

the Federal Register (54 FR 22452) that reopened and extended the comment period. The extended comment period closed on June 8, 1989. In this same Federal Register notice, OSM announced Arkansas' withdrawal of the proposed revision at ASCMRC 816.116(b)(3)(ii).

## III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment submitted by Arkansas on December 22, 1988, and subsequently revised on April 12 and 24, 1989. The Director may require further changes in the future as a result of Federal regulatory revisions, court decisions, and continuing OSM oversight of the Arkansas program.

*1. Substantive Revisions to Arkansas' Regulations that Are Substantially Identical to the Counterpart Federal Regulations*

Arkansas proposes revisions to the following regulations that are substantive in nature and contain language substantially identical to the corresponding Federal regulations: ASCMRC 705.11(a), 705.13(a), and 705.15 (respectively, counterpart Federal regulations 30 CFR 705.11(a), 705.13(a), and 705.15), restrictions on financial interests of State employees; ASCMRC 780.16(b)(3)(i), (b)(3)(ii), and (c), 784.21, 816.97(b), and 817.97 (30 CFR 780.16(b)(3)(i), (b)(3)(ii) and (c); 784.21; 816.97(b); and 817.97), fish and wildlife information; and ASCMRC 846.1, .5, .12, .14, and .18 (30 CFR 846.1, .5, .12, .14, and .18), individual civil penalties. The Director, therefore, finds that these proposed revisions to Arkansas' regulations are no less effective than the corresponding Federal regulations.

*2. ASCMRC 1000(50), Prime Farmland Restoration*

In approving Arkansas' program amendment dated May 1, 1987 (finding No. 5, 53 FR 9885), the Director at 30 CFR 904.16(b) required that Arkansas revise its regulations at ASCMRC 1000(50) to remove the suspension of ASCMRC 823.11(c). Arkansas has complied with this requirement in this amendment. The Director now finds that ASCMRC 823.11(c) is no less effective than the corresponding Federal rule at 30 CFR 823.15(b). Therefore, the Director is removing the required program amendment at 30 CFR 904.16(b).

## IV. Summary and Disposition of Comments.

*Public Comments*

The Director both solicited public comment and provided opportunity for a public hearing on the proposed amendment. No comments were received. Because no one requested an opportunity to testify at a public hearing, no hearing was held.

*Agency Comments*

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), the Director also solicited comments from various State and Federal agencies with an actual or a potential interest in the Arkansas program. The University of Arkansas Cooperative Extension Service (ACES) and the U.S. Fish and Wildlife Service (USFWS) responded with comments.

ACES commented on proposed Arkansas regulation ASCMRC 816.97(h) which requires that, "where cropland is to be the postmining land use, and where appropriate for wildlife—and crop-management practices, the operator shall intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and diversify habitat types for birds and other animals." ACES was concerned that the regulation is vague and subjective and could be interpreted and implemented by Arkansas in such a manner as to place unrealistic and uneconomical constraints on commercial and private agricultural operations. It further commented that trees, shrubs, grasses, and other wildlife habitat should be located around field edges and in non cropland areas but should not be located in otherwise economically operable fields. In response, the Director notes that the phrase in the proposed regulation "where appropriate for wildlife—*and* crop-management" (emphasis added) requires operators to reclaim cropland to uses appropriate for *both* wildlife *and* crop management. If, as ACES suspects could happen, Arkansas were to implement its program inconsistent with this regulation, and not take account of the wildlife and crop-management phrase, Arkansas's implementation would become a matter for OSM review in its oversight of the Arkansas program. In addition the Director notes that the language of the Arkansas proposed rule is identical to the language of the counterpart Federal regulation at 30 CFR 816.97(h). On these bases, the Director is not requiring Arkansas to revise its proposed regulation.

USFWS commented on proposed Arkansas regulation ASCMRC 816.97(e)(i) which requires that power lines and transmission facilities be designed and constructed so as to minimize electrocution hazards to raptors. USFWS suggested that Arkansas include in the regulation a reference to the publication entitled "Suggested Practices for Raptor Protection on Powerlines—the State of the Art in 1981" or to some other current state-of-the-art guidelines. OSM did not require Arkansas to revise the language of its proposed regulation because Arkansas' language is identical to the language of the Federal counterpart regulation at 30 CFR 816.97(e)(i). However, OSM acknowledges that the document recommended by USFWS is a state-of-the-art guideline for protection of raptors from electrocution. OSM also recommends this document for use.

## V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment submitted to OSM by Arkansas on December 22, 1988. Arkansas must promulgate the regulations the amendment addresses in a form identical, with the exception of typographical errors, to the form in which they were submitted December 22, 1988, and revised April 12 and 24, 1989. However, the Director reserves the right to require further changes to these regulations in the future as a result of Federal regulatory revisions, court decisions, and OSM's continuing oversight of the Arkansas program. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency between State and Federal standards is required by SMCRA.

The Director is, as explained in finding No. 2, removing the requirement at 30 CFR 904.16(b) that this amendment satisfies. To implement this decision, the Director is amending the Federal regulations at 30 CFR 904 which codify all decisions concerning the Arkansas program.

In addition to making this decision on the proposed amendment, the Director is also taking this opportunity to remove 30 CFR 904.12(b) and 904.16(a). Both relate to ASCMRC 816.116(b)(3)(ii), a provision which Arkansas originally submitted in this amendment but subsequently withdrew. The reasons for the Director taking these actions are discussed below.

OSM's regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) were subject to a District Court's ruling (*In Re: Permanent Surface Mining Regulation Litigation II*, No. 79-1144 D.D.C. 1985, (PSMRL II)) that: the administrative record of OSM did not show that the replacing of trees and shrubs was a normal husbandry practice. On November 20, 1986, in response to the PSMRL II, OSM suspended its regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) insofar as they authorized the counting of trees and shrubs that have been in place less than the full period of responsibility in determining the success of revegetation (51 FR 40952). And on March 28, 1988, the Director at 30 CFR 904.12(b) OSM disapproved the counterpart Arkansas regulation, ASCMRC 816.116(b)(3)(ii), and required at 30 CFR 904.16(a) that Arkansas amend its regulation to be consistent with the court's decision (53 FR 9882).

Then, in the September 7, 1988, **Federal Register** (53 FR 34636), OSM issued revised Federal regulations on revegetation in response to PSMRL II and lifted the suspension on 30 CFR 816.116(b)(3)(ii). The revised Federal regulations at: 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require that, at the time of final bond release, at least 80 percent of all trees and shrubs used to determine revegetation success be in place for at least 60 percent of the applicable minimum period of responsibility (53 FR 34636). This action rendered moot the prior disapproval of the Arkansas program at 30 CFR 904.12(b) and the required program amendment at 30 CFR 904.16(a). Therefore, the Director is revising the Federal regulations to remove the disapproval and requirement.

In taking this action, the Director notes that he has, by letter dated July 25, 1989, already notified Arkansas in accordance with 30 CFR 732.17(d) that Arkansas must amend its regulation at ASCMRC 816.116(b)(3)(ii) to be consistent with OSM's revised regulation at 30 CFR 816.116(b)(3)(ii), which requires that at least 80 percent of the trees and shrubs counted to determine revegetation success be in place for at least 60 percent of the 5-year period of revegetation responsibility.

## VI. Procedural Determinations

### *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 on this rulemaking.

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

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM 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, the action this notice describes is exempt both from regulatory review by OMB and from the requirement to prepare a regulatory impact analysis.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities, nor will it impose any new requirements; rather, the rule will ensure that existing requirements established by SMCRA and its implementing Federal regulations will be met by the State of Arkansas.

### *3. Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the OMB under 44 U.S.C. 3507.

### List of Subjects in 30 CFR Part 904

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

Dated: November 2, 1989.

**Raymond L. Lowrie,**

*Assistant Director, Western Field Operations.*

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 904—ARKANSAS

1. The authority citation for part 904 continues to read as follows:

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

### § 904.12 [Amended]

2. Section 904.12 is amended by removing and reserving paragraph (b).

3. Section 904.15 is amended by adding a new paragraph (f) as follows:

### § 904.15 Approval of amendments to State regulatory program.

* * * * *

(f) The amendment to the following sections of the Arkansas Surface Mining and Reclamation Code, as submitted to OSM on December 22, 1988 and revised on April 12 and 24, 1989, is approved effective November 14, 1989: 705.11(a); 705.13(a); 705.15; 780.16(b)(3)(i), and (b)(3)(ii), and (c); 784.21; 816.97(b); 817.97; 846.1, .5, .12, .14, and .18; and 1000(50). The revisions affect the program areas regarding restriction on financial interests of employees, required fish and wildlife resource information for surface and underground mining applications, performance standards for protection of endangered and threatened species, individual civil penalties, and revegetation success standards for reclaimed prime farmlands.

### § 904.16 [Removed]

4. Section 904.16 is removed.

[FR Doc. 89-26423 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-10-M

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

[SW-FRL-3680-2]

### Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) today is announcing its decision to deny the petition submitted by Fisher Guide, formerly Fisher Body Division of General Motors Corporation, Flint, Michigan, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. This rulemaking finalizes the proposed denial for Fisher Guide's petitioned wastes published on December 16, 1988 (see 53 FR 50550). The effect of this action is that these wastes must continue to be handled as hazardous in accordance with 40 CFR parts 260 through 268, and the permitting standards of 40 CFR part 270.

**EFFECTIVE DATE:** November 15, 1989.

**ADDRESSES:** The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., (Room M2427), Washington, DC 20460, and is available for viewing

from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-89-FGDF-FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Robert Kayser, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4206.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *A. Authority*

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine (1) that the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

### *B. History of This Rulemaking*

Fisher Guide, formerly Fisher Body Division of General Motors Corporation (Fisher Guide), located in Flint, Michigan, petitioned the Agency to exclude from hazardous waste control electroplating sludges contained in its settling lagoon system and drying beds. After evaluating the petition, EPA proposed, on December 16, 1988, to deny Fisher Guide's petition to exclude its wastes from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see FR 50550).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny Fisher Guide's petition.

## II. Disposition of Delisting Petition

### *A. General Motors/Fisher Guide, Flint, Michigan*

#### 1. Proposed Exclusion

Fisher Guide petitioned the Agency for an exclusion of its wastewater treatment sludges in its settling lagoon system and drying beds, presently listed as EPA Hazardous Waste No. F006. Fisher Guide based its petition for these wastes (900 and 9,000 cubic yards of sludge in the lagoons and drying beds, respectively) on the claim that the metal constituents of concern are not present at significant levels or, if present at significant levels, are in an essentially immobile form. Additionally, Fisher Guide claims that these wastes are not hazardous on any other basis (*i.e.*, there are no additional constituents or factors that could cause the wastes to be hazardous). The Agency evaluated the information and analytical data provided by Fisher Guide in support of its petition and determined that the hazardous constituents found in the petitioned wastes could pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model to predict the potential mobility of the hazardous constituents found in the petitioned wastes. Based on these evaluations, the Agency determined that Fisher Guide failed to substantiate its claim that the hazardous constituents of concern will not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 53 FR 50550, December 16, 1988, for a more detailed explanation of why EPA proposed to deny Fisher Guide's petition.

#### 2. Agency Response to Public Comments

The Agency received comments on the proposed rule from two interested parties. One commenter supported the Agency's proposed decision to deny the petition, both on the grounds articulated by EPA and for a number of other reasons. The second commenter opposed the Agency's proposed denial decision. The comments submitted related to the following areas: (1) Use of the VHS model to evaluate the petitioned wastes, (2) evaluation of samples that were not representative of the petitioned wastes, and (3) use of standard Extraction Procedure (EP) data rather than Oily Waste Extraction Procedure (OWEP) data. The specific comments made by the two interested parties regarding the Agency's proposed decision to deny the petition, and the Agency's responses to them, are discussed below.

*Agency's Use of the VHS Model.* The Agency wishes to note, at this time, that the proposed rule published on December 16, 1988 contained a typographical error in the discussion of the Agency's use of the VHS model to evaluate the drying bed sludges. Specifically, on 53 FR 50555 (middle column, first full paragraph), the estimated waste volume for the drying bed sludges should have read 9,000 cubic yards (as stated twice previously in 53 FR 50554), not 900 cubic yards. The compliance-point concentrations for the drying bed sludges presented in Tables 5 and 6 were calculated properly using the 9,000 cubic yard waste volume. (The compliance-point concentrations for the lagoon sludges presented in Table 4 were calculated properly using the 900 cubic yard waste volume.)

The first commenter supported the Agency's proposed decision to deny Fisher Guide's petitioned wastes; however, the commenter expressed general concerns over EPA's use of the VHS model to evaluate delisting petitions, including: (1) Failure on the part of the Agency to evaluate total constituent levels of metals in the waste, (2) failure on the part of the Agency to consider all disposal scenarios, (3) criticism of the VHS model in understating the risks of large-quantity waste generators, (4) criticism of the VHS model in not considering other contaminant sources, and (5) unjustified use of the VHS model to evaluate delisting petitions for wastes stored in surface impoundments. Because the Agency already had sufficient bases to deny Fisher Guide's petition for these wastes, as detailed in the proposed rule, and the concerns raised by the commenter do not change the proposed decision, the Agency did not assess whether the additional bases for denial, suggested by the commenter, should be included as part of the rationale for denying the petition. Furthermore, the issues raised by the commenter regarding the effectiveness of the VHS model do not affect EPA's decision to deny this petition. Therefore, the Agency did not address these comments in today's rule.

The second commenter also presented concerns regarding the use of the VHS model, including (1) the model's assumption that wastes are disposed of on an annual basis, (2) that the dimensions of the VHS model disposal unit are biased against the disposal of large waste volumes, and (3) the model does not consider site-specific factors.

*Annual Disposal of Wastes*—The commenter suggested that many of the assumptions used in the VHS model are not "reasonable", but absolute worst-case. Specifically, with regard to Fisher Guide's petition, the commenter argued that the petitioned wastes were disposed of every other week, not annually as assumed in the VHS model. The commenter suggested that the model should account for on-going disposal practices, even though, in Fisher Guide's case, the lagoons and drying beds no longer receive hazardous waste.

With regard to the evaluation of Fisher Guide's drying bed sludges, the Agency believes that it is a reasonable

worst-case to expect that, should the waste be delisted, the entire contents of the drying beds (9,000 cubic yards) might be disposed of at one time. Therefore, the Agency believes that the use of a disposal volume of 9,000 cubic yards for the drying bed sludges in the VHS model evaluation presented in the proposed rule is justified. Likewise, because Fisher-Guide stated in its petition that sludges are removed from the lagoons at a rate of 900 cubic yards once a year, the Agency believes that the use of a disposal volume of 900 cubic yards for waste contained in the lagoons is also justified.

*Bias Against Large Waste Volumes*—The commenter further claimed that the VHS model presents a bias against large-volume hazardous waste generators because the VHS model does not provide credit for trench-widening in the y-direction.[1] The commenter believes this factor gives "less realistic dilution".

As discussed in the **Federal Register** on November 27, 1985 (50 FR 48896), the VHS model incorporates a sliding-scale that allows the Agency to take into account the decreased impact that smaller waste volumes would have on ground water quality. The VHS model predicts a maximum dilution factor of about 32 for waste volumes equal to (or less than) 475 cubic yards. As waste volume increases, the dilution factor decreases, until a minimum value of approximately 6.3 is predicted for waste volumes above 8,000 cubic yards. This variation in the dilution factor (corresponding to waste volume) is a function of the assumptions made in the disposal unit dimensions for the VHS model (see 50 FR 48896, November 27, 1985). The Agency continues to believe that it is reasonable to assume that a large amount of waste has a greater potential to impact an underlying aquifer than a smaller volume, as predicted by the VHS model.

The Agency disagrees with the commenter that credit should be given for trench-widening. The dimensions of the VHS model disposal unit (the trench which the commenter refers to) represent the dimensions of a "generic" disposal unit based on information obtained regarding typical disposal unit area (see 50 FR 7898, February 26, 1985). The Agency supports the use of these generic assumptions because the waste, if delisted, would no longer be regulated under subtitle C and thus could be disposed of in a management setting with any trench arrangement.

*Site-specific Considerations*—The commenter also argued for the consideration of site-specific conditions and their impact on an on-site disposal alternative. The commenter stated that, because Fisher Guide proposes to construct an on-site monofill to contain the sludges, an on-site monofill would be a more appropriate disposal alternative. The commenter stated that favorable, on-site soil conditions, combined with the proposed design of the monofill, suggest that water extract data, in addition to "other model modifications," would likely be more representative in the proposed disposal alternative. The commenter claims that the acidic conditions simulated by the EP leachate test would not be representative of a monofill.

As discussed in the proposed rule (see 53 FR 50550), the Agency believes that the use of site-specific conditions (such as soil conditions and unit design) would be inappropriate and inconsistent with the intent of delisting evaluations. Delisting decisions are waste-specific, not disposal-site specific. They are formulated by evaluating the hazard of a petitioned waste in a non-subtitle C management setting. Delisting evaluations which considered the specific conditions at the site of disposal, for example, could not predict future storage or disposal conditions that may be pertinent when the waste is removed from the present disposal site, a situation which could occur once the waste is excluded from Subtitle C regulation. If delisted, the sludge may, in a reasonable worst-case scenario, be placed in a municipal landfill and exposed to acidic leachate. Therefore, the Agency believes that the use of the acidic EP leachate test is appropriate to simulate this disposal scenario. Use of a non-acidic extraction medium (*i.e.*, distilled water as suggested by Fisher Guide) would not properly account for this potential disposal option.

*Evaluation of "Unrepresentative" Samples.* The first commenter noted that the Agency did not point out that samples collected in 1981 and 1982, although used by Fisher Guide in their petition and evaluated by the Agency, were not collected using standard delisting guidance.

The Agency recognizes that Fisher Guide did not follow standard delisting guidance in collecting samples from its drying beds in 1981 and 1982. Specifically, as described in the proposed rule, Fisher Guide did not provide descriptions of procedures followed during the collection of drying bed sludge samples in 1981. Without such descriptions, the Agency was unable to assess whether the 1981 samples are representative of the waste contained throughout the drying beds. As also described in the proposed rule, Fisher Guide provided, in 1982, only six composites (one composite for each half of the three drying beds) to characterize the composition of its drying bed sludges. For a waste contained in an on-site waste management unit, the Agency normally requires petitioner's to submit at least four composite samples, one sample representing the waste contained in each quadrant, not one sample representing the waste contained in half of the unit. Nevertheless, even though the 1981 and 1982 samples were collected using procedures different than those recommended for delisting purposes, the Agency chose to use the 1981 and 1982 data to support the denial of Fisher Guide's petition because these samples, to some extent, are representative of a portion of each lagoon or drying bed. For these reasons, the Agency believes that its evaluation of the 1981/1982 samples to support the conclusion that the petitioned wastes contain significant levels of leachable lead and nickel was appropriate. The Agency also wishes to stress that the 1984 drying bed sludge samples (as well as the 1981/1982 samples) failed the VHS model evaluation due to high leachable levels of nickel and lead.

*Agency's Use of Standard EP Data.* The first commenter also stated that it does not consider standard EP data to be "valid", in lieu of OWEP data, in predicting reasonable worst-case leaching of contaminants. The Agency interprets this comment to mean that the commenter is concerned about the Agency's suggestion that EP data are sufficient to estimate the mobility of constituents from an oily waste.

The Agency wishes to clarify the statement to which the commenter refers. The statement in the preamble to the proposed rule (see 53 FR 50550) reads "* * * the Agency believes that the modeling evaluation for Fisher Guide's petitioned wastes using EP data is valid, because OWEP concentrations are typically higher than EP leachate concentrations". The Agency did not mean to suggest that data obtained using standard EP procedures were sufficient or would form a valid basis for delisting Fisher Guide's waste. Rather,

[1] The VHS model is based upon the premise that the petitioned waste is disposed of in a 40-foot wide, 8-foot deep trench. The orientation of the trench is such that the x-direction is perpendicular to the direction of ground-water flow; the y-direction is parallel to the direction of ground-water flow; and the z-direction is into the underlying aquifer. The VHS model assumes a "fixed" reasonable worst-case value for the dimension of the trench in the y-direction (*i.e.*, 40 feet) and, as the commenter notes, "does not provide credit for trench-widening".

the Agency recognized in the proposed rule that Fisher Guide should have analyzed its petitioned wastes using the OWEP (because the oil and grease content of its wastes exceeded one percent), but believed that the use of EP data was sufficient to indicate that leachable levels of certain metals were of concern and that, therefore, delisting was inappropriate.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Fisher Guide's petitioned wastes should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Fisher Guide, formerly Fisher Body Division of General Motors Corporation, located in Flint, Michigan, for its electroplating wastewater treatment sludges, classified as F006 wastes, which are contained in the petitioner's lagoons and drying beds. The effect of this rule is that these petitioned wastes must continue to be handled as hazardous wastes in accordance with 40 CFR parts 260 through 268, and parts 270, 271, and 124.

## III. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule does not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage these wastes as hazardous during the Agency's review of its petition. This rule, therefore, should be effective immediately for this petitioner. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. § 553(d).

## IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The denial of this petition does not impose an economic burden on this facility because prior to submitting and during the review of the petition, this facility should have continued to handle its wastes as hazardous. The denial of this petition means that Fisher Guide must continue managing these wastes as hazardous in a manner in which it has been doing, economically and otherwise. There is no additional economic impact, therefore, due to today's rule. This rule is not a major regulation, therefore no Regulatory Impact Analysis is required.

## V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment does not have a significant adverse economic impact on small entities because its effect will not change the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

## VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

## VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921)

Dated: October 31, 1989.

**Robert H. Wayland,**

*Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 89–26687 Filed 11–13–89; 8:45 am]

BILLING CODE 6560–50–M

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 65

**[Docket No. FEMA-6972]**

## Changes in Flood Elevation Determinations; Indiana et al.

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Interim rule.

**SUMMARY:** This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

**DATES:** These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Adminstrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

**ADDRESSES:** The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2767.

**SUPPLEMENTARY INFORMATION:** The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in thisnotice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains.

1. The authority citaton for part 65 continues to read as follows:

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

**§ 65.4 [Amended]**

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

| State and county | Location | Date and Name of Newspaper Where Notice Was Published | Chief Executive Officer of Community | Effective Date of Modification | Community No. |
|---|---|---|---|---|---|
| Indiana: Lake | Town of Schererville | Oct. 19, 1989 and Oct. 26, 1989. *The Post Tribune* | The Honorable Herman Parker, Town Manager, Town of Schererville, Town Hall, 1640 Wilson Street, Schererville, Indiana 46375. | Oct. 3, 1989 | 180142 |
| Kansas: Sedgwick | Unincorporated Areas | Oct. 25, 1989 and Nov. 1, 1989. *Daily Reporter* | The Honorable Paul W. Hancock, Chairman, Board of County Commissioners, Sedgwick County, 525 North Main, 3rd Floor, Wichita, Kansas 67203. | Oct. 12, 1989 | 200321 |
| Kansas: Sedgwick | City of Wichita | Nov. 2, 1989 and Nov. 9, 1989. *Daily Reporter* | The Honorable Sheldon Kamen, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202. | Oct. 18, 1989 | 200238 |
| Louisiana: Cameron | Unincorporated areas | Oct. 26, 1989 and Nov. 2, 1989. *Cameron Pilot* | The Honorable Ernest Carol Trahan, President, Cameron Parish Police Jury, P.O. Box 366, Cameron, Louisiana 70631. | Oct. 13, 1989 | 225194E |
| Louisiana: Cameron | Unincorporated areas | Nov. 2, 1989 and Nov. 9, 1989. *Cameron Pilot* | The Honorable Ernest Carol Trahan, President, Cameron Parish Police Jury, P.O. Box 366, Cameron, Louisiana 70631. | Oct. 20, 1989 | 225194E |
| Louisiana: Unincorporated areas. | Lafourche Parish | Sept. 28, 1989 and Oct. 5, 1989. *The Daily Comet* | The Honorable Vernon F. Galliano, President of the Lafourche Parish Council, P.O. Drawer 5548, Thibodaux, Louisiana 70302. | Sept. 8, 1989 | 225202C |

Issued: November 2, 1989.

**Harold T. Duryee,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 89-26666 Filed 11-13-89; 8:45 am]

BILLING CODE 6718-03-M

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**44 CFR Part 65**

**Changes in Flood Elevation Determinations; Georgia et al.**

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

**DATES:** The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

**ADDRESSES:** The modified base flood elevations for each community are available for inspection at the Office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain

qualified for participating in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

**List of Subjects in 44 CFR Part 65**

Flood insurance, floodplains.

1. The authority citation for Part 65 continues to read as follows:

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

**§ 65.4 [Amended]**

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

| State | County | Location | Date and name of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|---|
| Georgia | De Kalb (Docket No. FEMA-6961). | Unincorporated Areas. | July 13, 1989, July 20, 1989, *Decatur-De Kalb News-Era.* | The Honorable Manuel J. Maloof, Chief Executive Officer, De Kalb County, 556 North McDonough, Decatur, Georgia 30030. | July 3, 1989 | 130065 |
| Michigan | Berrien (Docket No. FEMA-6963). | Township of Coloma. | July 19, 1989, July 26, 1989, *Tri-City Record.* | The Honorable Rodney Krieger, Supervisor, Township of Coloma, 4919 Paw Paw Lake Road, Coloma, Michigan 49038. | July 10, 1989 | 260034 |
| Michigan | Berrien (Docket No. FEMA-6963). | Township of Watervliet. | July 19, 1989, July 26, 1989, *Tri-City Record.* | The Honorable Merle Bujack, Supervisor, Township of Watervliet, P.O. Box 384, Watervliet, Michigan 49098. | July 10, 1989 | 260048 |

**Harold T. Duryee,**

*Administrator, Federal Insurance Administration.*

Issued: November 2, 1989.

[FR Doc. 89-26668 Filed 11-3-89; 8:45 am]

BILLING CODE 6718-03-M

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**44 CFR Part 67**

## Final Flood Elevation Determinations; Arkansas et al.

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

**ADDRESSES:** See table below:

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472; (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

**List of Subjects in 44 CFR Part 67**

Flood insurance, Floodplains.

The authority citation for part 67 continues to read as follows:

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

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

| Source of flooding and location | #Depth in feet above ground.*Elevation in feet (NGVD). Modified |
|---|---|
| **ARKANSAS** | |
| **Mountain Home (city), Baxter County (FEMA Docket No. 6959)** | |
| *Dodd Creek:* | |
| Approximately 80 feet downstream of downstream corporate limits | *718 |
| Approximately 750 feet upstream of Bucher Drive | *786 |
| *Dodd Creek Tributary:* Approximately 1,800 feet downstream of Pine | *754 |
| **Maps available for inspection** at the City Hall, 720 S. Hickory, Mountain Home, Arkansas. | |
| **CALIFORNIA** | |
| **Trinity County (unincorporated areas) (FEMA Docket No. 6959)** | |
| *Weaver Creek:* | |
| 1,300 feet downstream of Mill Street | *1,933 |
| 1,050 feet downstream of Mill Street | *1,937 |
| 600 feet downstream of Mill Street | *1,945 |
| Just upstream of Mill Street | *1,960 |
| *Middle Weaver Creek:* | |
| Just upstream of Mill Street | *1,960 |
| 850 feet upstream of Mill Street | *1,966 |
| 1,700 feet upstream of Mill Street | *1,979 |
| Just downstream of Bremer Street | *1,991 |
| Just upstream of confluence with Ten Cent Gulch | *2,005 |
| *Ten Cent Gulch:* | |
| Just upstream of Highway 299 | *2,011 |
| Just upstream of Highway 3 | *2,027 |
| 850 feet upstream of Highway 3 at a private crossing | *2,040 |
| 1,212 feet upstream of Highway 3 at a private crossing | *2,047 |
| 2,200 feet upstream of Highway 3 | *2,072 |
| **Maps are available for review** at the Trinity County Courthouse, Board of Supervisors' Office, 101 Court Street, Weaverville, California. | |
| **COLORADO** | |
| **Colorado Springs (city), El Paso County (FEMA Docket No. 6959)** | |
| *Sand Creek:* | |
| At Powers Boulevard | *6,119 |
| Approximately 870 feet upstream of Powers Boulevard | *6,128 |
| Approximately 1,975 feet upstream of Powers Boulevard | *6,156 |
| Approximately 2,850 feet upstream of Powers Boulevard | *6,169 |
| **Maps are available for review** at 101 West Costilla, Colorado Springs, Colorado. | |
| **NEW JERSEY** | |
| **East Brunswick (township), Middlesex County (FEMA Docket No. 6959)** | |
| *Cedar Brook:* | |
| Approximately .4 mile downstream of the corporate limits | *32 |
| Approximately .4 mile upstream of the corporate limits | *35 |
| **Maps available for inspection** at the Department of Planning and Community Development, 1 Jean Walling Civic Center, East Brunswick, New Jersey. | |
| **Fieldsboro (borough), Burlington County (FEMA Docket No. 6955)** | |
| *Delaware River:* | |
| Upstream corporate limits | *14 |
| Downstream corporate limits | *14 |
| **Maps available for inspection** at the Borough Building, 18 Washington Street, Fieldsboro, New Jersey. | |
| **PENNSYLVANIA** | |
| **Conewango (township), Warren County (FEMA Docket No. 6957)** | |
| *Jackson Run:* | |
| Approximately 1,600 feet upstream of U.S. Route 62 Bridge | *1,207 |
| Approximately 200 feet downstream of Abandoned Bridge | *1,214 |
| **Maps available for inspection** at the Township Building, 4 Fireman Road, Warren, Pennsylvania. | |
| **Earl (township), Berks County (FEMA Docket No. 6959)** | |
| *Mantawny Creek:* | |
| Approximately 100 feet upstream of downstream corporate limits | *249 |
| Approximately 640 feet upstream of upstream corporate limits | *273 |
| **Maps available for inspection** at the Township Building, Earl, Pennsylvania. | |
| **Miller (township), Huntingdon County (FEMA Docket No. 6959)** | |
| *Standing Stone Creek:* | |
| At downstream corporate limits | *662 |
| Approximately .43 mile upstream of LR 31112 | *687 |
| **Maps available for inspection** at the home of the Township Secretary, Patricia McNeal, R.D. 2, Huntingdon, Pennsylvania. | |
| **Mount Pleasant (township), Columbia County (FEMA Docket No. 6959)** | |
| *Little Fishing Creek:* | |
| Approximately 50 feet upstream of Township Route 519 | *547 |
| At upstream corporate limits | *580 |
| **Maps available for inspection** at the residence of the Township Secretary, Mr. Boyd C. Laycock, Jr., R.D. 4, Bloomsburg, Pennsylvania. | |
| **Ruscombmanor (township), Berks County (FEMA Docket No. 6959)** | |
| *Unnamed Tributary to Little Manatawny Creek:* | |
| At downstream corporate limits | *484 |
| Approximately 0.3 mile upstream of Olney Road | *525 |
| **Maps available for inspection** at the residence of the township secretary, Rose Ellen Mull, R.D. 3, Oley Road, Fleetwood, Pennsylvania. | |
| **TEXAS** | |
| **Fort Bend County (unincorporated area) (FEMA Docket No. 6959)** | |
| *Clodine Ditch:* | |
| At upstream side of the corporate limits | *91 |
| Approximately 3.15 miles upstream of Harlem Road | *94 |
| **Maps available for inspection** at the Fort Bend County Courthouse, 401 Jackson, Richmond, Texas. | |
| **WASHINGTON** | |
| **Benton County (unincorporated Areas) (FEMA Docket No. 8962)** | |
| *Zintel Canyon:* | |
| Approximately 400 feet northeast of the intersection of East 19th Avenue and Washington Street | *376 |
| Approximately 1,200 feet west of the intersection of East 23rd Street and South Gum Street | *368 |
| At the intersection of East 27th Avenue and South Myrtle Street | *366 |
| At the intersection fo East 19th Avenue and South Oak Street | *366 |
| **Maps available for inspection** at the Benton County Planning Department, 620 Market Street, Prosser, Washington. | |
| **Grays Harbor County (unincorporated Areas) (FEMA Docket No. 6959)** | |
| *Pacific Ocean at Copalis Beach:* | |
| Approximately 2,000 feet north of mouth of Connor Creek at Chabot Island | *15 |
| Pacific shoreline 1,000 feet west of Chabot Island | *18 |
| Approximately 1,000 feet west of intersection of State Highway 109 and Pacific Boulevard | #2 |
| **Maps are available for review** at Grays Harbor County Planning Department, 100 West Broadway Street, Montesano, Washington. | |

Issued: November 2, 1989.

**Harold T. Duryee,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 89-26669 Filed 11-13-89; 8:45 am]

**BILLING CODE 6718-03-M**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[MM Docket No. 88-330; RM-6210, RM-6304, RM-6473]**

## Radio Broadcasting Services; Gadsden, Holly Pond, and Attalla, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document allots Channel 238A to Holly Pond, Alabama, and Channel 275A to Attalla, Alabama, at the request of American Communications and Marketing, Inc. ("ACMI") and Steven L. Graddick, respectively. The communities of Holly Pond and Attalla receive a first local broadcast service. Coordinates are, for Channel 238A at Holly Pond, 34-09-03 and 86-36-39, and for Channel 275A at Attalla, 34-01-06 and 86-05-30. In addition, this document dismisses the petition for rulemaking filed by Ron Hale for the allotment of Channel 238A to Gadsden, Alabama. See 53 FR 27179, July 19, 1989. With this action, the proceeding is terminated.

**DATES:** Effective December 21, 1989. The window period for filing applications will open on December 22, 1989, and close on January 22, 1990.

**FOR FURTHER INFORMATION CONTACT:** Ordee Pearson, (202) 634-6530.

Questions related to the window application filing process should be addressed to the Audio Service Division, FM Branch, Mass Media Bureau, (202) 632-0394.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order in MM Docket No. 88-330, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Radio broadcasting.

## PART 73—[AMENDED]

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of Allotments, is amended under Alabama by adding Holly Pond, Channel 238A and Attalla, Channel 275A.

Federal Communications Commission.

**Karl A. Kensinger,**

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

[FR Doc. 89-26639 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

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**47 CFR Part 73**

**[MM Docket No. 88-65, RM-6188, 6342, 6343, 6344]**

## Radio Broadcasting Services; East Hemet, Indio, Rancho California, Sun City, and Temecula, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document deletes Channel 225A at East Hemet, California, in response to a petition filed by Claridge Broadcasting Corp., allots Channel 225A to Sun City, California, at the request of G. Dale Cowle, and allots Channel 233A to Temecula, California, at the request of Jim James. Coordinates used for Channel 225A at Sun City are 33-37-29 and 117-12-03, with a site restriction of 9.4 kilometers (5.8 miles) south of the community to avoid short-spacings to Station KWDJ, Channel 224A, Riverside, California, and Station KODJ, Channel 226B, Los Angeles, California. Coordinates used for Channel 233A at Temecula are 33-29-36 and 117-08-54. In addition, this document denies a petition requesting the substitution of Channel 225B for Channel 224A at Indio, California, and the modification of the license for Station KCMJ-FM accordingly, as requested by Claridge Broadcasting Corp., and denies a petition to allot Channel 225A to Rancho California, California, at the request of Jones and Associates. See 53 FR 5597, February 25, 1988. With this action, the proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** Michael Ruger, Mass Media Bureau, (202) 632-6302.

**EFFECTIVE DATES:** December 21, 1989 the window period for filing applications for Channel 225A at Sun City, California, will open on December 22, 1989 and close on January 22, 1990. The window period for filing applications for Channel 233A at Temecula, California, will open on December 22, 1989, and close on January 22, 1990.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 88-65, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available during business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

Radio broadcasting.

## PART 73—[AMENDED]

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments, is amended for California as follows: under East Hemet, remove Channel 225A; under Sun City, add Channel 225A; and under Temecula, add Channel 223A.

Federal Communications Commission.

**Karl Kensinger,**

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

[FR Doc. 89-26640 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

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**47 CFR Part 73**

**[MM Docket No. 89-21; RM-6566; RM-6731]**

## Radio Broadcasting Services; Grove City, Pennsylvania, Hubbard, OH

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Stephen M. Kramer, allots Channel 270A to Hubbard, Ohio, as the community's first local FM service. Channel 270A can be allotted to Hubbard in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.2 kilometers (5.1 miles) southeast to avoid a short-spacing to Station WVCC, Channel 269A, Linesville, Pennsylvania. The coordinates for this allotment are North Latitude 41-06-17 and West Longitude 80-29-58. Canadian concurrence has been received since Hubbard is located within 320 kilometers (200 miles) of the U.S.-Canadian border. This action also denies the request of Gary P. Hummel, Robert A. Hogue and Michael Troliano to allot Channel 270A to Grove City, Pennsylvania, as the community's second local FM service. With this action, this proceeding is terminated.

**DATES:** Effective December 21, 1989. The window period for filing applications will open on December 22, 1989, and close on January 22, 1990.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 89-21, adopted October 21, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

Radio broadcasting.

## PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by adding the following entry, Hubbard, Ohio, Channel 270A.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-26641 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

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## 47 CFR Part 73

[MM Docket No. 88-34; RM-6086, RM-6335]

## Radio Broadcasting Services; Llano and Kerrville, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 284C2 for Channel 285A at Llano, Texas, and modifies the license of Station KLKM(FM) to specify operation on the higher class adjacent channel, at the request of Maxagrid Broadcasting Corporation, as that community's first wide coverage area FM station. See 53 FR 5286, February 23, 1988. In addition, this action substitutes Channel 232C2 for Channel 232A at Kerrville, Texas, and modifies the license of Station KRVL(FM) to specify operation on the higher class co-channel, at the request of Griffin Broadcasting Corporation, as that community's first wide coverage area FM service. A site restriction of 9.3 kilometers (5.8 miles) north of Llano is required for Channel 284C2. The coordinates are 30-50-01 and 98-41-16. Channel 232C2 can be allotted to Kerrville with a site restriction of 23.2 kilometers (14.4 miles) northwest of the city, at coordinates 30-11-55 and 99-18-19. Concurrence of the Mexican government has been received for the allotments. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** December 21, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 88-34, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Radio broadcasting.

### PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended, under Texas, by adding Channel 284C2 and removing Channel 285A at Llano; and adding Channel 232C2 and removing Channel 232A at Kerrville.

Karl A. Kensinger,

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

[FR Doc. 89-26642 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

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## 47 CFR Part 73

[MM Docket No. 89-29; RM-6548]

## Radio Broadcasting Services; Refugio, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 291C2 for Channel 292A at Refugio, Texas, and modifies the license of Station KZTX(FM) at Refugio to specify operation on the higher powered frequency, as that community's first wide coverage area FM service, at the request of Sound Leasing, Inc. See 54 FR 8221, February 27, 1989. The channel substitution can be accomplished in compliance with the Commission's minimum separation requirements, at the city reference coordinates, which are 28-18-18 and 97-16-30. The Mexican government has concurred in the channel substitution. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** December 21, 1989.

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 89-29, adopted October 12, 1989, and released November 6, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Radio broadcasting.

### PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Texas, by removing Channel 292A and adding Channel 291C2 at Refugio.

Karl A. Kensinger,

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

[FR Doc. 89-26643 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

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# INTERSTATE COMMERCE COMMISSION

## 49 CFR Part 1181

[Ex Parte No. MC-111; Sub-No. 1]

## Transfer Rules

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rules; correction.

**SUMMARY:** In this final rule proceeding published in the **Federal Register** on February 18, 1988 at 53 FR 4852, the Commission adopted rules revising its regulations at 49 CFR part 1181 governing applications under 49 U.S.C. 10321 and 10926 to transfer operating rights of motor property and passenger carriers, water carriers, holders of Certificates of Registration, household goods freight forwarders and property brokers. In § 1181.6(a)(2) the word "corporation" was inadvertently left out. This notice corrects that omission.

**DATES:** Effective on November 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathleen M. King, (202) 275-7429. (TDD for Hearing Impaired: (202) 275-1721.)

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 49 CFR Part 1181**

Administrative practice and procedure; Brokers; Freight forwarders; Maritime carriers; Motor carriers.

### PART 1181—TRANSFERS OF OPERATING RIGHTS UNDER 49 U.S.C. 10926

1. The authority citation for part 1181 continues to read as follows:

Authority: 5 U.S.C. 553, and 49 U.S.C. 10321 and 10926.

2. Section 1181.6, paragraph (a)(2) is revised to read as follows:

**§ 1181.6 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.**

(a) * * *

(2) A change in the legal name of a corporation or partnership or change in the trade name or assumed name of any entity;

* * * * *

Noreta R. McGee,

*Secretary.*

[FR Doc. 89-26689 Filed 11-13-89; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 285

### Atlantic Tuna Fisheries

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

**ACTION:** Notice of closure.

**SUMMARY:** NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category. Closure of this segment of the fishery is necessary because the annual quota allocated to vessels fishing in the area north of 36°N. latitude has been attained. The intent of this action is to prevent overharvest of the overall U.S. quota established for this fishery.

**EFFECTIVE DATE:** The closure is effective 0001 hours local time November 15, 1989, through December 31, 1989.

**FOR FURTHER INFORMATION CONTACT:** Kathi L. Rodrigues, 508-281-9324.

**SUPPLEMENTARY INFORMATION:** Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.22(f)(1) of 50 CFR part 285 provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the category of gear subject to the quotas. On February 19, 1989, the portion of the Incidental Catch category alloted to longline vessels fishing south of 36°N. latitude was closed. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for catch vessels fishing in the area north of 36°00′ N. latitude will be attained by the effective date. Fishing for, and retention of, any Atlantic bluefin tuna harvested under § 285.22(f)(1) must cease at 0001 local time on November 15, 1989.

### Other Matters

Notice of this action will be mailed to all Atlantic bluefin tuna dealers and owners of vessels permitted in this category. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with E.O. 12291.

### List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: November 7, 1989.

Richard H. Schaefer,

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

[FR Doc. 89-26615 Filed 11-13-89; 8:45 am]

BILLING CODE 3510-22-M

### 50 CFR Part 652

[Docket No. 90890-9190]

### Atlantic Surf Clam and Ocean Quahog Fisheries

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

**ACTION:** Emergency interim rule, extension of effective date.

**SUMMARY:** An emergency rule amending regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery is in effect through November 9, 1989. The Secretary of Commerce (Secretary) extends this rule through February 7, 1989. This extension is necessary to continue the closure of a portion of the New England Area known as Georges Bank, defined as the fishing grounds east of 69° W. longitude, to fishing for surf clams. This area is closed for an additional 90 days because of adverse environmental conditions that have resulted in the continued high concentrations of paralytic shellfish poison (PSP) found to be present in surf clams from this area. These adverse environmental conditions preclude the harvest of healthful food products from this affected environment.

**EFFECTIVE DATES:** The effectiveness of § 652.23(a)(4) is extended through February 7, 1990.

**FOR FURTHER INFORMATION CONTACT:** John G. Terrill, NMFS, Northeast Region One Blackburn Drive, Gloucester, MA 01930-2298, telephone 508-281-9252.

**SUPPLEMENTARY INFORMATION:** Under the emergency action authority of section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency interim rule effective from August 11 through November 9, 1989 (54 FR 33700, August 16, 1989) closing that portion of the New England Area located east of 69° W. longitude to fishing for surf clams. The emergency interim rule stated that an extension of the closure, if warranted, was possible for an additional 90 days. The Mid-Atlantic Fishery Management Council, at its October 1989 meeting, reviewed the conditions warranting, and the effect of, the emergency interim rule and recommended that it be extended for an additional period of time. Therefore, the Secretary extends for 90 days the effective dates of this emergency interim rule under section 305(e)(3)(B) of the Magnuson Act. The reasons for this action, which were discussed in the preamble to the original promulgation of the emergency interim rule, are still valid as determined by recent sampling of surf clams harvested from the affected area. Testing of these samples detected PSP levels of 190 micrograms/100 grams (μg/100g), which exceed the maximum safe level of 80 μg/100g. Ingestion of PSP toxin is known to cause severe illness or death in humans. For this reason, the PSP levels reported indicate a severe adverse environmental condition that warrants the continued closure of the Georges Bank Area. During the extension of this closure, NMFS will continue to monitor PSP levels in surf clams; should safe levels be attained, the closed area will be reopened prior to February 7, 1990, by notice in the **Federal Register**.

The emergency interim rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule was reported to the Office of Management and Budget with an explanation of why following the

procedures of that Order was not possible.

**List of Subjects in 50 CFR Part 652**

Fisheries, Reporting and recordkeeping requirements.

Dated: November 8, 1989.

**James E. Douglas, Jr.,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 89-26758 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 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 985

[FV-89-107 PR]

### Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1990-91 Marketing Year

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 1990-91 marketing year, which begins on June 1, 1990. This action is taken under the marketing order for spearmint oil produced in the Far West in order to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the spearmint oil market. This action was unanimously recommended by the Spearmint Oil Administrative Committee (Committee), which is responsible for local administration of the order.

**DATES:** Comments must be received by December 14, 1989.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and 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 Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Agreement and Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. 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 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 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.

The Far West spearmint oil industry is characterized by primarily small producers whose farming operations generally involve more than one commodity and whose income from farming operations is not exclusively dependent on the production of spearmint oil. The production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered under the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order normally accounts for more than 75 percent of U.S. production of spearmint oil annually.

The Committee reports that there are approximately 9 handlers and 253 producers of spearmint oil under the marketing order for spearmint oil produced in the Far West. Of the 253 producers, 160 producers hold "Class 1" (Scotch) oil allotment base, and 136 producers hold "Class 3" (Native) oil allotment base. As of June 1, 1989, producers' allotment bases ranged from 667 to 181,902 pounds for Scotch oil and from 290 to 124,346 pounds for Native oil. The average total allotment base held is 10,413 pounds and 13,539 pounds for Scotch and Native oils, respectively.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1) 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 average gross annual receipts are less than $3,500,000. The majority of Far West spearmint oil producers and handlers may be classified as small entities.

This proposed rule would establish salable quantities of 678,800 pounds and 806,498 pounds, respectively, for Scotch and Native spearmint oils produced in the Far West and allotment percentages of 40 percent and 43 percent, respectively, for Scotch and Native spearmint oils produced in the Far West. This action would limit the amount of spearmint oil that may be purchased from or handled for producers by handlers, during the 1990-91 marketing year, which begins on June 1, 1990. Such salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980. The amounts recommended for sale are based on average sales levels over the past nine years and are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market needs which may develop for Native spearmint oil can be more than satisfied by an increase in the salable quantities which producers can fill with current reserve stocks. For Scotch oil, current reserve stocks are depleted. However, both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 1990-91 season may transfer such excess spearmint oil to a producer with a deficiency in spearmint oil production, or such excess spearmint oil may be placed into reserve stocks.

This proposed regulation, if adopted, would be similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this proposed action are expected to be offset by the benefits derived from improved returns.

The salable quantities and allotment percentages were unanimously recommended by the Committee at its September 20, 1989, meeting.

The proposed salable quantity and allotment percentage for each class of spearmint oil for the 1990–91 marketing year, which begins on June 1, 1990, is based upon recommendations of the Committee and the following data and estimates:

(1) "Class 1" (Scotch) Spearmint Oil.

(A) Estimated carryin on June 1, 1990—94,745 pounds.

(B) Estimated trade demand (domestic and export) for the 1990–91 marketing year, based on an average of producer sales for the past nine marketing years, beginning with the 1979–80 marketing year through the 1987–88 marketing year—769,708 pounds.

(C) Recommended desirable carryout on May 31, 1991—0 pounds.

(D) Salable quantity required from 1990 regulated production—674,963 pounds.

(E) Total allotment bases for Scotch oil—1,697,000 pounds.

(F) Computed allotment percentage—39.8 percent.

(G) Recommended allotment percentage—40 percent.

(H) The Committee's recommended salable quantity—678,800 pounds.

(2) "Class 3" (Native) Spearmint Oil.

(A) Estimated carryin on June 1, 1990—0 pounds.

(B) Estimated trade demand (domestic and export) for the 1990–91 marketing year, based on an average of producer sales for the past nine marketing years, beginning with the 1979–80 marketing year through the 1987–88 marketing year—867,882 pounds.

(C) Recommended desirable carryout on May 31, 1991—0 pounds.

(D) Salable quantity required from 1990 regulated production—867,882 pounds.

(E) Total allotment bases for Native oil—1,875,577 pounds.

(F) Computed allotment percentage—46.3 percent.

(G) Recommended allotment percentage—43 percent.*

(H) The Committee's recommended salable quantity—806,498 pounds.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The establishment of these salable quantities and allotment percentages would allow for anticipated market needs based on historical sales and provides spearmint oil producers with information on the amount of oil which should be produced for next season.

Based on available information, the Administrator of the AMS has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 7 CFR Part 985

Far West, Marketing agreements and orders, and Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is proposed to be amended as follows:

## PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

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

2. A new § 985.210 under subpart—Salable Quantities and Allotment Percentages is added to read as follows:

### Subpart—Salable Quantities and Allotment Percentages

**§ 985.210 Salable quantities and allotment percentages—1990–91 marketing year.**

The salable quantity and allotment percent for each class of spearmint oil during the marketing year which begins on June 1, 1990, shall be as follows:

(a) "Class 1" (Scotch) oil—a salable quantity of 678,800 pounds and an allotment percentage of 40 percent.

(b) "Class 3" (Native) oil—a salable quantity of 806,498 pounds and an allotment percentage of 43 percent.

Dated: November 7, 1989.

**William J. Doyle,**

*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 89–26684 Filed 11–13–89; 8:45 am]

BILLING CODE 3410–02–M

*Over the past nine years, there have been five years during which annual sales have been below average and available data indicates that decreased sales for Far West Native spearmint oil would be likely for the 1990–91 marketing year. The amount below average has ranged from 10,974 pounds in 1984 to 150,639 pounds in 1982. The average is 84,451 pounds. Therefore the Committee reduced the computed percentage of 46.3 percent by 3.3 percent (which represents 61,894 pounds of oil) to allow for the possibility of a below average year in 1990–91. This results in a recommended allotment percentage of 43 percent and a salable quantity of 806,498 for Native spearmint oil.

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**7 CFR Part 989**

**[Docket No. FV–89–097PR]**

## Raisins Produced From Grapes Grown in CA; Defining "Unstemmed" and "Stemmed" Raisins for the Purpose of Determining Whether Off-Grade Raisins May Be Returned to Producers

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule invites comments on revising the administrative rules and regulations established under the federal marketing order regulating raisins produced in California. This action would define the terms "unstemmed" and "stemmed" raisins for the purpose of determining whether or not individual lots of off-grade raisins received by raisin handlers may be returned to producers. This action was unanimously recommended by the Raisin Administrative Committee (Committee), which is responsible for local administration of the marketing order.

**DATE:** Comments must be received by December 14, 1989.

**ADDRESS:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and 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 Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 382–1754.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes 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 proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 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 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 23 handlers of raisins who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated 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 average gross annual receipts are less than $3,500,000. A majority of producers and a minority of handlers of California raisins may be classified as small entities.

Section 989.24(b) of the order defines off-grade raisins to mean raisins which do not meet the incoming minimum grade and condition standards for natural condition raisins. Pursuant to § 989.58(e)(1) of the order, when incoming natural condition raisins are certified as off-grade, they may be: (1) Received by the raisin handler for disposal in eligible non-normal outlets; (2) received by the handler for reconditioning; or (3) returned unstemmed to the raisin producer.

Off-grade raisins which are disposed of in eligible non-normal outlets may be used in livestock feed or distillation. Producers receive a lower price for such raisins since the raisins may not be sold in normal market channels.

Off-grade raisins which are reconditioned by raisin handlers to meet incoming standards have the added cost of the reconditioning process. Thus, producers receive a lower price for such raisins than if the raisins had initially passed the incoming standards.

Finally, off-grade raisins which are received by the handler may also be returned unstemmed to the raisin producer and the return of such raisins must comply with the requirements specified in § 989.158(c)(7) of the regulations. Unstemmed raisins may not be sold in normal market outlets since they have not had their stems removed. If off-grade raisins were returned to producers stemmed, the raisins would resemble processed raisins and such raisins migh be sold in normal market channels. This would be very undesirable since these raisins would still fail to meet the minimum standards. Therefore, only unstemmed off-grade raisins may be returned to producers. Producers may then recondition the raisins on their own premises or take the raisins to a packer or dehydrator for reconditioning. If the raisins were successfully reconditioned to meet the minimum standards, producers would then be able to receive a more competitive price for such reconditioned raisins.

In past season, the term "unstemmed" has described raisins which have not had their large stems removed in the reconditioning process. Large stems are the branch or main stem of a grape bunch. Thus, only off-grade raisins with large stems intact may currently be returned to producers. Over the years, however, the process of stemming raisins has changed and now refers to running the raisins through equipment which removes not only the raisins' large stems but smaller capstems as well. Capstems are the small woody stems exceeding one-eighth inch in length which attach the raisins to the branches of the bunch. Therefore, the Committee has recommended that "unstemmed" and "stemmed" be clearly defined in the rules and regulations of the order for the purpose of determining which lots of off-grade raisins received by raisin handlers may be returned to producers. Accordingly, the Committee has recommended that "unstemmed" raisins should mean lots of raisins which contain more than 150 capstems per pound. "Stemmed" raisins should mean lots of raisins that contain less than 150 capstems per pound.

The Committee considers it necessary to establish this tolerance level for the number of capstem remaining on stemmed raisins to help distinguished stemmed raisins that may still be off-grade from raisins that have been fully processed. This action would help ensure that off-grade stemmed raisins do not enter normal market channels. Raisins that have been stemmed may still not meet the minimum standards for natural condition raisins. These off-grade stemmed raisins are almost indistinguishable from fully processed raisins, which have had even more capstems removed through processing. The tolerance level for the number of capstems per pound for U.S. Department of Agriculture (USDA) Grade C raisins, the lowest USDA grade of processed raisins, is 35 (7 CFR 52.1846). The Committee has determined that a tolerance level of 150 capstems per pound for stemmed raisins would be sufficient to distinguish such stemmed raisins from fully processed raisins. Off-grade raisins with less than 150 capstems may not be returned to producers. Instead, these raisins must be reconditional by the handler or disposed of in eligible non-normal outlets, pursuant to § 989.58(e)(1).

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

**List of Subjects in 7 CFR Part 989**

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR part 989 is proposed to be amended as follows:

## PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

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

### Subpart—Administrative Rules and Regulations

2. Section 989.158 is amended by adding paragraph (c)(7)(i) to read as follows:

**§ 989.158 Natural condition raisins.**

* * * * *

(c) * * *

(7) *Return of off-grade raisins to tenderer.*

* * * * *

(i) *Unstemmed and stemmed raisins.* For the purpose of determining whether or not off-grade raisins may be returned to the person tendering such raisins, "unstemmed" raisins shall be defined as lots of raisins which contain more than 150 capstems per pound. "Stemmed" raisins means lots of raisins that contain less than 150 capstems per pound.

* * * * *

Dated: November 7, 1989.

William J. Doyle,

*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 89–26685 Filed 11–13–89; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Part 4

### Transshipment and Transportation of Tuna Caught Outside the Exclusive Economic Zone

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Proposed interpretative rule; extension of time for comments.

**SUMMARY:** On August 31, 1989, the Customs Service published a proposed interpretative rule in the Federal Register (54 FR 36038), wherein certain parties were seeking reconsideration of interpretations relating to the transshipment and transportation of tuna.

Requests have been received for an extension of the comment period in order to allow interested parties additional time in which to review and present their respective comments on the complex issues raised by the proposed interpretative rule dealing with the transshipment and transportation of tuna. In view of the public interest generated, Customs is extending the comment period for 30 days.

**DATE:** Comments must be received on or before December 14, 1989.

**ADDRESS:** Written comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Glen E. Vereb, Carrier Rulings Branch, Office of Regulations and Rulings (202-566-5706).

Dated: November 8, 1989.

Harvey B. Fox,

*Director, Office of Regulations and Rulings.*

[FR Doc. 89-26638 Filed 11-13-89; 8:45 am]

BILLING CODE 4820-02-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA-6973]

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed Rule.

**SUMMARY:** Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

**DATES:** The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations proscribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; or itself it has no economic impact.

**List of Subjects in 44 CFR Part 67**

Flood insurance, Floodplains.

### PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| California | City of Lake Elsinore, Riverside County. | San Jacinto River | Approximately 850 feet downstream of Lakeshore Drive. | *1,267 | *1,267 |
| | | | Just downstream of Lakeshore Drive | *1,269 | *1,271 |
| | | | Approximately 200 feet upstream of Lakeshore Drive | *1,272 | *1,272 |
| | | | Approximately 350 feet downstream of Interstate Highway 15. | *1,274 | *1,274 |

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 200 feet upstream of Interstate Highway 15. | *1,277 | *1,275 |
| | | | Approximately 9,400 feet upstream of Interstate Highway 15. | *1,309 | *1,308 |
| Maps are available for review at City Hall, 130 South Main Street, Lake Elsinore, California. | | | | | |
| Send comments to the Honorable James Winkler, Mayor, City of Lake Elsinore, 130 South Main Street, Lake Elsinore, California 92330. | | | | | |
| Pennsylvania | Lehighton, Borough, Carbon County. | Mahoning Creek | Approximately 25' upstream of East Penn Street bridge. | *469 | *470 |
| | | Mahoning Creek | At upstream corporate limits | *485 | *482 |
| Maps are available for inspection at the Municipal Building, Constitution Avenue, Lehighton, Pennsylvania. | | | | | |
| Send comments to the Honorable Edward John Deichmeister, Manager of the Borough of Lehighton, Carbon County, Municipal Building, P.O. Box 29, Lehighton, Pennsylvania 18235. | | | | | |
| Pennsylvania | Muhlenberg, Township, Berks County. | Laurel Run | Approximately 1,120 feet upstream of the confluence with Schuylkill River. | *235 | *234 |
| | | | At the extreme upstream corporate limits | *523 | *526 |
| Maps available for inspection at the Municipal Building, Office of Code Enforcement Officer, 555 Raymond Street, Hyde Park, Reading, Pennsylvania. | | | | | |
| Send comments to the Honorable Stephen Geras, President of the Township of Muhlenberg Board of Supervisors, Berks County, 555 Raymond Street, Hyde Park Reading, Pennsylvania 19605. | | | | | |
| Pennsylvania | Walker Township, Centre County. | Nittany Creek | At downstream corporate limits | None | *925 |
| | | | Approximately 420 feet upstream of State Route 64 | None | *1,036 |
| Maps available for inspection at the Walker Township Building, R.D. 2, Box 427V, Belfont, Pennsylvania. | | | | | |
| Send comments to the Honorable Barry Kerstetter, Chairman of the Township of Walker Board of Supervisors, Centre County, R.D. 2, Belfont, Pennsylvania 16823. | | | | | |
| Puerto Rico | (Commonwealth) Rio Piedras Basin. | Canal Puerto Nuevo | At confluence of Cano de Martin Peña | **2.8 | **2.0 |
| | | | Approximately 1,600 meters above Avenida John F. Kennedy. | **3.4 | **3.0 |
| | | Cano de Martin Peña | At confluence with Canal Puerto Nuevo | **2.8 | **2.0 |
| | | | At downstream side of Puerto Rico Route 1 bridge | None | *2.0 |
| **Elevation in Meters (Mean Sea Level). | | | | | |
| Maps available for inspection at the Minillas Governmental Center, North Building, De Diego Avenue, Stop 22, San Juan, Puerto Rico. | | | | | |
| Send comments to Ms. Patria G. Custodio, Chairperson of the Puerto Rico Planning Board, Minillas Governmental Center, North Building, De Diego Avenue, Stop 22, P.O. Box 41119, San Juan, Puerto Rico 00940-9985. | | | | | |
| South Dakota | Brown County, Unincorporated Areas. | Maple River | Approximately 1,075 feet downstream of Interstate Highway 281. | None | *1,362 |
| | | | Just upstream of Interstate Highway 281 | *1,363 | *1,363 |
| | | | Approximately 2,950 feet downstream of Main Street | *1,367 | *1,366 |
| | | | Approximately 350 feet downstream of County Road No. 5. | *1,371 | *1,369 |
| | | | Approximately 1,450 feet upstream of County Road No. 5. | *1,372 | *1,371 |
| Maps are available for review at the County Auditor's Office, 25 Market Street, Aberdeen, South Dakota. | | | | | |
| Send comments to the Honorable Tom Oster, Chairman, Brown County Board of Commissioners, 803 16th Avenue NE., Aberdeen, South Dakota 57401. | | | | | |
| South Dakota | Town of Frederick, Brown County. | Maple River | Approximately 2,950 feet downstream of Main Street | *1,367 | *1,366 |
| | | | Approximately 2,000 feet downstream of Main Street | *1,368 | *1,367 |
| | | | Approximately 750 feet downstream of Main Street | *1,369 | *1,368 |
| | | | Just downstream of County Road No. 5 | *1,371 | *1,369 |
| Maps are available for review at the Office of Finance, Town of Frederick, Municipal Office Building, Frederick, South Dakota. | | | | | |
| Send comments to the Honorable Robert Smith, Mayor, Town of Frederick, Office of Finance, P.O. Box 546, Frederick, South Dakota 57441. | | | | | |
| Texas | Abilene City, Taylor and Jones Counties. | Cat Claw Creek | At downstream side of Southwest Drive | *1,752 | *1,751 |
| | | | At downstream side of Catclaw Drive/divergence of Cat Claw Creek Diversion Channel. | *1,766 | *1,765 |
| | | Cat Claw Creek Diversion Channel. | At confluence with Cat Claw Creek | None | *1,752 |
| | | | At divergence from Cat Claw Creek | None | *1,766 |
| | | Elm Creek | Approximately 130 feet upstream of Curry Lane | None | *1,768 |
| | | | At upstream corporate limits | None | *1,782 |
| | | Tributary No. 1 to Elm Creek. | At confluence with Elm Creek | None | *1,766 |
| | | | Approximately 1.1 miles upstream of Church Street | None | *1,790 |
| | | Tributary No. 2 to Elm Creek. | At confluence with Elm Creek | None | *1,776 |

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | At upstream corporate limits | None | *1,782 |
| Maps are available for inspection at the Department of Public Works, 555 Walnut, Abilene, Texas. | | | | | |
| Send comments to the Honorable Dale Ferguson, Mayor of the City of Abilene, Taylor and Jones Counties, P.O. Box 60, Abilene, Texas 79604. | | | | | |
| Texas | Benbrook, City, Tarrant County | Timber Creek | At confluence with Clear Fork Trinity River | *616 | *615 |
| | | | At upstream side of Bryant Street | #3 | *697 |
| | | South Timber Creek | At upstream side of Mildred Street | #3 | *727 |
| | | | Approximately 100 feet downstream of Interstate Route 377. | #3 | *737 |
| | | Timber Creek Diversion | At confluence with Benbrook Lake Spillway Channel | None | *678 |
| | | | At Cozby West Storm Drain outlet | None | *694 |
| Maps available for inspection at the Department of Community Development, 911 Winscott Road, Benbrook, Texas. | | | | | |
| Send comments to the Honorable Jerry Dunn, Mayor of the City of Benbrook, Tarrant County, 911 Winscott Road, Benbrook, Texas 76126. | | | | | |
| Texas | Mansfield, City, Tarrant and Johnson Counties. | Hogpen Branch | Approximately 50 feet downstream of Walnut Creek Drive. | *587 | *586 |
| | | | Approximately 1,950 feet upstream of Walnut Creek Drive. | *595 | *594 |
| Maps available for inspection at the City Hall, 1305 E. Broad Street, Mansfield, Texas. | | | | | |
| Send comments to the Honorable Gary Dalton, Mayor of the City of Mansfield, Tarrant and Johnson Counties, City Hall, 1305 E. Broad Street, Mansfield, Texas 76063. | | | | | |
| Virginia | Stuart, Town, Patrick County | South Mayo River | At the confluence of Campbell Branch | *1,182 | *1,175 |
| | | | Approximately 550 feet upstream of State Route 8 bridge. | *1,195 | *1,194 |
| | | Campbell Branch | At the confluence with South Mayo River | *1,182 | *1,175 |
| | | | Downstream side of Masonite Building Culvert | *1,182 | *1,180 |
| Maps available for inspection at the Town Office, Blue Ridge Street, Stuart, Virginia. | | | | | |
| Send comments to the Honorable Noel Kornett, Mayor of the Town of Stuart, Patrick County, P.O. Box 422, Stuart, Virginia 24171. | | | | | |

Issued: November 2, 1989.

**Harold T. Duryee,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 89-26670 Filed 11-13-89; 8:45 am]

BILLING CODE 6718-03-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 89-477, RM-6962]**

### Radio broadcasting Services; Arkansas City, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by John C. McVey, proposing the allotment of FM Channel 300A to Arkansas City, Kansas, as that community's second FM broadcast service. The coordinates for Channel 300A are 37-03-30 and 97-02-12.

**DATES:** Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comment with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John C. McVey, Rural Route 5, Box 206, Arkansas City, Kansas 67005.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89-477, adopted October 11, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

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

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**Karl Kensinger,**

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

[FR Doc. 89-26644 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

**[MM Docket No. 89-476; RM-6969]**

### Radio Broadcasting Services; El Dorado, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a proposal filed by Gary J. Violet, requesting the substitution of FM

Channel 256C1 for Channel 256C2 at El Dorado, Kansas, and modification of his construction permit for Channel 256C2 to specify Channel 256C1. The coordinates for Channel 256C1 are 37–57–00 and 96–59–00.

**DATES:** Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Leonard S. Joyce, Blair, Joyce & Silva, 1825 K Street, NW., Washington, DC 20006 (counsel for the petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89–476, adopted October 11, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**Karl Kensinger,**

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

[FR Doc. 89–26645 Filed 11–13–89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 89–475; RM–6925]**

## Radio Broadcasting Services; Mount Vernon, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a proposal filed by Linda Adams, d/b/a/ Missouri FM, requesting the substitution of Channel 294C3 for Channel 294A at Mount Vernon, Missouri, and modification of her construction permit to specify Channel 294C3. The coordinates for Channel 294C3 are 37–09–16 and 93–36–58.

**DATES:** Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Alan C. Campbell, Dow, Lohnes & Albertson, 1255 23rd Street, NW., Suite 500, Washington, DC 20037.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89–475, adopted October 11, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**Karl Kensinger,**

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

[FR Doc. 89–26646 Filed 11–13–89; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[MM Docket No. 89–474; RM–6930]**

## Radio Broadcasting Services; Brookings, SD

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by Dakota Broadcasting, Inc. seeking the substitution of Channel 229C1 for Channel 229C2 at Brookings, South Dakota, and the modification of its license for Station KGKG accordingly. Channel 229C1 can be alloted to Brookings in compliance with the Commission's minimum distance separation requirements with a site restriction of 26.8 kilometers (16.6 miles) west to avoid a short-spacing to station KVDB–FM, Channel 230C2, Sioux Center, Iowa, and to unoccupied but applied for Channel 230A at Granite Falls, Minnesota. The coordinates for this allotment are North Latitude 44–22–44 and West Longtude 97–06–54.

**DATES:** Comments must be filed on or before December 26, 1989, and reply comments on or before January 10, 1990.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ross A. Johnson, Vice-President, Dakota Broadcasting Inc., 51 Broadway, P.O. Box 8310, Fargo, North Dakota 58109–8310 (Petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 89–474, adopted October 12, 1989, and released November 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800,

2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

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

Radio broadcasting.

Federal Communications Commission.

**Karl Kensinger,**

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

[FR Doc. 89-26647 Filed 11-13-89; 8:45 am]

BILLING CODE 6712-01-M

# Notices

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 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

### Agricultural Stabilization and Conservation Service

### Feed Grain Donations for the Rosebud Sioux Tribe Indian reservation in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Rosebud Sioux Tribe Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Rosebud Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal maketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the Tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the Tribe utilizing such lands. These donations by the CCC may commence upon November 1, 1989, and shall be made available through May 14, 1990, or such other date as may be stated in a notice issued by the USDA.

Signed at Washington, DC, on November 6, 1989.

**John A. Stevenson,**

*Acting Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 89-26676 Filed 11-13-89; 8:45 am]

BILLING CODE 3410-05-M

## Commodity Credit Corporation

### Quality Adjustments to the 1990 and Subsequent Crop Loan and Purchase Rates

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Request for public comment.

**SUMMARY:** Public comment is requested regarding adjustments to price support loan and purchase rates for the 1990 and subsequent crops of wheat, rye, barley, corn, oats, sorghum, and soybeans. Section 3 of the United States Grain Standards Act Amendments requires the Secretary of Agriculture to conduct a study of the schedules of premiums and discounts applied to loans in order to determine how such adjustments can encourge the production, marketing, and exporting of high quality, clean grain. A finding of that study was that increased public input would be appropriate to full address this issue. Accordingly, this request for public comment is being made in addition to requests contained within individual commodity proposed determinations for the 1990-crop programs.

Section 403 of the Agricultural Act of 1949 provides that loan adjustments, insofar as practicable, shall be made so that the average support rate for such commodity will, on the basis of the anticipated incidence of adjustments, be equal to the determined level of support.

**DATES:** Comments must be received on or before January 16, 1990 in order to be assured of consideration.

**ADDRESS:** Bruce R. Weber, Director, Commodity Analysis Division, USDA--ASCS, Room 3741, South Building, P.O. Box 2515, Washington, DC 20013.

**FOR FURTHER INFORMATION CONTACT:** Gene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA--ASCS, Room 3740, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447-7923.

**SUPPLEMENTARY INFORMATION:** The titles and numbers of the federal assistance programs, as found in the Catalogue of Federal Domestic Assistance, to which this notice applies are:

| Titles | Numbers |
|---|---|
| Commodity Loans and purchases | 10.051 |
| Feed Grains Production Stabilization | 10.055 |
| Wheat production Stabilization | 10.058 |
| Grain Reserve | 10.067 |

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations. It has been determined that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 34, 1983).

#### General

Public comment is requested regarding the adjustment of price support loan and purchase levels, and CCC policies and procedures which may result in achieving high-quality grain production and the marketing of such production. Currently, price support rate adjustments for various quality factors are established to reflect national average market adjustments for the coming market year. The resulting adjustments may not correspond to actual market adjustments at the time the price support loans are dispensed or settled because (1) adjustments are set in advance of the crop and do not reflect shorter-term market changes, and (2) adjustments are provided on a national average basis and, therefore, may not reflect local market values.

The establishment of annual, national-average adjustments is administratively less burdensome than providing weekly or monthly regional market adjustments and serves the goal of providing uniform benefits to program participants. The

disadvantage of this approach is that inconsistencies with actual market adjustments for quality may occur which result in marketing distortions.

Comments are invited regarding all specific price support rate premium and discount adjustments, the need for establishing such adjustments more frequently than annually, and the need for local market rather than national-average adjustments.

Respondents to this request for comments are asked to provide any supporting market information or research data.

**Price Support Loan and Purchase Adjustment Policies and Levels**

a. *Frequency of Rate Adjustments:* Loan and purchase rate adjustments for grade and other quality factors are currently established prior to a crop marketing year and remain fixed for the entire year. Fixed annual adjustments provide for more equitable program benefits and ease of program administration but they may not reflect changes in market prices.

Comments are requested regarding whether the CCC should establish loan and purchase rate adjustments more frequently than annually and if so, how frequently and for which quality factors.

b. *National/Regional Factor Adjustments:* CCC has traditionally announced loan and purchase rate adjustments on a national-average basis although market values of quality factors may vary regionally. Comments are requested as to whether CCC should establish loan and purchase rate adjustments for separate regional (State or multi-State) market areas or continue with national-level adjustments, and, if so, for which quality factors.

c. *Price Support-Level vs Market-Level Adjustments:* CCC currently adjusts price support rates by the entire amount of a market adjustment. This may not accurately reflect market conditions if the market price level to which adjustements for quality apply vary significantly from the price support rate for the commodity. Comments are requested as to whether quality adjustments to a loan and purchase rate should be applied in a proportional manner or, as currently, whether the absolute value of a market adjustment for quality should be used.

d. *Weed Control Discounts:* CCC currently provides fixed weed control discounts to assure that producers comply with weed control requirements of local jurisdictions. Comments are requested as to whether such discounts should (1) continue to be established at fixed levels, and if so, what levels would be appropriate; (2) be set on a cast-by-case basis; or (3) be discarded since weed content is separately discounted through the application of grade or other factor discounts.

e. *Deduct Foreign Material and Dockager from Loan Quantity:* Comments are invited as to whether loans should be provided on a net-weight basis, that is, on the quantity from which the weight of foreign material and dockage has been subtracted. CCC currently calculates grain price support rates based on the total gross commodity weight which includes the weight to any foreign material and dockage which may be present. Soybean price support proceeds are currently adjusted for foreign material exceeding 1 percent which is the foreign material limit for U.S. Grade 1. Since the foreign material or dockage of some grains may have feed value, comments are specifically requested as to what value, if any, should be assigned to foreign material or dockage which is in the grain pledges as collateral for a price support loan or acquired by CCC pursuant to a price support purchase agreement.

Comments are also invited regarding the current schedules of discounts for foreign material contained in grain.

f. *Moisture Discounts:* Comments, and supporting data, are invited as to whether grain moisture discounts should be assessed based on moisture content as a percentage of weight. Currently, moisture discounts are assessed based on the percentage moisture per unit of volume. For example, 1989-crop hard red spring wheat is discounted 4 cents per bushel for 14.1 percent mosture regardless of test weight. The 4 cent discount could result from 8.2 pounds of moisture in wheat of test weight 58 pounds or 7.1 pounds of moisture in wheat of test weight of 50 pounds. Although moisture discounts based on volume seem somewhat inequitable, their common commercial use may support their continuation.

Comments are further requested regarding the maximum permitted levels of moisture for program crops to be eligible for price support loans. The maximum moisture percentage levels for 1989-crop warehouse price-support loans are 13.5 for wheat, 15.5 for corn, 14.0 percent for sorghum, oats, soybeans, and rye, and 14.5 for barley. These levels are also applied to farm-stored loan settlements.

Comments and supporting data are invited regarding (1) appropriate moisture discounts for moisture levels, and (2) moisture discounts by wheat class for moisture in excess of 13.5 percent.

g. *Special Grade Discounts:* Current grading standards provide that inspected commodities may be designated as blighted, garlicky, ergoty, smutty, light smutty, infested, and treated if minimum tolerances are reached. For these special grades, CCC currently provides fixed discounts. Since the amount of damage may vary within these special grades, a fixed discount does not seem appropriate.

Comments are requested with respect to whether fixed or variable discounts are appropriate for these special grade conditions or whether such special grade designations should be discounted as if sample grade.

h. *Wheat Protein Adustments:* CCC price support rate adjustments for wheat protein can vary considerably with actual market values for protein due to the variable production of protein from crop to crop.

Comments are requested regarding wheat protein premiums for the 1990 and subseqent wheat crops and whether any such premiums should be applied to U.S. grades No. 1 and 2 only. For the 1989 wheat crop, protein premiums apply to only U.S. Grade No. 3 and better. Comments are specifically requested as to whether (1) CCC should eliminate protein premiums entirely due to the variation in value of protein, or (2) CCC should implement premiums based on current, local market protein premiums. The following schedule of premiums was applicable to the 1989 crop of wheat:

| | Percent protein | Cents/bu |
|---|---|---|
| 1. For Hard Red Winter Wheat: | 0.0–10.9 | 0.0 |
| | 11.0–11.9 | 2.0 |
| | 12.0 & more | 3.0 |
| 2. For Hard Red Spring Wheat: | 0.0–11.9 | 0.0 |
| | 12.0–13.9 | 2.0 |
| | 14.0 & more | 5.0 |

i. *Class Price Support Rates:* Comments are requested regarding the establishment of price support rates for different classes of wheat, corn, barley, sorghum, and soybeans and whether such class rates would be in addition to, or in place of, any existing adjustments.

With respect to barley, comments are requested as to whether class rates should be based on defined classes or on the class and subclass groupings to which Federal Grain Inspection Service standards apply.

With respect to wheat, comments are requested as to whether protein premiums should be continued if rates were established for separate wheat

classes, and if so, the appropriate levels of such protein premiums.

Also, comments are specifically requested as to appropriate class premiums and discounts for different grades of Hard Amber, Amber, and Durum wheats.

j. *Sample Grade Discounts:* Comments are requested regarding discounting sample grade commodities which have been delivered to CCC under the price-support programs. The 1989 crops are discounted by 30 percent of their respective rates in addition to the discounts for the factors which caused the commodity to be graded as sample grade.

k. *Premiums and Discounts for Loan Eligible Grades:* Comments are requested regarding grade premiums and discounts for all grades of commodities and whether loan discounts should be expanded to more grades or restricted to fewer grades than are currently applicable to program crops. For example, CCC has received comments that lower grades of wheat, which are marketed as feed wheat in some localities, should not be eligible for price support loans or, alternatively, that such wheat should be heavily discounted, perhaps to its value as feed. For the 1989 programs, grade premiums and discounts are applied to the following grades for program crops:

| | Wheat | Corn | Sorghum | Barley | Oats | Soybeans | Rye |
|---|---|---|---|---|---|---|---|
| Grades eligible to receive price support | 1-5 | 1-3 | 1-4 | 1-5 | 1-3 | 1-4 | 1-2 |
| Premium applied | 1 | 1 | | | 1-2 | | 1 |
| Discount applied | 3-5 | 3-5 | | 3-5 | | | |

l. *Test Weight Discounts:* Comments are requested regarding the levels of test weight discounts and the appropriateness of the threshold weight levels used for applying test-weight discounts. For the 1989 price-support programs, the following test weights (pounds per bushel) are the levels at which discount schedules are imposed: Hard Red Spring wheat, 49.9; other wheat classes, 50.9; corn, 53.5; sorghum, 54.5; barley, 35.5; oats, 35.5; soybeans, 53.5; and rye, 53.9.

m. *Other Adjustment Factors:* Comments are requested on the need for establishing loan and purchase rate adjustments for any intrinsic quality factor not specifically mentioned in this request for comment. For example, adjustments for shatterability of corn, or protein in soybeans, are currently not provided. Such adjustments could be adopted if (1) factors can be accurately and consistently measured, (2) consensus market valuations of such factors exist, and (3) market distortions are reduced.

n. *Reserve Quality Adjustments:* Comments are requested regarding appropriate settlement adjustments to farmer-owned reserve loan rates and storage rates to assume the maintenance of quality of such commodities.

Authority: 7 U.S.C. 1421 and 1423 and 15 U.S.C. 714b and 714c.

Signed at Washington, DC, on November 17, 1989.

John A. Stevenson,

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 89-26867 Filed 11-13-89; 8:45 am]

BILLING CODE 3410-05-M

## Forest Service

### Resource Management and Development Plan, Mt. Magazine State Park

**AGENCY:** Forest Service, USDA, and Arkansas Department of Parks and Tourism.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service and the Arkansas Department of Parks and Tourism will jointly prepare an environmental impact statement for a proposal to permit the development and management of a State Park on Mt. Magazine, Magazine Ranger District, Ozark-St. Francis National Forests, Logan County, Arkansas. The purpose of this environmental analysis is to prepare a site specific plan to development and management of the top of Mt. Magazine.

The agencies invite written comments and suggestions on the scope of the analysis. In addition, the agencies give notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

**DATE:** Comments concerning the scope of the analysis must be received by December 29, 1989.

**ADDRESSES:** Submit written comments and suggestions concerning the scope of analysis to Richard W. Davies, Director, Arkansas State Parks, One Capitol Mall, Little Rock, Arkansas 72201.

**FOR FURTHER INFORMATION CONTACT:** Direct questions about the proposed action and environmental impact statement (EIS) to either Bill Paxton, Resource Management Specialist, Arkansas State Parks, One Capitol Mall, Little Rock, Arkansas 72201, telephone (501) 682-1633, or Rob Kopack, Recreation Officer, Magazine Ranger District, P.O. Box 511, Paris, Arkansas 72855, telephone (501) 963-3076.

**SUPPLEMENTARY INFORMATION:** The Mt. Magazine Recreation Development Level Final Environmental Statement was completed by the Forest Service in April 1980. The development level direction in this plan included campground facilities, picnic grounds, trails, lodge, visitor information center, restaurant, and other facilities.

The Ozark-St. Francis National Forest Land and Resource Management Plan was completed in July 1986.

The management direction in the plan provided for State Park development on Mt. Magazine. The Forest Service issued a Special Use Permit, in April 1989, to Arkansas Department of Parks and Tourism to authorize the use of 2,200 acres for development of a state park on top of Magazine Mountain. The development of the State Park is subject to the approval of site specific development and management plans by the Forest Service.

In preparing the EIS, the Forest Service and Arkansas Department of Parks and Tourism will identify and consider a range of alternatives including a non-development alternative, other development alternatives, various design capacities, and various design criteria. These alternatives will analyze various management designs and policies on the unique resources and recreational use of the mountain.

Lynn C. Neff, Forest Supervisor, Ozark-St. Francis National Forests, Russellville, Arkansas is the responsible federal official.

Public participation will be important at several points during the analysis.

The first point is the scoping process. (40 CFR 1501.7). The Forest Service and Arkansas Department of Parks and Tourism will be seeking information, comments, and assistance from Federal, State, and local agencies and individuals and organizations who may be interested or affected by the proposed action. This input will be used to prepare the draft environmental impact statement. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed alternatives (i.e., direct, indirect, cumulative effects).
6. Determining potential cooperating agencies and task assignments.

The Fish and Wildlife Service, Department of Interior, will be invited to participate as a cooperating agency to evaluate impacts on the habitats of Federally listed threatened and endangered species and species which are currently categorized in the Fish and Wildlife Service categories 1 and 2 that may exist within or near the affected area.

The Arkansas Natural Heritage Commission and the Arkansas Game and Fish Commission will be invited to participate as cooperating agencies to provide assessments of impact for species of concern to the state that may exist within or near the affected area.

The Arkansas Historic Preservation Program will also be invited to participate as a cooperating agency in the analysis.

Public comments have been, and will continue to be, solicited in a variety of ways including request for written comments, information mailings, public notices, and public meetings.

The Forest Supervisor and Director of State Parks will hold scoping meetings in Little Rock and Paris, Arkansas. A public meeting will be held in Little Rock, Arkansas at Arkansas Game and Fish Commission auditorium, No. 2 Natural Resources Drive on December 5, 1989 at 6:30 p.m. A meeting will be held at Paris, Arkansas at Paris High School auditorium, 604 N. 10th Street on December 12, 1989 at 6:30 p.m.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by February 1991. At that time EPA will publish a notice of availability of the draft EIA in the **Federal Register**. The comment period for this draft EIS will be 45 days from the date the EPA's Notice of Availability appears in the **Federal Register**. It is very important that those interested in this proposal participate at this time. To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation on the environmental review of this proposal so that it is meaningful and alerts the agency to the reviewer' positions and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533, 1978, and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, *Wisconsin Heritage, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338, (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service and Arkansas State Parks and Tourism at a time when they can meaningfully consider them and respond to them in the final EIS. After the comment period ends on the draft EIS, the comments will be analyzed and considered in preparing the final EIS, scheduled to be completed by June 1991. In the final EIS, the agencies are required to respond to the comments received (40 CFR 1503.4).

The responsible officials will consider the comments, responses, and environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible officials will document the decision and reasons for the decision in the Record of Decision.

The Forest Supervisor's decision will be subject to appeal under 36 CFR part 217.

Dated: November 1, 1989.

**Lynn C. Neff,**

*Forest Supervisor,*

[FR Doc. 89-26632 Filed 11-13-89; 8:45 am]

BILLING CODE 3410-11-M

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## Loon Mountain Ski Area Expansion; White Mountain National Forest, Grafton County, New Hampshire

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of availability of the Supplement to the Draft EIS.

**SUMMARY:** The Forest Service has prepared a Supplement to the Draft EIS (EPA No. 890025) for Loon Mountain Recreation Corporation's proposed expansion of their special use permit on the Pemigewassett Ranger District, White Mountain National Forest, Grafton County, New Hampshire. This Supplement is in response to comments received on the Draft Environmental Impact Statement (EIS), which was issued February 10, 1989 (54 FR 6448).

**DATE:** The Supplement is available for public comment. There is a 45-day comment period. Written comments must be received by December 29, 1989.

**ADDRESS:** Submit written comments to Michael B. Hathaway, Forest Supervisor, White Mountain National Forest, Laconia, New Hampshire 03247.

Review of Comments To Draft EIS: The public may inspect comments received on this proposed ski area expansion in the Forest Supervisor's Office in Laconia, NH, weekdays between the hours of 8:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Dain Maddox, EIS Coordinator, White Mountain National Forest, P.O. Box 638, Laconia, NH 03247, phone (414) 291-3305.

**SUPPLEMENTARY INFORMATION:** The Draft EIS was issued February 10, 1989 (FR 54, page 6448). The Supplement to the Draft EIS was prepared in response to agency and public comments concerning the following: the agreement between Loon Mountain Recreation Corporation and the Town of Lincoln regarding water withdrawals from Loon Pond; the status of Lincoln's sewage treatment facilities; "emergency pumping" from the East Branch of the Pemigewasset River into Loon Pond and Loon Pond Reservoir; potential impacts from increased traffic; and additional mitigation information.

Our objective in issuing this Supplement is to inform the public about these events and give them an opportunity to make additional comments in response to this information. These comments, together with comments previously submitted in response to the Draft EIS, will be assessed and considered in the Final EIS.

The Draft EIS included three alternatives (No Action, Limited Development and Proposed Action) and 17 possible mitigation measures. Other alternatives and mitigation measures may be considered as a result of this Supplement.

Two public meetings are scheduled during the 45-day comment period:

December 6, 1989, 7–10 pm
New Hampshire Fish and Game Building
Hazen Drive
Concord, NH

December 7, 1989, 7–10 pm
Linwood School
Lincoln, NH

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of supplement to the draft environmental impact statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage or supplement to the draft, but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the supplement to the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the supplement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Final EIS is scheduled to be completed by April 1990. The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding their proposal. The responsible official will document the decisions and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Dated: November 2, 1989.
**Michael B. Hathaway,**
*Forest Supervisor.*
[FR Doc. 89–26397 Filed 11–13–89; 8:45 am]
BILLING CODE 3410–11–M

## The Winding Stair Tourism and Recreation Advisory Council

**AGENCY:** Forest Service, USDA.
**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the first meeting of The Winding Stair Tourism and Recreation Advisory Council. The meeting will be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

**DATE:** December 4, 1989, 7 p.m.
**ADDRESS:** The meeting location is Bob Lee Kidd Civic Center, Highway 271 North, Poteau, Oklahoma. Send written statements to Forest Supervisor, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902.
**FOR FURTHER INFORMATION CONTACT:** Robert LaVal, (501) 321–5317.
**SUPPLEMENTARY INFORMATION:** The Winding Stair Tourism and Recreation Advisory Council was created by the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–13). The Council, comprised of 16 members, appointed by the Secretary of Agriculture, will meet periodically. The purpose of this Council is advisory in nature. The Act designates the Secretary to appoint a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the Ouachita National Forest Land and Resource Management Plan amendment as required under subsections 15 (b) and (c). Subsection 15(b) provides for the promotion of tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the National Recreation Area, the National Scenic and Wildlife Area, and the National Scenic Area are designated.

Glen Sullivan, Director of the Oklahoma Tourism and Recreation Department, will chair the meeting. Representatives of the Forest Service will attend from the Department of Agriculture including the designated officer of the Federal Government, District Ranger Ivan S. Cupp. The agenda for this meeting will be to: elect officers, discuss the duties of the Council, plan the future meeting schedule, and carry out the business of the Council.

Dated: November 1, 1989.
**John M. Curran,**
*Forest Supervisor.*
[FR Doc. 89–26603 Filed 11–13–89; 8:45 am]
BILLING CODE 3410–11–M

# DEPARTMENT OF COMMERCE

## Bureau of Export Administration

## Automated Manufacturing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held December 13, 1989, 9:30 a.m., in the Herbert C. Hoover Building, Room 1617F, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

### Agenda

*General Session*

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Joint Factory Communications and Computer Subcommittee Report.
4. CCL item review and meeting schedule.
5. COCOM progress report.
6. Certification and foreign availability review.
7. Discussion of ECCN 1091A (Numercial control equipment).
8. Discussion of ECCN 1532A (Measuring equipment, precision linear/angular).
9. New business.

*Executive Sesson*

10. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters

forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, OTPA/BXA, Room 4069A, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6620, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377-2583.

Dated: November 7, 1989.

**Betty Anne Ferrell,**

*Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.*

[FR Doc. 89-26581 Filed 11-13-89; 8:45 am]

BILLING CODE 3510-DT-M

## International Trade Administration

[A-614-502]

## Low Fuming Brazing Copper Rod and Wire From New Zealand; Final Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On August 14, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping order on low fuming brazing copper rod and wire from New Zealand. The review covers on manufacturer/exporter of low fuming brazing copper rod and wire from New Zealand to the United States and the period December 1, 1986 through November 30, 1987.

We gave interested parties an opportunity to comment on our preliminary results of review. We received no comments, and our final results are unchanged from those presented in our preliminary results of review.

**EFFECTIVE DATE:** November 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4195/2923.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 14, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 33258) the preliminary results of its administrative review on low fuming brazing copper rod and wire from New Zealand. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

### Scope of the Review

The United States had developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States 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 that date is now classified solely according to the appropriate HTS item number(s).

Shipments covered by this review are low fuming brazing copper rod and wire principally of copper and zinc alloy ("brass") of varied dimensions in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated. During the review period such merchandise was classifiable under item numbers 612.6205, 612.7220 and 653.1500 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 7407.21.50, 7408.11.60, 7408.19.00, 7408.21.00, 7408.22.50, 7408.29.50, 8311.10.00, 8311.20.00, 8311.30.60, and 8311.90.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers one manufacturer/exporter of this merchandise to the United States, McKechnie Bros. (N.Z.) Ltd. ("McKechnie"), and the period December 1, 1986 through November 30, 1987.

### Final Results of Review

We invited interested parties to comment on the preliminary results of review. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review. As a result of our review, we determine that the following margin exists for the review period:

| Manufacturer/Exporter | Time period | Margin (percent) |
|---|---|---|
| KcKechnie | 12/01/86-11/30/87 | 1.68 |

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties shall be required for McKechnie based on the above margin. For any entries from a new exporter not covered in this or prior administrative reviews who is unrelated to any reviewed firm, a cash deposit of 1.68 percent shall be required. These deposit requirements are effective for all shipments of low fuming brazing copper rod and wire entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's Regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: November 2, 1989.

**Eric I. Garfinkel,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-26657 Filed 11-13-89; 8:45 am]

BILLING CODE 3510-DS-M

## National Oceanic and Atmospheric Administration

[Docket No. 90776-9176]

## Marine Recreational Fisheries Action Plan

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

**ACTION:** Notice of a draft Marine Recreational Fisheries Action Plan and request for comments.

**SUMMARY:** In recognition of the growing importance of marine recreational fisheries (MRF), NMFS adopted an MRF policy and implementation strategy in 1981. NMFS recently prepared a draft MRF Action Plan to focus on current MRF issues. To allow the public a chance to review NMFS' marine recreational fisheries policy and proposed activities, the draft MRF Action Plan is being published to restate NMFS' MRF policy, establish program goals and objectives, and identify specific actions that, depending upon support and availability of funds, may be used to update and improve implementation of the MRF policy. Comments are being requested from the public.

**DATE:** Comments from the public are invited through December 29, 1989.

**ADDRESS:** Additional copies of NMFS' draft MRF Action Plan can be obtained from Richard B. Stone, NMFS, Fishery Management Specialist, 1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Stone or Alan Dean Parsons, 301–427–2347.

**SUPPLEMENTARY INFORMATION:** In 1981 NMFS adopted a marine recreational fisheries policy. This policy was not implemented consistently throughout the nation as each region, as well as headquarters, proceeded to implement the policy at its own discretion based on the differing perspectives, needs, and priorities of the various geographic areas. NMFS has reformulated its implementation strategy in the form of a draft MRF Action Plan. It is intended to achieve more consistent attention to national priorities while maintaining sufficient flexibility to tailor regional programs to local needs. The purposes of the plan are to restate and update NMFS' MRF policy, establish program goals and objectives, and identify specific actions to be taken to the extent that support and funding are available that could improve the implementation of the policy.

To allow the public an opportunity for review and comment, the draft MRF Action Plan is as follows:.

## National Marine Fisheries Service Marine Recreational Fisheries Action Plan

### *I. Introduction*

Marine recreational fishing (MRF) continues to grow in popularity, not only as a highly regarded form of recreation but also as a means of obtaining high protein food. According to a 1985 Gallup Poll, recreational fishing is the second most popular outdoor recreational activity in America, and as such, contributes nearly $30 billion to the Nation's economy. Since 1980, the value of marine recreational fishing has grown from $7.5 billion to $13.5 billion (including multiplier impacts) in 1985. The number of saltwater fishermen has increased from about 5 million in 1955 to 17 million in 1985, but has not increased substantially since then.

In recognition of the growing importance of MRF, National Marine Fisheries Service (NMFS) adopted a marine recreational fisheries policy and implementation strategy in 1981. Each Region, as well as headquarters, proceeded to implement the policy at its own discretion based on the differing perspectives, needs, and priorities of the various geographic areas. Thus, the policy was not implemented consistently or with the same degree of intensity throughout the Nation.

Recently, the NMFS, in partnership with other Federal agencies, state, and tribal governments, and representatives from private constituency groups and industry, participated in the development of a National Recreational Fisheries Policy. Actions to implement the goals and objectives of the NMFS Action Plan are consistent with those set forth by the National Policy.

The MRF industry and constituency have matured over the last several years, becoming better organized nationally, more involved in fishery issues, and increasingly committed to making fisheries conservation their primary concern. As a result, it is timely for NMFS to reformulate its implementation strategy to achieve more consistent attention to national priorities while maintaining sufficient flexibility to tailor regional programs to local needs. This approach is essential for effective interaction with MRF interests and for consistent treatment of priority MRF issues and problems.

Perhaps of greatest concern is the need for healthy fisheries resources. The primary role of Federal and state fishery managers and the Regional Fishery Management Councils is to provide stewardship of the Nation's fisheries resources. NMFS and the constituency have mutually stressed that a stronger conservation ethic, endorsed by the public as well as the government, is necessary to protect fishery resources and the habitats upon which they are dependent. Fisheries and their habitats must be recognized as national assets that, if effectively conserved and managed, can generate enormous economic, social, and aesthetic benefits indefinitely.

The purpose of this document is to identify ways for NMFS to help improve stewardship of marine fisheries resources overall, and to better serve MRF constituencies. However, it is recognized that development of an MRF Action Plan will not by itself necessarily result in progress. A strong commitment to pursue aggressively plan implementation for the long-term as well as the short-term is essential. There must be identifiable and measurable activities to provide accountability and to allow constituent and program partners (states, commissions, councils, etc.) to monitor and participate in program activities. Accordingly, this action plan restates NMFS' MRF policy, provides guiding principles for policy implementation, establishes NMFS' MRF program goals and objectives, and identifies specific actions to update and improve implementation of the MRF policy.

### *II. Restatement of Policy and Guiding Principles*

A. *Policy Statement.* The following policy was adopted by NMFS in 1981 after an extensive review of NMFS MRF activities by a marine recreational fisheries task group.

"NMFS, through its various programs, will protect, conserve, enhance, manage and develop fishery resources of importance to the nation in order to increase the nation's food supply; promote increased opportunities for both commercial and marine recreational fishermen consistent with the concept of optimum yield; and promote activities which will assist the commercial and marine recreational fishing industries to thrive and expand."

B. *Guiding Principles.* The following guiding principles advance fundamental beliefs and strategies that further clarify NMFS' marine recreational fisheries policy and that guide policy implementation efforts.

1. *Marine Recreational Fisheries Program must Address All Three Components of Recreational Fisheries: the Resource, Users, and Industry.* First, with respect to the resources, MRF refers to one or more stocks of fish which can be treated as a unit for purposes of conservation, management, utilization, or development and which can be identified on the basis of geographical, scientific, technical, economic, or method-of-harvest characteristics. The term "fish" includes finfish, mollusks, crustaceans, and all forms of living marine animals which form the resource base for recreational

fishing. Enhancing and maintaining these stocks requires the enhancement and maintenance of water quality and the habitats on which the stocks depend and control of the harvest/catch.

Second, with respect to the users, MRF refers to individuals engaging in marine recreational fishing activity. Fishing is considered recreational when pleasure, amusement, relaxation or home consumption are the principal motivators. The program must result in an improved understanding of fishermen's needs and the impact of management decisions upon them.

Third, MRF refers to the MRF industry. Interest and participation in marine recreational fishing creates a demand for a wide variety of goods and services that enable fishermen to participate in recreational fishing activities. The private businesses which provide these goods and services are collectively referred to as the MRF industry. These businesses employ thousands of Americans, account for sizeable capital expenditures, and contribute substantially to the Nation's gross national product and overall economic well being. The program should consider how management decisions affect the industry.

2. *Marine Recreational Fisheries Contribute Significant Social and Economic Benefits to the Nation.* Marine recreational fishing is an increasingly popular outdoor recreational activity that contributes substantially to the social and economic well being of the Nation. Millions of individuals and families participate annually in marine recreational fishing as a relaxing, healthful, wholesome source of recreation and as a way of obtaining high quality protein food. Collectively, the MRF industry translates this recreation activity into a multi-billion dollar contribution to the Nation's economy.

3. *Robust Marine Fishery Resources are Requisites for Viable Marine Recreational Fisheries.* Marine fisheries are dependent on the maintenance, restoration, and enhancement of marine fish populations and their habitats. NMFS' principal function is to serve as steward of those resources and habitats. Conservation and enhancement of marine fishery resources shall be accomplished through scientific management intended to achieve optimum yield from each fishery.

4. *Accurate and Timely Information is Crucial to the Conservation, Management, and Development of Marine Recreational Fisheries.* NMFS has an important role in conducting, sponsoring, and otherwise encouraging scientific, statistical, and socioeconomic research and related investigations which provide the basis for conservation and management of marine resources.

5. *Marine Fishery Resources are a National Asset, Which, Through Wise Management, Can be Enhanced and Improved for Future Generations.* NMFS is committed to the mission of rebuilding and conserving marine fishery resources while allowing equitable sharing of those resources among recreational, commercial, and non-consumptive users, such as SCUBA divers, observation boats, etc. NMFS recognizes the biological necessity of regulating total catch within the limits of optimum yield. Accomplishing this management mission requires effective, cooperative partnerships with other Federal agencies, the states, Regional Fishery Management Councils, Interstate Commissions, and public and private sector interests. NMFS also recognizes the need to pursue aggressively international agreements for the conservation of highly migratory oceanic species of fish and to secure access for U.S. fishermen to fishery resources in international waters.

6. *Multiple Uses of Marine Fishery Resources are Recognized and Encouraged.* NMFS recognizes the national benefits resulting from multiple use of marine fishery resources by recreational, commercial, and subsistence fishermen as well as by non-consumptive users. NMFS also supports existing jurisdictional relationships between state and Federal Government resource stewards and the public as appropriate forums for rendering fishery allocation decisions affecting competing resource users.

7. *Authorities, Roles, and Responsibilities of Government and Private Entities in the Conservation and Development of Marine Recreational Fisheries are Recognized.* NMFS will engage in those activities that are the responsibility of Federal Government and will encourage and assist other Federal, state, and local government agencies, the academic community, private interests, and the public to cooperate and participate in its programs. NMFS will encourage other entities to assume responsibility for MRF programs and services more appropriately theirs, recognizing unified and cooperative partnerships as a goal.

8. *Conserving and Developing Marine Recreational Fisheries is a Shared Responsibility.* As major users and beneficiaries of marine fishery resources, fishermen and the industry must accept their stewardship roles and responsibilities and do their part in funding, promoting, and supporting essential marine fisheries research, data collection, management, development, and law enforcement efforts. Angling ethics, resource conservation, and aquatic education should be promoted and practiced through effective government/private partnerships.

*III. Action Plan*

The action plan consists of five major sections, each with goals, objectives, and action steps. Consistent and aggressive implementation should enhance NMFS' resource stewardship capabilities. The primary thrust of the Action Plan is best expressed by the first goal. NMFS will focus its major effort on the conservation of fisheries and their habitat, in recognition of the significant benefits the marine resources provide to the nation. Only with the resource on a sound footing can the recreational program be fully successful.

A. Conservation of Resources

*Goal: Conserve, restore, and enhance fishery resources and the habitat on which they depend, recognizing that, if properly conserved and managed, fishery resources can provide substantial economic, social, and aesthetic benefits to the Nation.*

A conservation approach needs to be emphasized in resource management as a means to restore and maintain healthy fisheries. NMFS must assert a leadership role in accomplishing this goal, and must secure participation, cooperation, and support of the MRF constituency.

*A.1 OBJECTIVE:* Develop a stronger linkage between information on the status and condition of stocks and management decisions affecting recreational fisheries.

*A.1a*—Each Research Center should review, evaluate, and, if needed, upgrade its stock assessment capabilities to ensure that assessments for species of recreational importance or potential importance are provided.

*A.1b*—Distribute stock assessments, expressed in layman's terms, for key species of recreational importance, or potential importance, to increase general understanding of the status of various stocks.

*A.2 OBJECTIVE:* Improve fishery management procedures for MRF.

When management is necessary, encourage the use of fishery management techniques; such as bag limits, size limits, gear limitations, and other measures to control fishing mortality, that are easily monitored, while permitting continued access to the fishery. Improve MRF input and

participation in the fishery management planning process.

*A.3 OBJECTIVE:* Promote conservation practices among fishermen.

Implement a national angling ethics program, in cooperation with the tackle industry, state fishery management agencies, and the MRF community, emphasizing tag and release, catch and release, expanded use of non-traditional species, regulatory compliance, and other related issues.

*A.4 OBJECTIVE:* Expand MRF information and education (I&E) programs.

*A.4a*—Establish and maintain Information and Education programs on NMFS research and management activities.

*A.4b*—Develop closer working ties with outdoor writer associations and media to improve flow of information to fishermen.

*A.4c*—Establish working relationships with tournament directors and fishing clubs, to increase their awareness of NMFS resource and management programs, and to promote resource conservation and angling ethics.

*A.4d*—Develop or distribute primers and educational materials on seafood quality, safety issues, conservation, the proper care and handling of catch, use of non-traditional species, and other topics of interest.

*A.5 OBJECTIVE:* To achieve more effective public adherence to fishery regulations.

*A.5a*—Expand I&E efforts, including brochures on regulations, creation of "Fishery Conservation Hotline", and greater interaction with conservation editors.

*A.5b*—Increase State/Federal cooperative enforcement seeking cross deputization and other appropriate means.

*A.5c*—Encourage and assist the states and Federal Government to resolve incompatible or conflicting regulations on species of recreational interest.

*A.6 OBJECTIVE:* Review current conservation engineering efforts, and expand where appropriate.

*A.6a*—Accelerate commercial gear research, development, and modification efforts to reduce bycatch and habitat destruction.

*A.6b*—Document applications of artificial reef technology for enhancement of recreational fisheries.

*A.6c*—Increase involvement in artificial reef research planning, management, and development.

**Conservation of Habitat**

*Goal: Conserve and restore habitats critical to the well-being of recreationally important species and supporting ecosystems.*

*B.1 OBJECTIVE:* Identify critical habitat problems which adversely affect species of importance to MRF.

*B.1a*—Review actions affecting species of importance to MRF and with EPA, the states, and local governments, work to establish priorities, and recommend corrective actions for habitat protection and resotration in each Region.

*B.1b*—Work with other government agencies (Federal, state and local) to implement the National Estuarine Program, and other coastal initiatives.

*B.2 OBJECTIVE:* Increase public awareness of the impacts on fishery resources created by habitat alteration.

*B.2a*—Prepare regional documentaries describing fishery and habitat relationships, unique aspects on habitat, and status and trends on the protection of critical habitats.

*B.2b*—Evaluate plans and provide guidance to other agencies, under authority of the Fish and Wildlife Coordination Act and other statutes, on policies significantly affecting fishery habitats of importance to MRF.

C. Research, Data Collection, Data Management, and Information Analysis

*Goal: To improve NMFS's research, data acquisition, data management, analysis, and dissemination capabilities needed to provide the scientific and management basis for conservation of marine recreational fishery resources.*

Socioeconomic and biological data important to the management of MRF are often missing or sparse, and some existing data do not receive adequate consideration in management decisions. To address this, several steps must be taken.

First, NMFS must work with fishery managers to identify data needs and implement research and statistical programs to fill these needs.

Second, NMFS must make available to fishery managers, all existing biological and socioeconomic data and ensure its appropriate use.

Third, NMFS must educate and inform marine recreational fishermen and the MRF industry about the objectives of data collection efforts and how this information is being used by resource managers.

Current research and data collection programs should be monitored and reviewed as to their ability to support fishery management and development decisions, including stock assessments, user allocations, quota monitoring, fishery evaluation, and regulatory impact analyses. Timeliness, accuracy, precision, and comparability of data must be carefully assessed and improved when possible.

*C.1 OBJECTIVE:* Improve planning and coordination of NMFS' research, data collection, and analysis components.

*C.1a*—Establish a National MRF steering committee, composed of fishery managers from the state, Councils, Commissions, Federal, and private sectors, to identify management questions requiring data or information. Work with Federal and state data collectors and recommend actions needed to provide more comprehensive, precise, and timely MRF data for use by state and Federal resource managers.

*C.1b*—Conduct annual research program reviews within each Fishery Center to evaluate ongoing research and recommend program adjustments (e.g., shifts in research emphasis, enhancements, initiatives).

*C.1c*—Conduct regular NMFS/Sea Grant retreats at regional/national level to identify and evaluate cooperative research projects.

*C.1d*—Cooperate with Sea Grant to develop specific strategies for working with Marine Advisory Services in MRF communication/education efforts.

*C.1e*—Establish program coordination with state Wallop-Breaux (W-B) coordinators providing technical assistance, as outlined int he NMFS/USFWS Memorandum of Understanding.

*C.1f*—Enhance an ongoing communication effort to advise managers and MRF constituents of research findings.

*C.1g*—Develop a socioeconomic research plan in each Region to support fishery management programs making sure to address MRF issues.

*C.1h*—Coordinate inclusion of the Marine Recreational Fisheries Statistics Survey (MRFSS) data base into fishery management plans.

*C.1i*—Coordinate with other Federal, state, private, and academic institutions involved with MRF research, data collection, and analysis.

*C.2 OBJECTIVE:* Improve the effectiveness of MRF data collection, data management, analysis, and dissemination.

*C.2a*—Use state/Federal Cooperative Agreements to integrate, whenever feasible, state and Federal MRF sampling programs under agreed upon standards to create a consistent

nationwide data collection program and to eliminate duplication.

*C.2b*—Determine the appropriate MRFSS sample size nationwide and conduct rare event (e.g., billfish) species surveys as appropriate to improve data used in Federal fishery management decisions.

*C.2c*—Improve the application of socioeconomic information to support regional research plans developed under *C.1g*.

*C.2d*—Publish and distribute validations of MRF data collection methodologies and data bases to ensure applicability, accessibility, and familiarity.

*C.2e*—Conduct regular seminars and use other forums to inform fishery managers, constituents, the general public, industry, and others of the results, proper use, and limitations of economic and statistical data collection and analysis programs.

*C.2f*—Improve NMFS' analytical capability to interpret and evaluate MRF statistical data and ensure appropriate and timely use of data.

*C.2g*—Regionally, produce and distribute annual summaries, trends, and forecasts of species important to MRF in a timely fashion.

D. Industry Services

*Goal: Expand NMFS' ability to effectively and appropriately interact with and enhance the MRF industry.*

The MRF industry is an integral and significant part of the total U.S. fishing industry. It encompasses a broad range of individual businesses that provide a variety of goods and services to marine recreational fishermen both domestic and foreign. NMFS needs to assist the industry within the scope and authority of NMFS' programs.

*D.1. OBJECTIVE:* Increase understanding of the nature and operation of the MRF industry.

*D.1a*—Develop industry profiles including information on various business sectors, size, composition, and operation of charter/headboat fleets, cost and return analysis, entry and exit of businesses/vessels, and other aspects.

*D.1b*—Coordinate with state and other governmental agencies and industries to encourage recreational fisheries tourism.

*D.1c*—Develop capability to interpret and evaluate MRF industry information, including monitoring industry response to management decisions.

*D.2 OBJECTIVE:* Assist the industry to undertake appropriate research and development activities.

*D.2a*—Help the MRF industry gain access to funding sources (e.g., S–K, MARFIN, Sea Grant, etc.) for research and development projects.

*D.2b*—Identify and reduce trade barriers affecting the MRF's competitive position of U.S. tackle manufacturers.

*D.2c*—Establish outreach activities to ensure industry access to vital fisheries research and statistical information.

E. Administrative Program Direction.

*Goal: Provide positive support for marine recreational fisheries through effective implementation of the MRF action plan.*

Previous sections followed program lines, providing goals, objectives, and actions needed to more fully implement the MRF policy. However, achievement of these goals and objectives will require a strong, long-term commitment by NMFS. This commitment must be reflected in planning and budget documents and performance plans. This section provides for these internal actions needed to ensure successful MRF policy and program implementation.

*E.1 OBJECTIVE:* Establish effective program planning and coordination mechanisms.

*E.1a*—The Washington Office and each Region will develop a detailed strategy document identifying activities, resources, and time tables needed to implement the Action Plan.

*E.1b*—Each Region will utilize a MRF Steering Committee to involve MRF interests in program planning.

*E.1c*—Use forums within regional fisheries commissions, and other state, regional, and national organizations to communicate and coordinate MRF program matters.

*E.2 OBJECTIVE:* Provide sufficient staffing and support to carry out the Action Plan.

*E.2a*—Provide staff support commensurate in size with the importance (catch, effort, socioeconomic impact) of MRF in the Regions, growth potential, and the extent of problems.

*E.2b*—Launch and maintain an aggressive public affairs program that includes frequent field meetings with MRF clubs, charter/headboat associations, state and interstate coordination bodies (e.g., Marine Fisheries Commissions, W–B coordinators, outdoor writers associations, etc.) and attendance at regional and national symposia.

*E.3 OBJECTIVE:* Establish effective mechanisms to monitor and evaluate MRF program accomplishments.

*E.3a*—Washington Office and Regions will use tracking or control systems to monitor and report program progress and make program adjustments.

*E.3b*—The Recreational and Interjurisdictional Fisheries Division will monitor the Action Plan implementation progress and report periodically to an appropriate management level.

*E.3c*—Conduct a national MRF program review annually in conjunction with MRF Coordinators meeting.

Dated: November 7, 1989.

**Richard H. Schaefer,**

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

[FR Doc. 89–26614 Filed 11–13–89; 8:45 am]

BILLING CODE 3510–22–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 6, 1989.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** November 7, 1989.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–8791. For information on embargoes and quota re-openings, call (202) 377–3715.

**SUPPLEMENTARY INFORMATION:**

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also

see FR 49345, published on December 17, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

November 6, 1989.

Commissioner of Customs,

*Department of the Treasury, Washington, DC 20229*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the period which began on January 1, 1989, and extends through December 31, 1989.

Effective on November 7, 1989, the directive of December 2, 1988, is being amended further to adjust the limits for the following categories, as provided under the terms of the bilateral agreement of November 18, 1982, as amended and extended:

| Category | Adjusted 12-month limit [1] |
|---|---|
| Sublevels in Group I | |
| 313 | 65,303,245 square meters. |
| 670-L [2] | 37,420,914 kilograms. |
| Sublevels in Group II | |
| 237 | 493,783 dozen. |
| 239 | 2,,898,545 kilograms. |
| 331 | 511,745 dozen pairs. |
| 336 | 97,900 dozen. |
| 340 | 1,172,534 dozen. |
| 342 | 203,562 dozen. |
| 345 | 101,753 dozen. |
| 352 | 952,130 dozen. |
| 359-H [3] | 2,162,394 kilograms. |
| 433 | 13,801 dozen. |
| 443 | 50,833 numbers. |
| 447/448 | 19,360 dozen. |
| 631 | 4,432,636 dozen pairs. |
| 632 | 4,886,155 dozen pairs. |
| 633/634/635 | 1,634,779 dozen of which not more than 1,061,425 dozen shall be in Categories 633/634 and not more than 809,879 dozen in Category 635. |
| 636 | 366,000 dozen. |
| 640 | 2,926,383 dozen of which not more than 1,693,825 dozen shall be in Category 640-Y.[4] |
| 641 | 759,267 dozen of which not more than 266,000 dozen shall be in Category 641-Y.[5] |
| 642 | 761,491 dozen. |
| 645/646 | 4,116,017 dozen. |
| 649 | 709,096 dozen. |
| 651 | 456,010 dozen. |
| 652 | 1,574,846 dozen. |
| 659-B [6] | 750,398 kilograms. |
| 659-C [7] | 518,529 kilograms. |
| 659-S [8] | 2,109,835 kilograms. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 670-L, only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030, and 4202.92.9020.

[3] In Category 359-H, only HTS numbers 6505.90.1530 and 6506.90.2060.

[4] In Category 640-Y, only HTS numbers 6205.30.2010, 6205.30.2020, 6505.30.2050 and 6205.30.2060.

[5] In Category 641-Y, only HTS numbers 6204.23.0050, 6205.29.2030, 6206.40.3010 and 6206.40.3025.

[6] In Category 659-B, only HTS numbers 6114.30.2010 and 6114.30.2020.

[7] In Category 659-C, only HTS numbers 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.40, 6114.30.3050, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] In Category 659-S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc 89-26656 Filed 11-13-89; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF Scientific Advisory Board; Meeting

November 6, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Broad Program Appraisal (BPA) will meet on 15 Dec 89 from 8:00 a.m. to 5:00 p.m. at the Pentagon, Washington, DC 20330-5430.

The purpose of this meeting is to review the technology area plans for the programs in the Air Force S&T base. This meeting 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 futher information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

**Patsy J. Conner,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 89-26631 Filed 11-13-89; 8:45 am]

BILLING CODE 3910-01-M

### Department of the Army

### Notice of Desire to Enter Into Cooperative Research & Development Agreements on Fluidic Listening Device

The U.S. Army's Harry Diamond Laboratories (HDL) is seeking potential candidates to enter into Cooperative Research and Development Agreements (CRDA's) under the authority provided in the Federal Technology Transfer Act of 1986 (Pub. L. 99-502). The technical area for collaboration between HDL and outside parties is the following:

Further research and development of a fluidically-based acoustic listening device is desired. This area will build upon a prototype model already in existence that was developed at HDL, and which has applications in the civilian sector for security and surveillance systems. The current system combines acoustic and fluidic technologies to amplify sound waves in the audible range (0-4 kHz). Fluidic technology is a fundamentally different method of signal amplification in that it employs fluid dynamic principals to sense, amplify, and manipulate the incoming acoustic signals into audible pressure signals. The acoustic sensor system achieves a total amplification of generally 60-70 decibels. Because the system is fluidically-based, it does not require signal processing electronics (with associated batteries) and therefore can be highly mobile. The system in its present configuration has a range of about 250 meters for conversational speech depending upon the terrain, humidity, and other environmental operating constraints.

In comparison to an electronically-based system, the fluidic detection system has the advantage of a negligible noise floor. As a result, the sensitivity of the fluidic system is superior to currently available electronic acoustic amplification systems. Moreover, the fluidic detection system could be further developed for civilian purposes by linkage of fluidics with recent advances in signal processing techniques.

To be considered, please respond with 30 days from the date of this announcement.

For more information on this CRDA opportunity, contact Mr. George Gillespie in HDL's Office of Research and Technology Applications on 301-394-1551, or write to:, Harry Diamond Laboratories, 2800 Powder Mill Rd.,

SLCHD-PO-P (Attn: George Gillespie), Adelphi, MD 20793-1197.

**Kenneth L. Denton,**

*Alternate Army Liaison Officer With the Federal Register.*

[FR Doc. 89-26606 Filed 11-13-89; 8:45 am]

BILLING CODE 3710-08-M

## Intent To Grant an Exclusive Patent License to Univax Corp.

The Department of the Army announces its intention to grant an exclusive license to Univax Corporation, having a place of business at 12111 Parklawn Drive, Rockville, MD 20852, under U.S. Patent No. 4,285,936 entitled "Method for Producing a Vaccine Against Bacterial Infections Caused By Pseudomonas Aeruginosa."

The proposed exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and the Department of Commerce's regulations at 37 CFR 474.7. The proposed license may be granted unless, within 60 days from the date of this notice, the Depatment of the Army receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest. All comments and materials must be submitted to the Intellectual Property Counsel of the Army, Patents, Copyrights, and Trademarks Division, Office of The Judge Advocate General, Department of the Army, 5611 Columbia Pike, Room 332-A, Falls Church, VA 22041-5013.

For further information concerning this notice, contact: Earl T. Reichert, Patents, Copyrights, and Trademarks Division, Office of The Judge Advocate General, Department of the Army, 5611 Columbia Pike, Room 332-A, Falls Church, VA 22041-5013, Telephone No. (202) 756-2623.

**Kenneth L. Denton,**

*Alternate Army Liaison Officer With the Federal Register.*

[FR Doc. 89-26605 Filed 11-13-89; 8:45 am]

BILLING CODE 3710-08-M

## DEFENSE LOGISTICS AGENCY

### Meeting; Department of Defense Clothing and Textile Board

**AGENCY:** Defense Logistics Agency, DOD.

**ACTION:** Notice of postponement of meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Deputy Director for Acquisition Management, Defense Logistics Agency, announces that the meeting of the Department of Defense Clothing and Textiles (DoD C&T) Board scheduled for 24 October 1989 was postponed. The revised meeting date will be published in the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula Metcalf, Quality Assurance Specialist, Product Quality Management Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA, (202) 274-7141.

**MG Charles R. Henry,**

*USA, Deputy Director, Acquisition Management.*

[FR Doc. 89-26696 Filed 11-13-89; 8:45 am]

BILLING CODE 3820-01-M

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Intent To Prepare an Environmental Impact Statement for Proposed Construction and Operation of a Relocatable Over the Horizon Radar System on Amchitka Island, AK

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500-1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the construction and operation of a Relocatable Over the Horizon Radar (ROTHR) system on Amchitka Island, Alaska. The ROTHR will provide wide area surveillance for early detection and tracking of aircraft and ships in the Northwest Pacific.

The proposed action includes construction of an additional radar transmitter and receiver antenna. The operational work force will increase from 235 to 375 people. The EIS will address potential environmental impacts associated with the project, including the potential for wetlands impacts. The EIS will also address additions to electrical, water and sewage systems; fuel storage and distribution facilities; operation, maintenance and storage structures; hazardous material storage facilities; housing; roads; and waterfront pier facilities.

Alternatives to be considered in the EIS include satellite systems, aircraft surveillance systems, and alternate locations in Alaska for ROTHR facilities. Alternate locations in Alaska to be considered include Adak, Shemya and Attu Islands, and the central coast of Alaska.

The U.S. Army Corps of Engineers has agreed to act as a cooperating agency pursuant to 40 CFR 1501.6. The Corps will review a Navy permit application for the proposed action pursuant to authorization found in section 404 of the Clean Water Act.

An unaffiliated consulting firm has been retained to prepare Draft and Final Environmental Impact Statements. Publication of the DEIS is planned for March 1990.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this action. The Navy will hold a public scoping meeting on November 30, 1989, beginning at 7:30 pm, in the Federal Building at 222 West 7th Street, Anchorage, A1aska. This meeting will be advertised in the Anchorage area newspapers.

A formal presentation will precede request for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meetings. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than December 31, 1989 to Commanding Officer (Attn: Code 09EP2, telephone (206) 476-5775), Engineering Field Activity Northwest, Naval Facilities Engineering Command, 3505 NW Anderson Hill Road, Silverdale, Washington 98383-9130.

Dated: November 8, 1989.

**Sandra M. Kay,**

*Department of the Navy, Alternate Federal Register Liaison Officer.*

[FR Doc. 89-26626 Filed 11-13-89; 8:45 am]

BILLING CODE 3810-AE-M

## DEPARTMENT OF EDUCATION

### Office of Elementary and Secondary Education

### Appeal Before the Education Appeal Board; Intent To Compromise a Claim, St. Paul Public Schools

**AGENCY:** Department of Education.

**ACTION:** Notice of intent to compromise a claim.

**SUMMARY:** The Department intends to compromise a claim against the St. Paul Public Schools, Independent School District No. 625 (St. Paul), St. Paul, Minnesota, now pending before the Education Appeal Board, Docket No. 37(301)88 (20 U.S.C. 1234a(f) (1982)).

**DATE:** Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before December 28, 1989.

**ADDRESS:** Comments should be addressed to Ann Marie Reilly, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4091, FOB-6), Washington, DC 20202.

**SUPPLEMENTARY INFORMATION:** On October 21, 1988, the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) issued a final audit determination against the St. Paul Public Schools, Independent School District No. 625 (St. Paul), St. Paul, Minnesota. The Assistant Secretary determined, based upon the U.S. Department of Education's (Department) Office of Inspector General's May 5, 1988 audit report (Audit Control Number 05-80300), that St. Paul had received $27,902.55 in overpayment of fiscal year 1987 formula grant funds under the then part A of the Indian Education Act (part A; 20 U.S.C. 241aa-241ff (1982)). The Assistant Secretary determined that the overpayment resulted from St. Paul improperly counting the following children to generate funds under part A for use in school year 1987-1988: 1) Children not enrolled in St. Paul schools on the date St. Paul conducted its part A count; 2) children enrolled in private schools; and 3) one child whose student certification form remained unsigned and undated. In addition, the Assistant Secretary determined St. Paul had improperly included in its count a three percent add-on for children who might enroll after the date St. Paul conducted its count.

On November 21, 1988, St. Paul filed an appeal with the Education Appeal Board (EAB). The EAB accepted that appeal on December 21, 1988, and the appeal is currently pending before the EAB (Docket No. 37(301)88). St. Paul refunded the amount represented by the three percent add-on ($3,434.16) and provided acceptable documentation concerning the one child whose student certification form remained unsigned and undated ($143.09). Therefore, the amount remaining in dispute under this appeal is $24,325.30.

Under section 452(f) of the General Education Provisions Act, (20 U.S.C. 1234a(f) (1982)), the Secretary has the authority to compromise a claim of $50,000 or less if the Secretary determines that collection of all or a part of the claim would not be practical or in the public interest, and that the practices that resulted in the claim have been corrected or will not recur. The Secretary proposes to compromise the remaining $24,325.30 claim for $10,000. In light of the percentage of the claim to be repaid, the existing litigation risks, and the costs that would be incurred by the Department in defending this relatively small claim, the Secretary does not believe it would be practical or in the public interest to continue the appeal. Moreover, the Department is satisfied that the practices that resulted in the claim have been corrected and will not recur.

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Ann Marie Reilly at the address given at the beginning of this notice.

(20 U.S.C. 1234a(f) (1982))

(Catalog of Federal Domestic Assistance No. 84.060)

Dated: November 3, 1989.

**Gail D. Niedernhofer,**

*Acting Deputy Under Secretary for Management.*

[FR Doc. 89-26622 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

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[CFDA No: 84.042]

### Student Support Services Program

**ACTION:** Notice to extend the deadline for receipt of applications.

**SUMMARY:** On September 15, 1989 the Secretary of Education published in the Federal Register (54 FR 38324) a notice inviting applications for new awards for the Student Support Services Program. This document extends the date for receipt of applications from November 17, 1989 until December 12, 1989. The Secretary takes this action to allow the public additional time to prepare the applications.

For Applications or Information Contact: Mrs. May J. Weaver, Chief, Special Services Branch, Division of Student Services, U.S. Department of Education (Room 3060, ROB-3), 400 Maryland Avenue, SW., Washington, DC 20202-5249. Telephone: (202) 732-4804.

**Authority:** 20 U.S.C. 1070d, 1070d-1b.

Dated: November 1, 1989.

**Leonard L. Haynes III,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 89-26623 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

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### Executive Committee of the National Assessment Governing Board

**AGENCY:** National Assessment Governing Board, Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATE:** Monday, November 20, 1989.

Time: 11:00 a.m. (e.s.t.)

Place: National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Roy Truby, Executive Director, National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC, 20005-4013, Telephone: (202) 357-6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), title III-C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), (20 USC 1221e-1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives

for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet via teleconference on November 20, 1989 from 11:00 a.m. (e.s.t.) until the completion of business. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The proposed agenda includes preparation of the agenda for the December meeting of the Board; discussion of staff papers; review of draft NAGB policies; Board nominations for 1990; and other matters pertaining to the Committee's charge.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 7322, 1100 L Street NW., Washington, DC, from 8:30 a.m. to 5:00 p.m.

Christopher T. Cross,

*Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 89-26584 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF EDUCATION

## ENVIRONMENTAL PROTECTION AGENCY

## DEPARTMENT OF JUSTICE

### Nondiscrimination in Federally-Assisted Programs; Enforcement Coordination

**ACTION:** An agreement between the United States Environmental Protection Agency and the United States Department of Education to delegate certain civil rights compliance responsibilities for educational institutions.

### A. Purpose

Section I-207 of Executive Order 12250 authorizes the Attorney General to initiate cooperative programs among Federal agencies responsible for enforcing title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, as amended, section 504 of the Rehabilitation Act of 1973, as amended, and similar provisions of Federal law prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or religion in programs or activities receiving Federal financial assistance.

This agreement will promote consistent and coordinated enforcement of covered nondiscrimination provisions, as required in the Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs (28 CFR 42.401-42.415), increase the efficiency of compliance activity, and reduce burdens on recipients, beneficiaries, and Federal agencies by consolidating compliance responsibilities, by eliminating duplication in civil rights reviews and data requirements, and by promoting consistent application of enforcement standards.

### B. Delegation

By this agreement, the Environmental Protection Agency (EPA) designates the Department of Education (ED) as the agency responsible for specific civil rights compliance duties, as enumerated below, with respect to educational institutions. Responsibility for the following covered nondiscrimination provisions is delegated:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4);
2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 to 1686); and
3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

This agreement specifies the duties to be performed by each agency. It does not alter the requirements of the joint Department of Justice/Equal Employment Opportunity Commission (EEOC) regulation concerning procedures for handling complaints of employment discrimination filed against recipients of Federal financial assistance. 28 CFR 42.601-42.613, 29 CFR 1691.1-1697.13, 48 FR 3570 (January 25, 1983). Complaints covered by that regulation filed with a delegating agency against a recipient of Federal financial assistance solely alleging employment discrimination against an individual are to be referred directly to the EEOC by the delegating agency.

### C. Duties of the Department of Education

The EPA assigns the following compliance duties to ED with respect to educational institutions. Specifically, ED shall:

1. Maintain current files on all activities undertaken pursuant to this agreement and on the compliance status of applicants and recipients with respect to their programs or activities receiving Federal financial assistance resulting from preapproval and postapproval reviews, complaint investigations, and actions to resolve noncompliance. A summary of these activities and the compliance status of applicants and recipients shall be reported at least at the end of every fiscal year to the EPA.

2. Develop and use information for the routine, periodic monitoring of compliance by educational institutions with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

3. Perform, upon request of the EPA, preapproval reviews for which supplemental information or field reviews are necessary to determine compliance.

4. Conduct an effective program of postapproval reviews of recipients with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

5. Receive complaints alleging that recipients subject to this agreement have discriminated in violation of covered nondiscrimination provisions in their programs or activities receiving Federal financial assistance, attempt to obtain information necessary to make complaints complete, and investigate complete complaints.

6. Issue written letters of findings of compliance or of noncompliance that (a) advise the recipient and, where appropriate, the complainant of the results of the post-approval review or complaint investigation; (b) provide recommendations, where appropriate, for achieving voluntary compliance; and (c) offer, where appropriate, the opportunity to engage in negotiations for achieving voluntary compliance. The governor of the state in which the applicant or recipient is located will be notified, if the letter of findings of noncompliance is made pursuant to a statute requiring that the governor be given an opportunity to secure compliance by voluntary means. ED shall promptly provide copies of its letters of findings to the EPA and to the Assistant Attorney General for Civil Rights.

7. Conduct, after a letter of findings of noncompliance, negotiations seeking voluntary compliance with the requirements of covered nondiscrimination provisions.

8. If compliance cannot be voluntarily achieved and ED does not fund the applicant or recipient, refer the matter to the EPA for its own independent action and notify the Assistant Attorney General for Civil Rights of the referral. If compliance cannot be achieved and both ED and the EPA fund the applicant or recipient, initiate formal enforcement action. When ED initiates formal enforcement action by providing the applicant or recipient with an

opportunity for an administrative hearing, provide the EPA with an opportunity to participate as a party in a joint administrative hearing. When ED initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the EPA of the referral.

9. Notify the EPA and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and of any action taken against the applicant or recipient.

**D. Duties of the Environmental Protection Agency**

The EPA shall:

1. Issue and provide to ED all regulations, guidelines, reports, orders, policies, and other documents that are needed for recipients to comply with covered nondiscrimination provisions and for ED to administer its responsibilities under this program.

2. Provide ED with information, technical assistance and training necessary for it to perform the duties delegated under this agreement. This information shall include, but is not limited to, a list of recipients receiving Federal financial assistance from the EPA, the types of assistance provided, compliance information solely in the EPA's possession or control, and data on program eligibility and/or actual participants in assisted programs or activities.

3. Perform preapproval reviews of applicants for assistance, as required by 28 CFR 42.407(b), that do not require supplemental information or field reviews. The reviews may require information to be supplied by ED. If the EPA requests ED to undertake an on-site review because it has shown it has reason to believe discrimination is occurring in a program or activity that is either receiving Federal financial assistance or that is the subject of an application, the EPA shall supply information necessary for ED to undertake such a review.

4. Refer all complaints alleging discrimination under covered nondiscrimination provisions filed with the EPA against a recipient subject to this delegation and determine, If possible, whether the program involved received Federal financial assistance from the delegating agency.

5. Where ED has notified the applicant or recipient in writing that compliance cannot be achieved by voluntary means and ED has referred the matter to the EPA, make the final compliance determination and:

(a) If the EPA wishes to initiate formal enforcement action by providing the applicant or recipient with an opportunity for a administrative hearing, notify ED if the EPA will either join as a party in the administrative hearing conducted by ED or will conduct its own administrative hearing.

(b) When the EPA initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify ED of the referral.

(c) If the EPA conducts its own hearing, notify ED and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and of any action taken against the applicant or recipient. The EPA may request ED to act as counsel in its administrative hearing.

(d) If the EPA neither initiates steps to deny or terminate Federal financial assistance nor refers the matter to the Department of Justice, notify ED and the Assistant Attorney General for Civil Rights in writing, within 15 days after notification from ED, that voluntary compliance cannot be achieved.

**E. Redelegation**

Duties delegated herein to ED may be redelegated. ED shall notify the EPA of any such redelegation prior to its effective date.

**F. Approval**

This agreement shall be signed by the Assistant Attorney General for Civil Rights. It shall be signed by both parties and become effective 30 days from publication in the **Federal Register**.

**G. Termination**

This agreement may be terminated by either agency 60 days after notice to the agency and to the Assistant Attorney General for Civil Rights.

Dated: June 27, 1989.

**William K. Reilly,**

*Administrator*

*U.S. Environmental Protection Agency.*

Dated: August 24, 1989.

**Lauro F. Cavazos,**

*Secretary of the Department of Education.*

Dated: October 20, 1989.

**James P. Turner,**

*Acting Assistant Attorney General, Civil Rights Division, U.S. Department of Justice.*

[FR Doc. 89-26621 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

## National Council on Vocational Education; Public Meeting

**AGENCY:** National Council on Vocational Education, Education.

**ACTION:** Notice of public meeting of the Council.

**SUMMARY:** This notice sets forth the proposed agenda of a forthcoming Subcommittee meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

**DATE AND TIME:** December 2, 1989, 1:30 p.m. to 4 p.m.

**ADDRESS:** Hotel Royal Plaza, Walt Disney World Village, Lake Buena Vista, Florida. *Room:* Lake Room.

**SUPPLEMENTARY INFORMATION:** The National Council on Vocational Education was established under section 104 of the Vocational Education Amendments of 1968, Public Law 90-576.

The Council was established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

**AGENDA:** The proposed agenda will include: Discussions with the new Assistant Secretary of Vocational and Adult Education, discussions of the reauthorization of the Carl D. Perkins Act, the National Awareness Campaign, Occupational Competencies and Council Member Reports.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joyce Winterton, Executive Director, 330 C Street SW., MES—Suite 4080,

Washington, DC 20202-7580, (202) 732-1884.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9 a.m. to 4:30 p.m.

Signed at Washington, DC, November 7, 1989.

**Joyce Winterton,**

*Executive Director.*

[FR Doc. 89-26601 Filed 11-13-89; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collections Under Review by the Office of Management and Budget

**AGENCY:** Energy Information Administration, DOE.

**ACTION:** Notice of requests submitted for review by the Office of Management and Budget.

**SUMMARY:** The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*).

The listing does not include information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

**DATE:** Comments must be filed on or before December 14, 1989. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

**ADDRESS:** Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

**FOR FURTHER INFORMATION COPIES OF RELEVANT MATERIALS CONTACT:** Jay Casselberry, EIA's Office of Statistical Standards (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

**SUPPLEMENTARY INFORMATION:** The energy information collection submitted to OMB for review was:

1. Fossil Energy
2. FE-746R
3. 1901-0294
4. Import and Export of Natural Gas
5. Extension
6. On occasion/Application
7. Required to obtain or retain a benefit
8. Businesses or other for-profit
9. 90 respondents
10. 90 responses annually
11. The estimated average hours per response for each of the respondents is 150 burden hours.
12. The estimated total reporting hours are 13,500.
13. The FE-746R collects data from importers and exporters of natural gas, including contract, market analyses, price and volume information. The data are derived from company internal documents and are used to conduct analyses, support decisions, monitor compliance with authorizations, and ensure that authorizations continue to remain in the public interest.

**Authority:** Sec. 5(a), 5(b), 13(b) and 52, Public Law No. 93-275, Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC, November 7, 1989.

**Yvonne M. Bishop,**

*Director, Statistical Standards, Energy Information Administration.*

[FR Doc. 89-26705 Filed 11-13-89; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

**[Docket No. RP89-161-010]**

### ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff Pursuant to Motion to Place Tariff Sheets Into Effect on November 1, 1989

November 7, 1989.

Take notice that on October 31, 1989, ANR Pipeline Company (ANR) tendered for filing certain revised tariff sheets, with its "Motion to Place Substitute Tariff Sheets Into Effect on November 1, 1989".

ANR states that this filing reflects a decrease in cost of service, as compared to that upon which the rates of ANR which were previously filed and suspended to November 1, 1989 were based, and reduced levels of sales contract demand determinants, to reflect Commission orders in the interim, and also reflects continuation of a "saturated" method of heat content measurement.

ANR notes that the subject filing is made at this time in order to comply with the Commission's "three year rule", but that the Commission has not yet acted upon rehearing sought of the suspension order herein. Accordingly, ANR states that it reserves the right to amend the subject filing and any part hereof in light of the Commission's action on rehearing, and to take other action as seems required.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26590 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-21-000]

## Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that on October 31, 1989, Columbia Gas Transmission Corporation (Columbia Transmission) tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

One hundred and forty-first Revised Sheet No. 16
Twenty-ninth Revised Sheet No. 16A2

The foregoing revised tariff sheets bear an issue date of October 31, 1989 and a proposed effective date of December 1, 1989.

The revised filing is being made pursuant to the Commission's Order issued July 29, 1989 in these proceedings and section 26.6 of the General Terms and Conditions of Columbia's FERC Gas Tariff Original Volume No. 1. In this regard, One hundred and forty-first Revised Sheet No. 16 and Twenty-ninth Revised Sheet No. 16A2 set forth the volumetric surcharge, adjusted to reflect the Annual Reconciliation of the interest portion of the volumetric surcharge. As reflected on the referenced tariff sheets, the adjusted volumetric surcharge is 4.80¢ per MMBtu. The interest charge adjustment resulting from the Annual Reconciliation is 0.30¢. The upward adjustment reflects the higher FERC published interest rates commencing with the 4th quarter of 1988. Columbia further requests that the Commission permit the tariff sheets to become effective December 1, 1989, and requests all necessary waivers to permit such effective date.

Copies of the filing were served by the company upon each of its wholesale customers, interested state commissions and to each of the parties set forth on the Official Service List in the consolidated proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Transmission's filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**
*Secretary.*

[FR Doc. 89-26591 Filed 11-13-89; 8:45 am]
BILLING CODE 6717-01-M

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[Docket No. TQ90-1-24-000]

## Equitrans, Inc., Proposed Change in FERC Gas Tariff

November 7, 1989.

Take notice that Equitrans, Inc. (Equitrans) on October 31, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective December 1, 1989.

Thirteenth Revised Sheet No. 10
Twelfth Revised Sheet No. 14
Sixth Revised Sheet No. 34
Alternate Thirteenth Revised Sheet No. 10
Alternate Twelfth Revised Sheet No. 14
Alternate Sixth Revised Sheet No. 34

Equitrans hereby submits its regularly scheduled Quarterly Purchased Gas Adjustment filing in accordance with § 154.308 and 154.304 of the Commission's regulations and section 19 of Equitrans' FERC Gas Tariff, Original Volume No. 1.

On October 11, 1989, Equitrans filed with the Commission in Docket No. RP90-10-000 a request for authority to track the recovery of firm transportation charges assessed to it by Texas Eastern Transmission Corporation ("TETCO") under Rate Schedule FT-1. Pending the outcome of the filing Equitrans hereby submits primary tariff sheets Thirteenth Revised Sheet No. 10, Twelfth Revised Sheet No. 14, Sixth Revised Sheet No. 34 to reflect these firm transportation charges in its Quarterly PGA. Equitrans is also filing alternate tariff sheets and workpapers to reflect the exclusion of firm transportation charges in the event the waiver is denied.

Equitrans states that a copy of its filing has been served upon its purchasers, interested state commissions, and upon each party on the service list of Docket No. CP86-676-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 14, 1989. All such motions or protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**
*Secretary.*

[FR Doc. 89-26592 Filed 11-13-89; 8:45 am]
BILLING CODE 6717-01-M

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[Docket No. TQ90-1-28-000]

## Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on October 31, 1989, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Fifth Revised Sheet No. 3-A
Fifty-Second Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is December 1, 1989.

Panhandle states that these revised tariff sheets filed herewith reflect the following adjustments respecting Panhandle's D1 and D2 demand rates: (1) An increase of $1.88 for D1 and (2) a decrease of (0.24¢) for D2 pursuant to Section 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with section 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to sections 18.1 and 18.4 (Purchased Gas Demand Rate Adjustments by Pipeline Suppliers) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional rates effective December 1, 1989.

Panhandle states that it should be noted that by order dated June 30, 1989, issued in Docket No. RP89-185-000, the Commission accepted for filing section 25 (Seasonal Sales Program) of Panhandle's FERC Gas Tariff, Original Volume 1. Pursuant to section 25.31 thereof, sections 18.2, 18.3, 18.5, 18.6, 18.7 and 18.8 are suspended until reestablished in accordance with section 25.32. Accordingly, Panhandle is reflecting as a current adjustment only the changes in its D1 and D2 demand rates mentioned above.

Panhandle states that copies of its filing have been served on all

jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26593 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. RP85-177-070, CP88-136-016, RP88-67-026]**

## Texas Eastern Transmission Corp.; Filing

November 7, 1989.

Take notice that on October 31, 1989, Texas Eastern Transmission Corporation (Texas Eastern) filed Service Agreements under Rate Schedules CD-1, CD-2, FT-1 and I between Texas Eastern, as Seller, and the customers listed in Appendix A (attached to the filing) as Buyers.

Texas Eastern states that this filing is in compliance with § 154.62 of the Commission's regulations (18 CFR 154.62 (1989)) and relates to the Joint Offer of Settlement approved by the Commission on September 29, 1988, which contemplated renomination by the Buyers of the level of firm sales and firm transportation. Texas Eastern states that on July 31, 1989, the Commission accepted Texas Eastern's tariff sheets filed on May 22, 1989, establishing new Rate Schedules CD-1 and CD-2 and revising Rate Schedule FT-1 effective August 1, 1989. Texas Eastern states that the service agreements are being filed to reflect the commencement of service under the new Rate Schedules CD-1 and CD-2 and the revised Rate Schedule FT-1, as well as to reflect renominated levels of firm sales and firm transportation service.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26594 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. MT88-6-002]**

## Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that on October 31, 1989, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2-A:

**Original Volume No. 1**

Seventh Revised Sheet No. 1
Second Revised Sheet No. 1A
First Revised Sheet No. 76A
Second Revised Sheet No. 126
First Revised Sheet No. 139A

**Original Volume No. 2-A**

Second Revised Sheet No. 1
Second Revised Sheet No. 60
First Revised Sheet No. 84
Second Revised Sheet No. 107
Second Revised Sheet No. 108
Original Sheet No. 109
First Revised Sheet No. 143
Original Sheet No. 144
Original Sheet No. 145
Original Sheet No. 146
Original Sheet No. 147
Original Sheet No. 148
Original Sheet No. 149
Original Sheet No. 149A
Original Sheet No. 149B
Original Sheet No. 149C
Original Sheet No. 149D
Original Sheet No. 149E
Original Sheet No. 149F
Original Sheet No. 149G
Original Sheet No. 149H
Original Sheet No. 149I
Original Sheet No. 149J
Original Sheet No. 149K

The revised tariff sheets are being filed to reflect the updating and transfer of all language relating to Order 497 appearing in Texas Gas's FERC Gas Tariff, Original Volume No. 1 to Original Volume No. 2-A, which is Texas Gas's current transportation tariff.

Additionally, Sheet No. 84 of Original Volume No. 2-A is being filed to correct a typographical error.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26595 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP90-25-001]**

## Transwestern Pipeline Co.; Correction to Filing

November 7, 1989.

Take notice that on October 31, 1989, Transwestern Pipeline Company (Transwestern) filed Substitute 3rd Revised Sheet No. 89 to its FERC Gas Tariff, Second Revised Volume No. 1.

Transwestern states that on October 30, 1989, Transwestern filed its TCR Interest Adjustment filing, Docket No. RP90-25, wherein, tariff sheets were submitted with a proposed effective date of December 1, 1989. Since the date of the aforementioned filing, Transwestern discovered a typographical error on 3rd Revised Sheet No. 89, which reflected an incorrect effective date of December 31, 1989. In the instant filing, Substitute 3rd Revised Sheet No. 89 reflects the intended effective date of December 1, 1989, which is the only change to the tariff sheet. Transwestern requests the above-referenced tariff sheet be substituted for 3rd Revised Sheet No. 89 filed on October 30, 1989.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26596 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TQ90-1-30-000]**

## Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that Trunkline Gas Company (Trunkline) on October 31, 1989, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Seventy-Third Revised Sheet No. 3-A

The proposed effective date of this revised tariff sheet is December 1, 1989.

Trunkline states that this revised tariff sheet filed herewith reflects a commodity rate decrease of (2.02 cent) per Dt in the projected purchased gas cost component.

Trunkline states that the above-referenced tariff sheet is being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to section 18 (Purchased Gas Adjustment Clause) of Trunkline's FERC Gas Tariff, Original Volume No. 1 to reflect the change in Trunkline's jurisdictional rates effective December 1, 1989.

Trunkline states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26597 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. MT88-28-002]**

## Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

November 7, 1989.

Take notice that Valero Interstate Transmission Company ("Vitco"), on October 27, 1989 tendered for filing the following tariff sheets, as required by Order No. 497, containing changes in operating personnel shared with its "affiliated marketers" and the mailing address of Vitco personnel responsible for receiving requests for transportation service:

**FERC Gas Tariff, Original Volume No. 1**

1st Revised Sheet No. 29.10
3rd Revised Sheet No. 51
4th Revised Sheet No. 54

Vitco states that the purpose of this filing is to update Vitco's tariff pursuant to the requirements of Order No. 497.

The proposed effective date for the above filing is December 1, 1989. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by December 1, 1989.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26598 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP82-487-023]**

## Williston Basin Interstate Pipeline Co.; Compliance Filing

November 7, 1989.

Take notice that on October 31, 1989, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, ND 58501, tendered for filing certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that revised tariff sheets were filed under protest and in compliance with the Office of Pipeline and Producer Regulations (OPPR), October 16, 1989 Letter Order directing Williston Basin to file revised tariff sheets and working papers reflecting the full storage rate base reduction of $6,860,435 for the period May 2, 1986 to the present. Williston Basin filed the instant tariff sheets under protest and states that it is appealing the instant Letter Order to the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26599 Filed 11-13-89; 8:45 am]

BILLING CODE 6717-01-M

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# Office of Fossil Energy

**[ERA Docket No. 87-28-NG]**

## Tennessee Gas Pipeline Co.; Final Order Granting Authorization To Import Natural Gas and Record of Decision in Compliance With National Environmental Policy Act

**AGENCY:** Office of Fossil Energy, Department of Energy.

**ACTION:** Notice of final order granting authorization to import natural gas from Canada and record of decision.

**SUMMARY:** The Office of Fossill Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Opinion and Order No. 195–B (Order 195–B) on October 31, 1989, authorizing Tennessee Gas Pipeline Company (Tennessee) to import at Niagara Falls, New York, up to 125,000 Mcf per day of Canadian natural gas from KannGaz Producers Ltd. (KannGaz) through October 31, 2002. The gas is intended for system supply.

In conjunction with that order, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality (40 CFR part 1505) and the DOE's guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA).

A copy of Order 195–B issued in ERA Docket No. 87–28–NG,[1] is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Carol Borgstrom, Director of Fuels Programs, Office of NEPA Project Assistance, U.S. Department of Energy, Forrestal Building, Room 3G–080, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600.

John Boyd, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–070, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4523.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

Pursuant to the Council on Environmental Quality regulations implementing the procedural provisions of NEPA [2] and the DOE's guidelines [3] for compliance with NEPA, FE is issuing this Record of Decision on the Application filed by Tennessee on February 23, 1989, to remove the NEPA related conditions stated in Ordering Paragraphs B and D of DOE/ERA Opinion and Order No. 195 (Order 195) to the extent applicable to import up to 79,700 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990,[4] and up to 125,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

## II. Decision

On October 31, 1989, FE issued Order 195–B, under section 3 of the NGA granting Tennessee authority to import up to 79,700 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990, and up to 125,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

The DOE participated as a cooperating agency during the preparation of and has adopted as DOE/EIS–0140 the Ocean State Power Project Final Environmental Impact Statement (FEIS) issued by the Federal Energy Regulatory Commission (FERC) on July 8, 1988.[5] FE used that FEIS as well as an independent review in assessing the environmental effects of granting the import.

## III. Project Description

Tennessee proposes to construct and operate facilities on its Niagara Spur and on its 200 mainline in order to transport Canadian natural as to the proposed Ocean State Power (Ocean State) and Ocean State Power II (Ocean State II) electric generating plant units in Burrillville, Rhode Island and to take delivery of Canadian gas for system supply.[6]

On December 18, 1986, Tennessee filed an application in FERC Docket No. CP87–132–000, as amended on August 31, 1987, in Docket No. CP87–132–001, under section 7(c) of the Natural Gas Act (NGA), requesting authorization to provide a firm, long-term transportation service of 50,000 decatherms per day for Ocean State and to construct and operate compression and pipeline facilities in order to perform that service.

Additionally, on December 18, 1986, Tennessee filed an application in FERC Docket No. CP87–131–000, as amended on August 5, 1987, in Docket No. CP87–131–001 under section 7(c) of the NGA, requesting authorization to construct and operate compression facilities to increase the capacity of the Niagara Spur in order to take delivery of authorized Canadian imports for Tennessee's system supply. The compression would be added in two phases to accommodate the building of the volumes.

In Phase I, Tennessee proposed to operate on a permanent basis two idle compressors: The 3,500 horsepower (hp) compressor at Station 233, Livingston County, New York, along the 200 mainline and the 1,000 hp compressor at station 230–B, East Aurora, New York, at the interconnection of the Spur and the 200 mainline. Phase I was authorized by the FERC on June 30, 1987.[7]

In Phase II, which would start on November 1, 1989, Tennessee proposes to install check measurement and odorization facilities at the Niagara River; construct and operate an additional 1,200 hp compressor unit at Station 230–B; and construct and operate a 4,500 hp compressor station at Lockport, Niagara County, New York.[8]

## IV. Background

On October 9, 1987, ERA issued DOE/ERA Opinion and Order 195 (Order 195) [9] authorizing Tennessee to import

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[1] On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the Economic Regulatory Administration to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204–127 specifies the transferred functions (54 FR 11436, March 20, 1989).

[2] 42 U.S.C. 4321, *et seq.*

[3] 52 FR 47662, December 15, 1987.

[4] Tennessee certified that a copy of this modification request was served upon each party designated on the official service list for this docket pursuant to 19 CFR 590.107.

[5] FERC/EIS–0050.

[6] On November 19, 1986, Ocean State filed an application with the ERA, under section 3 of the NGA, for authorization to import up to 100,000 Mcf per day of Canadian natural gas over a 20-year term beginning on the date of the first delivery. The imported gas would fuel Ocean State's new power plant which it plans to build in Burrillville, Rhode Island. The plant will be comprised of two 250 megawatt combined cycle electrical generating units to be constructed sequentially.

On June 13, 1988, the ERA issued DOE/ERA Opinion and Order No. 243 (Order 243) in ERA Docket No. 86–62–NG (1 ERA Para. 70,778) conditionally authorizing Ocean State to import up to 100,000 Mcf per day of Canadian gas over a 20-year period. On September 14, 1988, after DOE's completion of its NEPA review, the ERA issued DOE/ERA Opinion and Order No. 243–A (1 ERA Para. 70,810), authorizing Ocean State to import up to 100,000 Mcf per day over a period of 20 years plus 180 days, beginning on the date of first delivery. On April 21, 1989, Ocean State and Ocean State II filed a joint application with FE to amend order 243–A. According to the joint application, at the time Order 243–A was issued, Ocean State planned to construct, own, and operate both combined units. Ocean State currently plans to develop only the first unit, Unit 1, which will utilize 50,000 Mcf of gas per day. To facilitate financing of the project, Ocean State II was formed to develop the second unit, Unit 2.

On September 22, 1989, FE issued DOE/ERA Opinion and Order No. 334 (Order 334) which amended Paragraph A of Order 243–A by authorizing Ocean State to import up to 50,000 Mcf per day of Canadian gas over a 20-year period plus 180 days beginning on the date of first delivery. Additionally, on September 22, 1989, FE issued DOE/ERA Opinion and Order 335 (Order 335) which authorized Ocean State II to import up to a total of 50,000 Mcf of Canadian gas over a 20-year period beginning on the date of first delivery.

[7] 43 FERC Para. 61,574.

[8] 45 FERC Para. 61,010.

[9] 1 ERA Para. 70,726. Order 195 was issued subsequent to publication by the ERA of a Notice of Application in the **Federal Register** (52 FR 25908, July 1987) and an unprotested proceeding in which 11 interventions were granted.

from Canada up to 5,000 Mcf of natural gas per day during the period November 1, 1987, through October 31, 1988. Order 195 conditionally authorized Tennessee to import up to 29,000 Mcf of Canadian gas per day during the period November 1, 1988, through October 31, 1989, up to 79,700 Mcf of Canadian gas per day during the period November 1, 1989, through October 31, 1990, up to 125,000 Mcf per day thereafter through October 31, 2002. The gas would be purchased from KannGaz Producers Ltd. (KannGaz) for Tennessee's system supply and would be delivered to Tennessee through an existing interconnection with TransCanada PipeLines Limited (TransCanada) near Niagara Falls, New York. The first year import volumes could be imported by Tennessee through existing pipeine facilities. The ERA conditioned authorization for imports above 5,000 Mcf per day on the issuance of a final ERA opinion and order after review by the DOE of FERC's environmental analysis and completion of the DOE's NEPA responsibilities in connection with the new facilities required for the transportation of the additional authorized volumes.

In DOE/ERA Opinion and Order No. 195–A issued on July 15, 1988, in ERA Docket No. 87–28–NG, the ERA authorized Tennessee to import from Canada up to 5,000 Mcf of natural gas per day during the period November 1, 1987, through October 31, 1988, and up to 29,900 Mcf per day during the period November 1, 1988, through October 31, 1989. Order 195–A reiterated Tennessee's conditional authorization to import up to 79,700 Mcf of Canadian gas per day during the period November 1, 1989, through October 31, 1990 and up to 125,000 Mcf per day thereafter through October 31, 2002.

The first and second-year import volumes could be imported by Tennessee through existing pipeline facilities. The ERA conditional authorization for imports above 29,900 Mcf per day as granted in Order 195–A, stated in ordering paragraph C that all other terms and conditions of Order 195 remained in effect, requiring the issuance of a final ERA opinion and order after review by the DOE of the FEIS being prepared by the FERC, assessing the impacts of the additional facilities proposed by Tennessee. These facilities would increase the pressure on Tennessee's Niagara Spur pipeline and northern No. 200 mainline to enable it to receive the remaining import volumes from KannGaz and move them from the Niagara Spur through the mainline. Subsequently, the review was completed, the FEIS was adopted by the DOE, and a final authorization approving the import was issued to Tennessee in Order 195–B.

## V. Governmental Responsibilities

For tennessee's proposed project, the issuance of several major permits and authorizations are required. On May 22, 1987, Tennessee filed an application with the ERA in Docket No. 87–28–NG for authorization under section 3 of the NGA to import gas from Canada to be used for system supply. The FERC has the responsibility under sections 3 and 7 of the NGA, respectively, to approve the place of entry of imports whenever the import involves the construction of new domestic facilities and to certificate the pipeline facilities supplying the gas. Tennessee filed an application with the FERC on December 18, 1986, to construct and operate compression facilities to increase the capacity of the Niagara Spur pipeline to take delivery of these imports.[10]

## VI. Description of Alternatives

FE has two alternative courses of action in processing Tennessee's application to import natural gas. It may grant the application (with or without conditions) or deny the application (no action). If the application is granted, Tennessee may proceed with the project as proposed, subject to any conditions imposed by FE and the FERC. If FE denied the application for importing gas to the Northeast U.S., Tennessee would need to look elsewhere for an alternative supply of gas to meet the expected future requirements of its customers in the region. Tennessee may be required to construct additional pipeline facilities in other locations to transport gas supplies from other sources. Failure to offset the projected supply deficiencies if alternative sources are not available could have an adverse impact on the economy of the Northeast, as well as diminish the quality of life.

It is significant that regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York would still take place because they are necessary to provide previously approved Canadian gas imports to the Ocean State and Ocean State II electric generating facility units that will be built in Rhode Island. On September 14, 1988, the ERA authorized the Ocean State imports.[11] Although the Ocean State project and Tennesee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply.[12] The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.[13]

If FE granted the application, Tennessee could proceed to import the Canadian gas subject to the construction of the facilities approved by the FERC to transport said gas.

## VII. Basis for Decision

The principal criteria in choosing whether to approve or disapprove a gas import is the requirement, under section 3 of the NGA, that an application to import gas must be approved unless, after opportunity for hearing, it is determined that the import is not consistent with the public interest. In addition, the environmental implications of granting or denying the import application must be considered pursuant to NEPA.

### *1. General Conclusions Orders 195, 195–A and 195–B*

FE is guided in making its determination by the DOE's natural gas import policy guidelines.[14] Under this policy, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In the case of long-term arrangements such as this, need for the gas supply and security of supply are also important considerations.

FE concluded that the proposed import, which will be made under a market-responsive gas purchase contract containing a low take-or-pay obligation, price adjustment and periodic review provisions, meets the DOE guidelines concerning competitiveness, need for the supply, and security of supply, and is consistent with the public interest. In addition, it was determined that the import

[10] FERC Docket No. CP87–131–000, as amended on August 5, 1987, in Docket No. CP87–131–001 and Docket No. CP87–132–000, as amended on August 31, 1987, in Docket No. CP87–132–001.

[11] 1 ERA Para. 70,810.

[12] 45 FERC Para. 61,010, rehearing granted in part and denied in part, 45 FERC Para. 61,324, November 29, 1988.

[13] The enviromental effects associated with the Niagara Spur facilities expansion were discussed in the ERA's Record of Decision for the Ocean State project (53 FR 36483, September 20, 1988).

[14] 49 FR 6684, February 22, 1984.

authorization would have limited environmental impacts and would be environmentally acceptable.

*2. Environmental Determination*

The FERC was the lead Federal agency in conducting an examiniation of the environmental effects of Tennessee's additional Niagara Spur facilities and in preparing the FEIS. Since both projects involve common facilities, the Ocean State FEIS addressed the environmental impacts of the transmission facilities proposed by Tennessee, as well as the new powerplant and ancillary facilities proposed by Ocean State. However, this Record of Decision deals solely with Tennesee's facilities. The DOE participated as a cooperating agency during the preparation of the FEIS, and utilized the FEIS (which was adopted as a DOE EIS) as well as an independent evaluation in assessing the environmental effects of granting or denying Tennessee's import authorization.

As stated in the FEIS "* * * generally, construction of pipeline loops parallel with, and adjacent to, existing pipelines is environmentally preferable. Parallel construction takes advantage of available cleared right-of-way during construction of the loop. This prevents the establishment of new pipeline corridors and minimizes the amount of required clearing. Preferable alternatives to paralleling an existing pipeline route must have significant environmental advantages over a parallel route, must be practicable to construct from an economic and engineering standpoint, and should pose no long-term operation or maintenance problems." [15]

The proposed modification to Tennessee's pipeline and its associated compressor facilities will be performed at various locations along the pipeline route. As the following discusson demonstrates, the compressor station changes proposed are the environmentally preferable construction alternative because they involve the least amount of environmental change to the affected areas.

The FEIS evaluated the following proposals by Tennessee for facilities to expand capacity on its Niagara Spur pipeline and No. 200 mainline to enable it to accommodate the scheduled buildup of contract volumes to be imported from KannGaz: (1) Expand measurement and odorization facilities at the Lewiston Meter Station at the Niagara River in Niagara County, New York; (2) convert from temporary to permanent operation the 3,500-hp gas compressor at Station 233 on Tennessee's mainline in Livingston County, New York; (3) convert from temporary to permanent operation the 1,000-hp gas compressor at Station 230B on Tennessee's mainline in East Aurora, New York, at the interconnection of the Niagara Spur and the mainline and add 1,200 hp of compression; and (4) construct a new 4,500-hp gas compressor station 230C at Lockport, in Niagara County, New York.

The impacts from modifying the Lewiston Meter Station are anticipated to be minimal. No additional buildings would be erected, and work would be confined to Tennesee's existing property. Aquatic and terrestrial ecological impacts are not anticipated, since no additional structures are proposed by Tennessee.

Compressor Station 233 would have only minimal impacts from construction and operation. No additional land is required for increasing the horsepower and there would be no effect on the cultural resources.

Compressor Station 230B is located in a rural residential area. Improvements to the station would be contained within land which is zoned industrial and is already owned by Tennesee. The station is bordered on one side by a park, but a 60-foot hill between the park and the site will shield the park from the compressor station. A trailer park also abuts the site. Access to the compressor station is along the road next to the trailer park. Traffic noise is expected to impact the park as equipment is moved in and out. There would be no effect on cultural resources.

Proposed Compressor Station 230C would be a new use for a currently cultivated parcel of land. It will be located near a residential and industrial area. Although construction traffic is expected to add to the traffic commuting to the nearby General Motors plant, the impacts are expected to be minimal.

Upgrading of existing compressor stations and construction of new compressor facilities are not expected to affect the aquatic environment since no streams are affected. None of the compressor stations would be considered a major source of air pollution and the impact on ambient air quality would not be significant.

The construction and permanent operation of the gas compression facilities would result in increases in ambient sound levels at these locations. Aside from some temporary noise due to construction, the permanent operation of the compressors may result in an annoyance to nearby residents. Tennessee has agreed to a FERC staff recommendation that its proposed compressor additions would not produce a day-night sound level ($L_{dn}$) of 555 decibels on the A-weighted scale (dBA) at the nearest noise-sensitive receptor, such as a residence or hospital. This can be achieved by installing mufflers, barriers, and other noise-suppression devices on the compressors.

The FEIS concluded that no significant environmental impacts would occur as a result of the proposed upgrades to Tennessee's existing gas compressor stations and construction of the new gas compressor station.

**VIII. Considerations in Implementing the Decision**

In the FEIS, the FERC staff specified only one mitigation measure which it considered appropriate for the construction and operation of the compressor stations. The FERC staff determined that if the compressors are designed to minimize noise levels, minimal environmental impacts would occur from the proposed compressor station additions. We note that the certificate authorizing Tennessee to construct and operate the facilities to transport gas for Ocean State and its system supply volumes was granted on the condition that Tennessee, among other things, implement the mitigation measure identified as No. 18, on page 5–32 of the Ocean State FEIS, which called for the proposed compressor station additions to be designed such that operational compressor noise shall not exceed $L_{dn}$ of 55 dBA at any existing noise-sensitive areas nearby.[16] After construction is completed, Tennessee is required to submit to the FERC sound level surveys to verify that these performance goals have been achieved. Tennessee has agreed to the noise emission limitations.

**IX. No-Action Alternative**

As stated in Paragraph VI, Description of Alternatives, regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York, would still take place because they are necessary to provide previously approved Canadian gas imports to Ocean State and Ocean State II. On September 14, 1988, the ERA authorized the Ocean State imports.

Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its

[15] Page 2–193, DOE/EIS–0140.

[16] *See supra* note 8.

mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply. The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.

**X. Conclusion**

The decision whether to authorize Tennessee to import the conditioned volumes of natural gas has been evaluated against the potential environmental impacts. Implementing the specific mitigation measure identified in the FEIS would minimize the social, economic, and environmental effects and promote the positive effects of the requested import project. These additional import volumes significantly would enhance Tennessee's ability to meet the future supply requirements of its customers. The proposed facilities represent the environmentally preferable construction alternative. The FEIS identifies no significant environmental impacts resulting from the Tennessee construction proposals. Authorizing the increased volumes would have no environmental impact since the facilities would be built regardless of DOE's decision. Accordingly, FE has decided to grant Tennessee authority to import the full scheduled contract volumes of Canadian gas under its arrangement with KannGaz and determined that this decision is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, on October 31, 1989.

**Constance L. Buckley,**

*Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.*

[FR Doc. 89-26703 Filed 11-13-89; 8:45 am]

BILLING CODE 6450-01-M

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**[ERA Docket No. 87-53-NG]**

## Tennessee Gas Pipeline Co.; Final Order Granting Authorization To Import Natural Gas and Record of Decision In Compliance With National Environmental Policy Act

**AGENCY:** Office of Fossil Energy, Department of Energy.

**ACTION:** Notice of final order granting authorization to import natural gas from Canada and record of decision.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it issued DOE/FE Opinion and Order No. 254-A (Order 254-A) on October 31, 1989, authorizing Tennessee Gas Pipeline Company (Tennessee) to import at Niagara Falls, New York, up to 25,000 Mcf per day of Canadian natural gas from TransCanada Pipelines Limited (TransCanada) through October 31, 2002. The gas is intended for system supply.

In conjunction with that order, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality (40 CFR part 1505) and the DOE's guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA).

A copy of Order 254-A issued in ERA Docket No. 87-53-NG [1] is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Carol Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, Forrestal Building, Room 3G-080, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4600

John Boyd, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4523.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

Pursuant to the Council on Environmental Quality regulations implementing the procedural provisions of the NEPA [2] and the DOE's guidelines [3] for compliance with NEPA, FE is issuing this Record of Decision on the Application filed by Tennessee on April 4, 1989, to remove the NEPA related conditions stated in Ordering Paragraphs B and F of DOE/ERA Opinion and Order No. 254 (Order 254) to the extent applicable to import up to 20,300 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990,[4] and up to 25,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

**II. Decision**

On October 31, 1989, FE issued Order 254-A, under section 3 of the NGA granting Tennessee authority to import up to 20,300 Mcf per day of natural gas during the period November 1, 1989, through October 31, 1990, and up to 25,000 Mcf per day during the period November 1, 1990, through October 31, 2002.

The DOE participated as a cooperating agency during the preparation of and has adopted as DOE/EIS-0140 the Ocean State Power Project Final Environmental Impact Statement (FEIS) issued by the Federal Energy Regulatory Commission (FERC) on July 8, 1988 [5] FE used that FEIS as well as an independent review in assessing the environmental effects of granting the import.

**III. Project Description**

Tennessee proposes to construct and operate facilities on its Niagara Spur and on its 200 mainline in order to transport Canadian natural gas to the proposed Ocean State Power (Ocean State) and Ocean State Power II (Ocean State II) electric generating plant units in Burrillville, Rhode Island and to take delivery of Canadian gas for system supply.[6]

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[1] On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the Economic Regulatory Administration to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

[2] 42 U.S.C. 4321, *et seq.*

[3] 52 FR 47662, December 15, 1987.

[4] Tennessee certified that a copy of this modification request was served upon each party designated on the official service list for this docket pursuant to 19 CFR 590.107.

[5] FERC/EIS-0050.

[6] On November 19, 1986, Ocean State filed an application with the ERA, under section 3 of the NGA, for authorization to import up to 100,000 Mcf per day of Canadian natural gas over a 20-year term beginning on the date of the first delivery. The imported gas would fuel Ocean State's new power plant which it plans to build in Burrillville, Rhode Island. The plant will be comprised of two 250 megawatt combined cycle electrical generating units to be constructed sequentially.

On June 13, 1988, the ERA issued DOE/ERA Opinion and Order No. 243 (Order 243) in ERA Docket No. 86-62-NG (1 ERA Para. 70,778) conditionally authorizing Ocean State to import up to 100,000 Mcf per day of Canadian gas over a 20-year period. On September 14, 1988, after DOE's completion of its NEPA review, the ERA issued DOE/ERA Opinion and Order No. 243-A (1 ERA Para. 70,810), authorizing Ocean State to import up to 100,000 Mcf per day over a period of 20 years, plus 180 days, beginning on the date of first delivery. On April 21, 1989, Ocean State and Ocean State II filed a joint application with FE to amend Order 243-A. According to the joint application, at the time Order 243-A was issued, Ocean State planned to construct, own, and operate both combined units. Ocean State currently plans to develop only the first unit, Unit 1, which will utilize 50,000 Mcf of gas per day. To facilitate financing of the project, Ocean State II was formed to develop the second unit, Unit 2.

On September 22, 1989, FE issued DOE/ERA Opinion and Order No. 334 (Order 334) which amended Paragraph A of Order 243-A by authorizing Ocean State to import up to 50,000 Mcf per day of Canadian gas over a 20-year period plus

Continued

On December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-132-000, as amended on August 31, 1987, in Docket No. CP87-132-001, under section 7(c) of the Natural Gas Act (NGA), requesting authorization to provide a firm, long-term transportation service of 50,000 decatherms per day for Ocean State and to construct and operate compression and pipeline facilities in order to perform that service.

Additionally, on December 18, 1986, Tennessee filed an application in FERC Docket No. CP87-131-000, as amended on August 5, 1987, in Docket No. CP87-131-001 under section 7(c) of the NGA, requesting authorization to construct and operate compression facilities to increase the capacity of the Niagara Spur in order to take delivery of authorized Canadian imports for Tennessee's system supply. The compression would be added in two phases to accommodate the building of the volumes.

In Phase I, Tennessee proposed to operate on a permanent basis two idle compressors: the 3,500 horsepower (hp) compressor at Station 233, Livingston County, New York, along the 200 mainline and the 1,000 hp compressor at station 230-B, East Aurora, New York, at the interconnection of the Spur and the 200 mainline. Phase I was authorized by the FERC on June 30, 1987.[7]

In Phase II, which would start on November 1, 1989, Tennessee proposes to install check measurement and odorization facilities at the Niagara River; constuct and operate an additional 1,200 hp compressor unit at Station 230-B; and construct and operate a 4,500 hp compresor station at Lockport, Niagara County, New York.[8]

## IV. Background

In DOE/ERA Opinion and Order No. 254 issued on July 15, 1988, in ERA Docket No. 87-53-NG, the (ERA) Economic Regulatory Administration (ERA) authorized Tennessee to import from Canada up to 5,000 Mcf of natural gas per day during the period November 1, 1987, through October 31, 1988, and up to 10,100 Mcf per day during the period November 1, 1988, through October 31, 1989. Order 254 conditionally authorized Tennessee to import up to 20,300 Mcf of Canadian gas per day during the period November 1, 1989, through October 31, 1990, and up to 25,000 Mcf per day thereafter through October 31, 2002. The gas would be purchased from TransCanada for Tennessee's systems supply and would be delivered to Tennessee at the international boundary near Niagara Falls, New York.

The first- and second-year import volumes could be imported by Tennessee through existing pipeline facilities. The ERA conditioned authorization for imports have 10,100 Mcf per day on the issuance of a final ERA opinion and order after review by the DOE of the FEIS being prepared by the FERC, assessing the impacts of the additional facilities proposed by Tennessee. These facilities would increase the pressure on Tennessee's Niagara Spur pipeline and northern No. 200 mainline to enable it to receive the remaining import volumes from TransCanada and move them from the Niagara Spur through the mainline. Subsequently, the review was completed, the FEIS was adopted by the DOE, and a final authorization approving the import was issued to Tennessee in Order 254-A.

## V. Governmental Responsibilities

For Tennessee's proposed project, the issuance of several major permits and authorizations are required. On September 29, 1987, Tennessee filed an application with the ERA in Docket No. 87-53-NG for authorization under section 3 of the NGA to import gas from Canada to be used for system supply. The FERC has the responsibility under sections 3 and 7 of the NGA, respectively, to approve the place of entry for imports whenever the import involves the construction of new domestic facilities and to certificate the pipeline facilities supplying the gas. Tennessee filed an application with the FERC on December 18, 1986, to construct and operate compression facilities to increase the capacity of the Niagara Spur pipeline to take delivery of these imports.[9]

## VI. Description of Alternatives

FE has two alternative courses of action in processing Tennessee's application to import natural gas. It may grant the application (with or without conditions) or deny the application (no action). If the application is granted, Tennessee may proceed with the project as proposed, subject to any conditions imposed by FE and the FERC. If FE denied the application for importing gas to the Northeast U.S., Tennessee would need to look elsewhere for an alternative supply of gas to meet the expected future requirements of its customers in the region. Tennessee may be required to construct additional pipeline facilities in other locations to transport gas supplies from other sources. Failure to offset the projected supply deficiencies if alternative sources are not available could have an adverse impact on the economy of the Northeast, as well as diminish the quality of life.

It is significant that regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York would still take place because they are necessary to provide previously approved Canadian gas imports to the Ocean State and Ocean State II electric generating facility units that will be built in Rhode Island. On September 14, 1988, the ERA authorized the Ocean State imports.[10] Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply.[11] The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.[12]

If FE granted the application, Tennessee could proceed to import the Canadian gas subject to the construction of the facilities approved by the FERC to transport said gas.

## VII. Basis for Decision

The principal criteria in choosing whether to approve or disapprove a gas import is the requirement, under section 3 of the NGA, that an application to import gas must be approved unless, after opportunity for hearing, it is determined that the import is not consistent with the public interest. In addition, the environmental implications of granting or denying the import

180 days beginning on the date of first delivery. Additionally, on September 22, 1989, FE issued DOE/ERA Opinion and Order 335 (Order 335) which authorized Ocean State II to import up to a total of 50,000 Mcf of Canadian gas over a 20-year period beginning on the date of first delivery.

[7] 43 FERC Para. 61,574.

[8] 45 FERC Para. 61,010.

[9] FERC Docket No. CP87-131-000, as amended on August 5, 1987, in Docket No. CP87-131-001 and Docket No. CP87-132-000, as amended on August 31, 1987, in Docket No. CP87-132-001.

[10] 1 ERA Para. 70,610.

[11] 45 FERC Para. 61,010, rehearing granted in part and denied in part, 45 FERC Para. 61,324, November 29, 1988.

[12] The environmental effects associated with the Niagara Spur facilities expansion were discussed in the ERA's Record of Decision for the Ocean State project (53 FR 36483, September 20, 1988).

application must be considered pursuant to NEPA.

*1. General Conclusions Orders 254 and 254–A*

FE is guided in making its determination by the DOE's natural gas import policy guidelines.[13] Under this policy, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In the case of long-term arrangements such as this, need for the gas supply and security of supply are also important considerations.

FE concluded that the proposed import, which will be made under a market-responsive gas purchase contract containing a low take-or-pay obligation, price adjustment and periodic review provisions, meets the DOE guidelines concerning competitiveness, need for the supply, and security of supply, and is consistent with the public interest. In addition, it was determined that the import authorization would have limited environmental impacts and would be environmentally acceptable.

*2. Environmental Determination*

The FERC was the lead Federal agency in conducting an examination of the environmental effects of Tennessee's additional Niagara Spur facilities and in preparing the FEIS. Since both projects involve common facilities, the Ocean State FEIS addressed the environmental impacts of the transmission facilities proposed by Tennessee, as well as the new powerplant and ancillary facilities proposed by Ocean State. However, this Record of Decision deals solely with Tennessee's facilities. The DOE participated as a cooperating agency during the preparation of the FEIS, and utilized the FEIS (which was adopted as a DOE EIS) as well as an independent evaluation in assessing the environmental effects of granting or denying Tennessee's import authorization.

As stated in the FEIS "* * * generally, construction of pipeline loops parallel with, and adjacent to, existing pipelines is environmentally preferable. Parallel construction takes advantage of available cleared right-of-way during construction of the loop. This prevents the establishment of new pipeline corridors and minimizes the amount of required clearing. Preferable alternatives to paralleling an existing pipeline route must have significant environmental advantages over a parallel route, must be practicable to construct from an economic and engineering standpoint and should pose no long-term operation or maintenance problems." [14]

The proposed modifications to Tennessee's pipeline and its associated compressor facilities will be performed at various locations along the pipeline route. As the following discussion demonstrates, the compressor station changes proposed are the environmentally preferable construction alternative because they involve the least amount of environmental change to the affected areas.

The FEIS evaluated the following proposals by Tennessee for facilities to expand capacity on its Niagara Spur Pipeline and No. 200 mainline to enable it to accommodate the scheduled buildup of contract volumes to be imported from TransCanada: (1) Expand measurement and odorization facilities at the Lewiston Meter Station at the Niagara River in Niagara County, New York; (2) convert from temporary to permanent operation the 3,500-horsepower (hp) gas compressor at Station 233 on Tennessee's mainline in Livingston County, New York; (3) convert from temporary to permanent operation the 1,000-hp gas compressor at Station 230B on Tennessee's mainline in East Aurora, New York, at the interconnection of the Niagara Spur and the mainline and add 1,200 hp of compression; and (4) construct a new 4,500-hp gas compressor station 230C at Lockport, in Niagara County, New York.

The impacts from modifying the Lewiston Meter Station are anticipated to be minimal. No additional buildings would be erected, and work would be confined to Tennessee's existing property. Aquatic and terrestrial ecological impacts are not anticipated, since no additional structures are proposed by Tennessee.

Compressor Station 233 would have only minimal impacts from construction and operation. No additional land is required for increasing the horsepower and there would be no effect on the cultural resources.

Compressor Station 230B is located in a rural residential area. Improvements to the station would be contained within land which is zoned industrial and is already owned by Tennessee. The station is bordered on one side by a park, but a 60-foot hill between the park and the site will shield the park from the compressor station. A trailer park also abuts the site. Access to the compressor station is along the road next to the trailer park. Traffic noise is expected to impact the park as equipment is moved in and out. There would be no effect on cultural resources.

Proposed Compressor Station 230C would be a new use for a currently cultivated parcel of land. It will be located near a residential and industrial area. Although construction traffic is expected to add to the traffic commuting to the nearby General Motors plant, the impacts are expected to be minimal.

Upgrading of existing compressor stations and construction of new compressor facilities are not expected to affect the aquatic environment since no streams are affected. None of the compressor stations would be considered a major source of air pollution and the impact on ambient air quality would not be significant.

The construction and permanent operation of the gas compression facilities would result in increases in ambient sound levels at these locations. Aside from some temporary noise due to construction, the permanent operation of the compressors may result in an annoyance to nearby residents. Tennessee has agreed to a FERC staff recommendation that its proposed compressor additions would not produce a day-night sound level ($L_{dn}$) of 55 decibels on the A-weighted scale (dBA) at the nearest noise-sensitive receptor, such as a residence or hospital. This can be achieved by installing mufflers, barriers, and other noise-suppression devices on the compressors.

The FEIS concluded that no significant environmental impacts would occur as a result of the proposed upgrades to Tennessee's existing gas compressor stations and construction of the new gas compressor station.

**VIII. Considerations in Implementing the Decision**

In the FEIS, the FERC staff only one mitigation measure which it considered appropriate for the construction and operation of the compressor stations. The FERC staff determined that if the compressors are designed to minimize noise levels, minimal environmental impacts would occur from the proposed compressor station additions. We note that the certificate authorizing Tennessee to construct and operate the facilities to transport gas for Ocean State and its system supply volumes was granted on the condition that Tennessee, among other things, implement the mitigation measure identified as No. 18, on page 5–32 of the Ocean State FEIS, which called for the proposed compressor station additions to be designed such that operational compressor noise shall not exceed $L_{dn}$ of 55 dBA at any existing noise-sensitive

[13] 49 FR 6684, February 22, 1984.

[14] Page 2–193, DOE/EIS–1040.

areas nearby.[15] After construction is completed, Tennessee is required to submit to the FERC sound level surveys to verify that these performance goals have been achieved. Tennessee has agreed to the noise emission limitations.

### IX. No-Action Alternative

As previously noted in paragraph VI above, regardless of whether Tennessee's increased imports are approved, the facility additions proposed on the Niagara Spur in New York, would still take place because they are necessary to provide previously approved Canadian gas imports to Ocean State and Ocean State II. On September 14, 1988, the ERA authorized the Ocean State imports. Although the Ocean State project and Tennessee's application are independent import projects, the two proposals are dependent on the expansion by Tennessee of its Niagara Spur. The FERC, on October 3, 1988, granted a certificate of public convenience and necessity authorizing Tennessee to construct and operate facilities on its Niagara Spur and on its mainline in order to transport Canadian gas to the Ocean State plant and to take delivery of gas for system supply. The environmental impacts associated with Tennessee's proposed imports and Ocean State's approved imports would be no different because they are tied to the same Niagara Spur expansion.

### X. Conclusion

The decision whether to authorize Tennessee to import the conditioned volumes of natural gas has been evaluated against the potential environmental impacts. Implementing the specific mitigation measure identified in the FEIS would minimize the social, economic, and environmental effects and promote the positive effects of the requested import project. These additional import volumes significantly would enhance Tennessee's ability to meet the future supply requirements of its customers. The proposed facilities represent the environmentally preferable construction alternative. The FEIS identifies no significant environmental impacts resulting from the Tennessee construction proposals. Authorizing the increased volumes would have no environmental impact since the facilities would be built regardless of DOE's action. Accordingly, FE has decided to grant Tennessee authority to import the full scheduled contract volumes of Canadian gas under its arrangement with TransCanada and determined that this decision is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, on October 31, 1989.

**Constance L. Buckley,**

*Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.*

[FR Doc. 89-26704 Filed 11-13-89; 8:45 am]

BILLING CODE 6450-01-M

[15] *See supra* note 8.

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## Office of Hearings and Appeals

### Issuance of Decisions and Orders, Office of Hearings and Appeals, Week of October 2 through October 6, 1989

During the week of October 2 through October 6, 1989 the decisions and orders summarized below were issued with respect to applications for refund filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

### REFUND APPLICATIONS

*Atlantic Richfield Company/City of Dixon Water Department, et al., 10/3/89 RF304-1584 et al.*

The DOE issued a Decision and Order concerning nine Applications for Refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding. Because each of the applicants was a public utility, each was presumed injured by the alleged overcharges. In addition, each of the applicants documented its volume of ARCO purchases and requested a refund of $5,000 or less. The refunds granted in this Decision totalled $3,966, including $981 in interest.

*Catskill Central School District, 10/3/89 RA272-13*

The DOE issued a Supplemental Order adjusting the refund amount granted to Catskill Central School District in *E.E. Guthrie, et al.*, 19 DOE ¶, Case Nos. RF272-55012, *et al.*, (August 2, 1989). To correct our error, we granted Catskill Central School District a supplemental refund of $34.

*Crown Central Petroleum Corporation/ R.L. Jordan Oil Company of SC, The Sommers Company, 10/3/89 RF313-222, RF313-282*

The DOE issued a Decision and Order considering applications filed by two purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount of refunds approved in this Decision was $31,066, representing $26,018 in principal plus $5,048 in accrued interst.

*Delta Woodside Industries, Mount Vernon Mills, Inc., Graniteville Co., 10/5/89 RF272-9616, RD272-9616, RF272-9900, RD272-9900, RF272-11241, RD272-11241*

Three manufacturers of textile products filed applications for refund as end-users of refined petroleum products in the Subpart V crude oil refund proceeding. A group of state governments filed objections to the claims, and related motions for discovery. After considering the claims and the objections, OHA determined that the states had failed to produce any convincing evidence to show that the three textile makers had been able to pass on the crude oil overcharges to their customers, and granted the refund applications. The purported economic "evidence" submitted by the states consisted of theoretical generalizations that were not linked to any aspect of the applicants' actual business operations. As in previous decisions, OHA rejected the states' contention that industry-wide data, or a record of profitable operations during the controls period, constituted sufficient evidence to rebut the presumption that end-users such as the three textile firms were injured by crude oil overcharges. The refunds approved totalled $96,619. The states' motions for discovery were denied.

*Exxon Corporation/Boston Gas Company, 10/2/89 RF307-185*

The DOE issued a Decision and Order concerning an Application for Refund filed by Boston Gas Company in the Exxon Corporation special refund proceeding. Boston Gas, a public utility, purchased products directly from Exxon, and was found to be eligible to receive a refund equal to its full allocable share. Boston Gas will also be required to pass through the entire refund to its customers. The sum of the refund granted in this Decision is $59,825 ($48,777 principal plus $11,048 interest).

*Exxon Corporation/Cove Exxon et al., 10/3/89 RF307-1430 et al.*

The DOE issued a Decision and Order concerning 45 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants was a retailer of Exxon products whose allocable share is less than $5,000. All of the applicants disagreed with the gallonage information recorded on their Exxon

volume sheets, and submitted alternative gallonage figures which they requested that the OHA accept either in lieu of or in combination with Exxon's figures. The OHA agreed to accept the applicants' figures because they were taken directly from the firm's actual Exxon invoices or monthly sales records from the consent order period. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $52,204 ($42,564 principal plus $9,640 interest).

*Exxon Corporation/Earl Hawley Oil Co., 10-3-89 RF307-10061*

The DOE issued a Supplemental Decision and Order in the Exxon Corporation special refund proceeding regarding Earl Hawley Oil Co. (Hawley). In *Exxon Corp./Jones Exxon*, Case Nos. RF307-7200 *et al.* (September 8, 1989), Hawley, Case No. RF307-7253, was granted a refund of $2,504 ($2,056 principal plus $488 interest) based on its purchases of Exxon refined petroleum products. However, the DOE determined that because the claimant in this case, Wayne Oil Co., Inc., did not purchase Hawley until after the end of the consent order period, it was not the rightful recipient of this refund. Accordingly, the refund granted to this claimant was rescinded.

*Exxon Corporation/Euliss Oil Co., Inc., et al., 10/5/89 RF307-1185 et al.*

The DOE issued a Decision and Order concerning 12 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants was a reseller of Exxon products whose allocable share is greater than $5,000. Instead of making an injury showing to receive its full allocable share, each applicant elected to limit its claim to $5,000 or 40 percent of its allocable share, whichever is greater. The sum of the refunds granted in this Decision is $67,112 ($54,717 principal plus $12,395 interest).

*Exxon Corporation/John Anderson et al., 10/5/89 RF307-7914 et al.*

The DOE issued a Decision and Order concerning 45 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either an end-user or a reseller whose allocable share is less than $5,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $46,674 ($38,054 principal and $8,620 interest).

*Exxon Corporation/Putnam Oil Co., McCleary Oil Co., 10/5/89 RF307-4351, RF307-4378*

The DOE issued a Decision and Order concerning two Applications for Refund filed by Putnam Oil Co. and McCleary Oil Co. in the Exxon Corporation special refund proceeding. Each applicant's allocable share exceeded $5,000. Since neither applicant elected to make a showing of injury, each applicant was eligible to receive the larger of $5,000 or 40 percent of its allocable share up to $50,000. For Putnam 40 percent was greater, and for McCleary $5,000 was greater. The sum of the refunds granted in this Decision is $15,437, representing $12,586 in principal and $2,851 in interest.

*Exxon Corporation/Ripple Oil Company, Inc., 10/6/89 RF307-10065*

The DOE issued a Supplemental Decision and Order to Ripple Oil Company, Inc. in the Exxon proceeding to correct an interest calculation in an earlier decision. In the original Decision and Order, Ripple was granted a refund of $6,509 ($5,000 principal plus $1,509 interest). The DOE determined that the correct amount of the refund was $6,174 ($5,000 principal plus $1,174 interest).

*Gabor Trucking, Inc., W.C. McQuaide, Inc., 10/6/89 RF272-7289, RD272-7289, RF272-7696, RD272-7696*

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to two applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 7, 1981. A range of twenty-eight states and two territories of the United States (the States) filed identical, consolidated pleadings objecting to and commenting on the applications. The only evidence submitted by the States was several newspaper articles indicating that Interstate Commerce Commission policies permitted trucking firms to increase their rates and consequently pass on any overcharges. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicants should receive a refund. In addition, Motions for Discovery filed by the States were denied. The sum of the refunds granted in this Decision is $15,533.

*Gulf Oil Corporation/Byrom Oil Company, Inc., 10/03/89 RF300-5324*

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding. The application was approved using a presumption of injury. The total refund granted in this Decision is $6,255.

*Gulf Oil Corporation/Comm & Mt. Hood Gulf, Gulf Service Center, Inc., Commonwealth Gulf, 10/2/89 RF300-8256, RF300-8257, RF300-8258*

The DOE issued a Decision and Order concerning three Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Because the firms were under common ownership during the consent order period, and because their combined allocable share exceeds $5,000, it is appropriate to consolidate these Applications when applying the presumptions of injury. The total refund granted in this Decision, inclusive of interest, is $6,719.

*Gulf Oil Corporation/Consolidated Edison Co. of N.Y., Inc., 10/2/89 RF300-8955*

The DOE issued a Decision and Order concerning one Application for Refund submitted by the Consolidated Edison Co. of N.Y., Inc. (Con-Ed) in the Gulf Oil Corporation special refund proceeding. The application was approved using a presumption of injury. As an end user of Gulf products, Con-Ed was granted a refund based on its full allocable share. Under the procedures established in *Gulf Oil Corporation*, 16 DOE ¶ 85,381 (1987) for regulated utilities, Con-Ed also certified that it would notify the appropriate regulatory body of any refund received, and pass through any refund received to its customers. The amount of the refund granted in this Decision, including accrued interest, is $72,970.

*Gulf Oil Corporation/Damascus Gulf Service Station, et al., 10/5/89 RF300 418 et al.*

The DOE issued a Decision and Order concerning six Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. The applications were approved using a presumption of injury. The sum of the refunds granted is $19,974.

*Gulf Oil Corporation/Don's I-10 Gulf, et al., 10/3/89 RF300-4, et al.*

The DOE issued a Decision and Order concerning nine Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $13,231.

*Gulf Oil Corporation/Felisko's Gulf Service, et al., 10/5/89 RF300-8668, et al.*

The DOE issued a Decision and Order concerning 53 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $105,518.

*Gulf Oil Corporation/Five County Farmers Association, 10/5/89 RF300-7594*

The DOE issued a Decision and Order concerning an Application for Refund submitted by Five County Farmers Association in the Gulf Oil Corporation special refund proceeding. Five County was granted a refund based on its full allocable share. Under the procedures established in *Gulf Oil Corporation*, 16 DOE ¶ 85,381 (1987) for agricultural cooperatives. The refund granted in the Decision is $1,262.

*Gulf Oil Corporation/Frank's Gulf, et al., 10/5/89 RF300-9112, et al.*

The DOE issued a Decision and Order concerning 30 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $65,612.

*Gulf Oil Corporation/Hylton's Drive in Grocery, et al., 10/2/89 RF300-10049, et al.*

The DOE issued a Decision and Order concerning 50 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using the small claims presumption of injury. The sum of the refunds granted in this Decision, including accrued inteerest, is $113,451.

*Gulf Oil Corporation/John's Gulf, et al., 10/2/89 RF300-8800 et al.*

The DOE issued a Decision and Order concerning 33 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $59,144

*Gulf Oil Corporation/L.P. Service Co., et al., 10/5/89 RF300-10503, et al.*

The DOE issued a Decision and Order concerning five Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $40,893.

*Gulf Oil Corporation/Schultz Oil Company, Inc. 10/5/89 RF300-5230*

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding. The application was approved using a presumption of injury. The total refund granted in this Decision is $6,719.

*Gulf Oil Corporation/Steele's Riverview Gulf, et al., 10/5/89 RF300-9166, et al.*

The DOE issued a Decision and Order concerning 18 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including interest, is $37,923.

*Nabisco Brands, Inc., 10/3/89 RF272-11245, RD272-11245*

Nabisco Brands, Inc., a manufacturer of retail packaged foods, filed an application for refund as an end-user of refined petroleum products in the Subpart V crude oil refund proceeding. A group of state governments filed a statement of objections to Nabisco's claim, and a related motion for discovery. After considering the claim and the objections, OHA determined that the states had failed to produce any convincing evidence to show that Nabisco had been able to pass on the crude oil overcharges to its customers, and granted the refund application. The purported economic "evidence" submitted by the states consisted of theoretical generalizations that were not linked to any aspect of the applicant's actual business operations. As in previous decisions, OHA rejected the states' contention that industry-wide data, or a record of profitable operations during the controls period, constituted sufficient evidence to rebut the presumption that end-users such as Nabisco were injured by crude oil overcharges. The refund approved was $263,122. The states' motion for discovery was denied.

*OKC Corporation/Kansas, 10/3/89 RQ13-531*

The DOE issued a Decision and Order granting the second-stage refund application filed by the State of Kansas in the OKC Corporation special refund proceeding. Kansas requested a total of $1,090,157 ($406,693 in principal plus $683,464 in interest) for three programs. For the first, the State wished to spend $1,080,157 to purchase 67 new vans for Kansas agencies which provide transportation for the elderly. The State also wished to spend $5,000 to train personnel providing this service and $5,000 to distribute transportation-related conservation materials to Kansas citizens. The DOE found that these programs would provide timely restitution to injured Kansas and approved the State's request.

*Palo Pinto Oil and Gas/Kentucky, Standard Oil Co. (Indiana)/Kentucky, Perry Gas Processors, Inc./Kentucky, Pennzoil Co./Kentucky, National Helium Corp./Kentucky, Coline Gasoline Corp./Kentucky, Standard Oil Co. (Indiana)/Kentucky, 10/2/89 RQ5-522, RQ21-523, RQ183-524, RQ10-525, RQ3-526, RQ2-527, RQ251-528*

The Office of Hearings and Appeals issued a Decision and Order approving the second-stage refund application filed by the Commonwealth of Kentucky in the Palo Pinto Oil and Gas, Standard Oil Co. (Indiana), Perry Gas Processors, Inc., Pennzoil Co., National Helium Corp. and Coline Gasoline Corp. special refund proceedings. Kentucky requested permission to deposit its $325,994 ($210,700 in principal plus $115,294 in interest) in second-stage funds into its Energy Assistance Trust Fund. The money and any interest earned on it would be used to finance Kentucky's Low Income Home Energy Assistance Program. The OHA found that, when considered as part of the Commonwealth's overall oil overcharge restitution program, Kentucky's plan is sufficiently balanced to warrant approval. While the OHA was previously concerned that the Energy Trust Fund would not provide injured consumers with timely restitution, Kentucky now plans to expend its second-stage refunds within one fiscal year after the money is received.

*Puna Sugar Company, Ltd., 10/6/89 RF272-7589, RD272-7589*

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Puna Sugar Company, Ltd. (Puna) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight States and two territories of the United States (the States) filed consolidated pleadings objecting to and commenting on the application. The only evidence submitted by the States was an affidavit by an economist stating that virtually every industry was able to pass through some costs to its customers. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury

and that the applicant should receive a refund. In addition, a Motion for Discovery filed by the States was denied. The refund granted in this Decision is $21,467. Puna will be eligible for additional refunds as additional crude oil overcharge funds become available.

*Shell Oil Company/Colony Shell Servicenter Ltd. et al., 10-5-89 RF315-1983 et al.*

The DOE issued a Decision and Order granting 185 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the Applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted in the Decision was 611,035,760 gallons of refined product and the sum of the refunds granted is $164,930 ($138,098 principal plus $26,832 interest).

*Shell Oil Company/Donald R. Loomis et al., 10/5/89 RF315-2014 et al.*

The DOE issued a Decision and Order granting 71 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the Applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The total gallonage covered in the Decision was 290,535,398 gallons of refined product and the sum of the refunds granted was $78,417 ($65,661 principal plus $12,756 interest).

*Shell Oil Company/Fraga Shell et al., 10/6/89 RF315-3006 et al.*

The DOE issued a Decision and Order granting 158 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the Applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted is $136,882 ($114,613 principal plus $22,269 interest).

*Shell Oil Company/Gulf States Asphalt Company, Inc., 10/5/89 RF315-2289*

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding. The Applicant purchased directly from Shell and was an end-user of Shell products. The Applicant used an estimation method for total gallonage based on 1979-1980 figures. Accordingly, the Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The refund granted was $4,979 ($4,169 principal plus $810 interest).

*Shell Oil Co./Safeway Shell Tire/Auto, 10/5/89 RF315-7365*

The Department of Energy issued a Supplemental Order rescinding a refund of $752 that had been granted to Safeway Shell Tire/Auto in the Shell Oil Company special refund proceeding on August 24, 1989. We determined that this refund duplicated an earlier refund which had been granted to Safeway for the same gallons. We therefore directed that the refund check not be issued.

*Shell Oil Company/Thums Long Beach Co., 10/5/89 RF315-2957*

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding. The Applicant purchased directly from Shell and was an end-user of Shell products. Although Thums was owned in part by Shell, the small size of Shell's interest in the company, and the small amount of the refund at stake, were not deemed sufficient to warrant rejecting the application. Accordingly, the Applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The total gallonage covered in the Decision was 903,923 gallons of refined product and the refund was $244 ($204 principal plus $40 interest).

*Standard Oil Co. (Indiana)/Illinois 10/6/89 RM251-159*

In its Motion for Modification, the State of Illinois requested to use its remaining $1,420,849 in *Amoco II* principal for the enlargement of three restitutionary programs previously approved in *Standard Oil Co. (Indiana)/Illinois*, 17 DOE ¶ 85,482 (1988) and the creation of two new programs. Under this proposal, Illinois will enlarge the Low Income Energy Program by $200,000, the Rural Energy Management Program by $75,000, and the Commercial Energy Information Program by $114,000. The new Energy Information Transfer Program will be allocated $703,582, for the purpose of conducting numerous forums on residential energy conservation. The new Energy Efficient Home Construction Program, with its allocation of $250,000, will inform Illinois' home builders about energy efficient practices, which may then be implemented in the State's structures. Illinois' proposal was approved in full because it should provide restitution to the State's consumers of motor gasoline and middle distillates.

*The Royal Jordanian Airline Corporation, 10/5/89 RF272-7920*

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to The Royal Jordanian Airline Corporation (Royal Jordanian) based on its purchase of refined petroleum products during the period August 19, 1973 through January 27, 1981. Royal Jordanian used the products to fuel its aircraft. Its claim was determined by consulting aircraft flight consumption records and accounting records. Royal Jordanian was an end-user of the products it claimed and was therefore presumed by the DOE to have been injured. The sum of the refund granted in this Decision is $1,079. Royal Jordanian will be eligible for additional refunds as additional crude oil overcharge funds become available.

*Total Petroleum, Inc./Woodland Oil Co. et al., 10/5/89 RF310-212 et al.*

The DOE issued a Decision and Order concerning four Applications for Refund filed by purchasers of motor gasoline and/or No. 2 oils from Total Petroleum, Inc. The applicants sought a portion of the settlement fund obtained by the DOE through a consent order entered into with Total. Each applicant was a reseller whose allocable share exceeded $5,000, and each elected to accept 40% of its allocable share or $5,000, whichever was greater, in return for an exemption from the demonstration of injury requirement established in *Total Petroleum, Inc.*, 17 DOE ¶ 85,542 (1988). Applying the criteria established in that Decision, the DOE granted refunds in this proceeding which total $40,026 ($33,280 principal and $6,746 interest).

**Dismissals**

The following submissions were dismissed:

| Name | Case No. |
|---|---|
| Crockett Oil Co | RF310-282. |
| Crossroads Oil Company | RF307-218. |
| Lincoln Oil Co., Inc | RF313-301. |
| Maly-Hitch ARCO | RF304-3643. |
| Newport Hills ARCO | RF304-4061. |
| Piedmont Aviation Services, Inc. | RF315-6039. |

| Name | Case No. |
|---|---|
| The American Tobacco Company. | RF307-8221. |
| Wolfcale Oil Co. | RF315-3002. |

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 2, 1989.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

[FR Doc. 89-26630 Filed 11-13-89; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 3679-8]

### Agency Information Collection Activities Under OMB Review

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

**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 (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

**DATE:** Comments must be submitted on or before December 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA, (202) 382-2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Pesticides and Toxic Substances**

*Title:* Tolerance Petitions (including new inert ingredients) (EPA ICR # 0597.04; OMB # 2070-0024). This ICR requests reinstatement of a previously approved collection.

*Abstract:* The Federal Food, Drug, and Cosmetic Act authorizes EPA to regulate the amount of pesticides that enter the diet of humans and animals by establishing tolerances (and tolerance exemptions) for pesticide residues (and new inert ingredients) found in or on raw agricultural commodities and in processed foods. EPA uses the residue and product chemistry and toxicity and environmental fate data submitted by pesticide product registrants to set tolerances and tolerance exemptions.

*Burden Statement:* The public reporting burden for this collection of information is estimated to average 1,523 hours per response for registrants petitioning for an active ingredient tolerance, and 763 hours per response for registrants petitioning for an inert ingredient tolerance. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Responents:* Pesticide registrants

*Estimated No. of respondents:* 626

*Estimated total annual burden on respondents:* 925,914 hours

*Frequency of collection:* On occasion

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer,
U.S. Environmental Protection Agency,
Information Policy Branch (PM-223),
401 M Street SW.,
Washington, DC 20460.

and

Tim Hunt,
Office of Management and Budget,
Paperwork Reduction Project (2070-0057),
Washington, DC 20503,
(Telephone (202) 395-3084).

Dated: November 6, 1989.

**Paul Lapsley,**

*Director, Information and Regulatory Systems Division.*

[FR Doc. 89-26677 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3679-9]

### Agency Information Collection Activities Under OMB Review

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

**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 (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before December 13, 1989.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA, (202) 382-2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Water**

*Title:* Pesticide Formulator/Packager Questionnaire (EPA ICR # 1215.01). This is a new collection.

Abstract: EPA is collecting data from Pesticide Formulator/Packagers on wastewater generation, characteristics and treatment. EPA will also collect financial and economic data. The data will be used to develop an affluent guidelines regulation.

*Burden Statement:* The estimated public reporting burden for this collection of information is 55 hours per respondent. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Respondents:* Pesticide Formulators/Packagers

*Estimated No. of Respondents:* 618

*Estimated Total Annual Burden on Respondents:* 34,196 hours

*Frequency of Collection:* One time

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and

Time Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: November 6, 1989.

**Paul Lapsley,**

*Director, Information and Regulatory Systems Division.*

[FR Doc. 89-26678 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3680-1]

### Agency Information Collection Activities Under OMB Review

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

**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 (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the

information collection and its expected cost and burden.

**DATE:** Comments must be submitted on or before December 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA, (202) 382-2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Pesticides and Toxic Substances**

*Title:* Pesticides Environment and Applicator Certification Cooperative Agreement: Output Projections-Accomplishments (EPA ICR # 1547.01; OMB # 2030-0020). This ICR requests reinstatement for part of a previously approved collection under a new clearance number.

*Abstract:* Under sections 23(a) and 26(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA requires governmental entities (states, territories, and Indian tribes) to which it has delegated primary enforcement authority and with which it has cooperative agreements in place to keep records and report to the Agency periodically on their pesticide enforcement activities—including projected and completed inspections, enforcement actions, and applicator certification activities. The Agency uses this information to monitor and evaluate delegated program performance as part of its overall pesticide enforcement program and to review and set funding levels for cooperative agreements.

*Burden Statement:* The public reporting burden for this collection of information is estimated to average 6.3 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Respondents:* States, territories, and Indian tribes with EPA cooperative grants

*Estimated No. of Respondents:* 64

*Estimated Total Annual Burden on Respondents:* 2013 hours

*Frequency of Collection:* Quarterly/Semi-annually

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project (2070-0057) Washington, DC 20503, (Telephone (202) 395-3084).

Dated: November 6, 1989.

**Paul Lapsley,**

*Director Information and Regulatory Systems Division.*

[FR Doc. 89-26679 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

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[FRL 3680-4]

## Relative Risk Reduction Strategies Committee Environmental Risk Subcommittee Meeting

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given of a public meeting of the Environmental Risk Subcommittee of the Relative Risk Reduction Strategies Committee (RRRSC). The Subcommittee will meet on November 30, 1989 (8:30 a.m. to 5 p.m.) and December 1, 1989 (8:30 a.m. to 1 p.m.) at the Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, Virginia 22091, (703) 620-9000.

**PURPOSE:** The purpose of this meeting is to discuss environmental and welfare-related risk reduction strategies based, in part, on an evaluation of EPA's 1987 report "Unfinished Business". For further information concerning this project, please refer to the notices contained in 54 FR 35386, August 25, 1989, and 54 Federal Register 38282, September 15, 1989.

**FOR FURTHER INFORMATION:** Members of the public wishing further information concerning the Subcommittee or the meeting should contact Mr. Robert Flaak, Designated Federal Official, U.S. Environmental Protection Agency (A-101F), 401 F Street SW, Washington, DC, (202) 382-2552, (FTS) 382-2552, FAX (202) 475-9693. Seating at the meeting is on a first come basis.

Dated: November 7, 1989.

**Donald G. Barnes,**

*Director, Science Advisory Board.*

[FR Doc. 89-26681 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

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[FRL 3680-3]

## Science Advisory Board Drinking Water Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a one-day meeting of the Drinking Water Committee of the Science Advisory Board will be held December 8, 1989 at Room 13 North, North Conference Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The meeting will be held from 8:30 a.m. to 5 p.m. on December 8, 1989.

The purpose of this meeting is to review a draft document concerning the kinetics of decomposition of chlorine and chloramines in saliva prepared for the Office of Drinking Water as part of their development of regulations for disinfectants and disinfection by-products. The meeting will be open to the public. Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, Washington, DC 20460 or contact him on 202-382-2552 by November 27, 1989. The Science Advisory Board expects that the public statements presented at this meeting will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: November 3, 1989.

**Donald G. Barnes,**

*Director, Science Advisory Board.*

[FR Doc. 89-26680 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

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# FEDERAL COMMUNICATIONS COMMISSION

## Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 3, 1989.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501-3520).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

*OMB Number:* None.

*Title:* Section 90.19(f)(7)—Stolen Vehicle Recovery System Requirements.

*Action:* New collection.

*Respondents:* Businesses (including small businesses).

*Frequency of Response:* On occasion.
*Estimated Annual Burden:* 40 responses; 160 hours total annual burden; 4 hours average burden per respondent.
*Needs and Uses:* The stolen vehicle recovery system consists of a radio-receiver-transmitter installed in a hidden location in a motor vehicle to assist in its discovery if stolen. To ensure that interference to channel 7 television is avoided, licensees will be required to submit a plan to control any interference to television.

Federal Communications Commission.
Donna R. Searcy,
*Secretary.*
[FR Doc. 89-26648 Filed 11-13-89; 8:45 am]
BILLING CODE 6712-01-M

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DA 89-1432 [CC Docket 88-2, Phase I]

## FCC Announces Second Meeting of the ONA Joint Conference

Released: November 7, 1989.

The Federal/State Joint Conference on Open Network Architecture (ONA) will convene its second meeting at 10:30 on Tuesday, November 14, 1989, at the Boston Copley Place Marriott, 110 Huntington Avenue, Boston, Massachusetts. The meeting will be open to the public, although participation is limited to Conference members and FCC Commissioners.

The Joint Conference serves as an ongoing forum for state/federal cooperation to facilitate the development and implementation of ONA. The creation of a Joint Conference was initially announced in the Federal Communication Commission's BOC ONA Order (4 FCC Rcd 1 (1989)). Three FCC Commissioners and thirteen state commissioners serve as Conference members.

For further information contact Steven Gorosh, Policy and Program Planning Division, Common Carrier Bureau, at (202) 632-4047, or Sarah Lawrence, Office of Public Affairs, at (202) 632-5050.

Federal Communications Commission.
Donna R. Searcy,
*Secretary.*
[FR Doc. 89-26649 Filed 11-13-89; 8:45 am]
BILLING CODE 6712-01-M

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## Quarterly Report on the Travel Reimbursement Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Publishing of Quarterly Report on Travel Reimbursement Program.

**SUMMARY:** In Public Law 100-594, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by each event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee of Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. In addition the Federal Register must publish each quarterly report in the Federal Register.

**DATE:** This report is for the period from August 1, 1989 through September 30, 1989.

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

**FOR FURTHER INFORMATION CONTACT:** Joseph T. Hall, Office of the Managing Director, (202) 632-7194.

**SUPPLEMENTARY INFORMATION:** The report for the quarter ending September 30, 1989 is as follows:

**Federal Communications Commission, Travel Reimbursement Program, July 1, 1989-September 30, 1989, Summary Report**

| | |
|---|---|
| Total Number of Sponsored Events | 7 |
| Total Number of Sponsoring Organizations | 7 |
| Total Number of Commissioners/Employees Attending | 8 |
| Total Amount of Reimbursement Expected: | |
| Transportation | $3,226.00 |
| Subsistence | 1,235.63 |
| Other Expenses | 305.02 |
| Total | $4,766.65 |

Individual Event Reports Attached. Amount of Reimbursement Shown May Be Estimated.

**Federal Communications Commission, Travel Reimbursement Program, Individual Event Report**

*Sponsoring Organization:* American Bar Association, 750 North Lake Shore Drive, Chicago, IL 60611
*Date of Event:* Augut 6, 1989
*Description of the Event:* To participate in a forum concerning the current status of Dial-A-Porn, sponsored by the ABA.
*Commissioners Attending:* None
*Other Employees Attending:* Sue Ann Preskill—Trial Attorney—Office of General Counsel

| | |
|---|---|
| Amount of Reimbursement: | |
| Transportation | $680.00 |
| Subsistence | 344.13 |
| Other Expenses | 29.41 |
| Total | $1,053.54 |

**Federal Communications Commission, Travel Reimbursement Program, Individual Event Report**

*Sponsoring Organization:* Associated Public-Safety Communications Officers, Inc., P.O. Box 669, New Smyrna Beach, FL 32070
*Date of the Event:* August 7, 1989
*Description of the Event:* To participate in Associated Public-Safety Communications Officers, Inc. annual meeting
*Commissioners Attending:* None
*Other Employees Attending:* Ralph Haller—Bureau Chief, Beverly Baker—Deputy Bureau Chief, Private Radio Bureau

| | |
|---|---|
| Amount of Reimbursement: | |
| Transportation | $1,124.00 |
| Subsistence | 218.00 |
| Other Expenses | 110.06 |
| Total | $1,452.06 |

**Federal Communications Commission, Travel Reimbursement Program, Individual Event Report**

*Sponsoring Organization:* Allied Broadcast Equipment, 3712 National Road West, Richmond, IN 47375
*Date of the Event:* September 7-8, 1989
*Description of the Event:* To address the annual sales meeting of broadcast equipment sales engineers
*Commissioners Attending:* None
*Other Employees Attending:* John W. Reiser—Electronics Engineer—Engineering Policy Branch, Mass Media Bureau

| | |
|---|---|
| Amount of Reimbursement: | |
| Transportation | $204.00 |
| Subsistence | 19.50 |
| Other Expenses | 5.55 |
| Total | $229.05 |

**Federal Communications Commission, Travel Reimbursement Program, Individual Event Report**

*Sponsoring Organization:* Columbia Institute, 8 E Street SE., Washington, DC 20003
*Date of the Event:* September 11, 1989
*Description of the Event:* To speak at the Conference of High Technology and Future of the American Economy
*Commissioners Attending:* Alfred C. Sikes—Chairman
*Other Employees Attending:* None

| | |
|---|---|
| Amount of Reimbursement: | |
| Transportation | $350.00 |
| Subsistence | 85.00 |
| Other Expenses | 20.00 |
| Total | $455.00 |

**Federal Communications Commission; Travel Reimbursement Program; Individual Event Report**

*Sponsoring Organization:* National Association of Broadcasters, 1771 N. Street NW., Washington, DC 20036
*Date of the Event:* August 28, 1989
*Description of the Event:* To participate in the Engineering Seminar on AM Directional Antenna Systems.
*Commissioners Attending:* None
*Other Employees Attending:* John D. Sadler—Communications Industry Specialist, AM Branch, Mass Media Bureau

*Amount of Reimbursement:*

| | |
|---|---|
| Transportation | $302.00 |
| Subsistence | 344.00 |
| Other Expenses | 40.00 |
| Total | $686.00 |

**Federal Communications Commission; Travel Reimbursement Program; Individual Event Report**

*Sponsoring Organization:* Great Lakes Cable Expo, 50 West Broad Street, Columbus, OH 43215
*Date of the Event:* September 20, 1989
*Description of the Event:* To participate at the Illinois Cable Television Association's "Great Lakes Cable Expo".
*Commissioners Attending:* Andrew C. Barrett—Commissioner
*Other Employees Attending:* None

*Amount of Reimbursement:*

| | |
|---|---|
| Transportation | $318.00 |
| Subsistence | 123.00 |
| Other Expenses | 50.00 |
| Total | $491.00 |

**Federal Communications Commission; Travel Reimbursement Program; Individual Event Report**

*Sponsoring Organization:* United States Telephone Association, 900 19th Street NW., Suite 800, Washington, DC 20006-2105
*Date of the Event:* September 26-27, 1989
*Description of the Event:* To participate in USTA's seminar on Integrated Services Digital Network (ISDN).
*Commissioners Attending:* None
*Other Employees Attending:* Charles M. Oliver—Attorney-Advisor, Policy and Program Planning Division, Common Carrier Bureau

*Amount of Reimbursement:*

| | |
|---|---|
| Transportation | $248.00 |
| Subsistence | 102.00 |
| Other Expenses | 50.00 |
| Total | $400.00 |

Federal Communications Commission.
**Donna R. Searcy,**
*Secretary.*
[FR Doc. 89-26650 Filed 11-13-89; 8:45 am]
BILLING CODE 6712-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA-846-DR]**

### Kentucky; Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency.
**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of Kentucky (FEMA-846-DR), dated October 30, 1989, and related determinations.

**DATE:** November 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: The notice of a major disaster for the Commonwealth of Kentucky, dated October 30, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 30, 1989:

Knox County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Grant C. Peterson,**
*Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*
[FR Doc. 89-26671 Filed 11-13-89; 8:45 am]
BILLING CODE 6718-02-M

**[FEMA-846-DR]**

### Kentucky; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency.
**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA-846-DR), dated October 30, 1989, and related determinations.

**DATED:** October 30, 1989.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

*Notice:* Notice is hereby given that, in a letter dated October 30, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky, resulting from severe storms, flooding, and mudslides on October 16-18, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288, as amended by PL 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Adamcik of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

The counties of Clay, Floyd, Jackson, Knott, Leslie, Letcher, Magoffin, Owsley, Perry, and Pike for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

**Robert H. Morris,**
*Acting Director, Federal Emergency Management Agency.*
[FR Doc. 89-26672 Filed 11-13-89; 8:45 am]
BILLING CODE 6718-02-M

## FEDERAL RESERVE SYSTEM

### The Saitama Bank, Ltd., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

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 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1989.

**A. Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Saitama Bank, Ltd.*, Saitama, Japan; to engage *de novo* through its subsidiary, Saitama Bank Trust Company of New York, New York, New York, in trust company functions pursuant to § 225.25(b)(3); and financial advisory activities pursuant to § 225.25(b)(4) of the Board's Regulation Y.

**B. Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *F.N.B. Corporation*, Hermitage, Pennsylvania; to expand the activities of its wholly-owned subsidiary, Mortgage Service Corporation, Pittsburgh, Pennsylvania, to include the origination and servicing of all types of consumer and commercial loans and to engage in providing loan marketing and advisory services pursuant to § 225.25(b)(1) of the Board's Regulation Y.

**C. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *MNC Financial, Inc.*, Baltimore, Maryland; to engage *de novo* in the making of equity and debt investments in low income housing construction or rehabilitation projects designed primarily to promote community welfare pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Maryland, District of Columbia, Virginia, West Virginia, Delaware, and Pennsylvania.

Board of Governors of the Federal Reserve System, November 6, 1989.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 89-26628 Filed 11-13-89; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

### CDC Advisory Committee for Injury Prevention and Control; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following Committee meeting:

*Name:* CDC Advisory Committee on Injury Prevention and Control, HHS.

*Time and Date:* 8:30 a.m.-5:00 p.m.—November 29, 1989, 8:30 a.m.-12:00 noon—November 30, 1989.

*Place:* Holiday Inn Decatur Conference Plaza, 130 Clairmont Avenue, Decatur, Georgia 30030.

*Status:* Open to the public, limited only by space available.

*Purpose:* The Committee will make recommendations on policy, strategy, objectives, and priorities including the balance and mix of intramural and extramural research; advise on the development of a national plan for injury prevention and control and the development of new technologies and their application; and review progress toward injury prevention and control.

*Matters To Be Discussed:* The Committee will discuss priority setting, interagency coordination, intramural and extramural programs, and map out its agenda for future meetings.

Agenda items are subject to change as priorities dicate.

*Contact Person for More Information:* Mark Rosenberg, M.D., Director, Division of Injury Epidemiology and Control, Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE, Mailstop F-36, Atlanta, Georgia 30333, telephone: FTS: 236-4690; Commercial: 404/488-4690.

Dated: November 7, 1989.

**Elvin Hilyer,**

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 89-26633 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-18-M

## Food and Drug Administration

[Docket No. 89M-0425]

### Allergan Medical Optics; Premarket Approval of Models AC-21 Non-Ultraviolet-Absorbing and AC-21B Ultraviolet-Absorbing Anterior Chamber Intraocular Lenses

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by Allergan Medical Optics, Santa Ana, CA, for premarket approval, under the Medical Device Amendments of 1976 (the amendments), of the Models AC-21 Non-Ultraviolet-Absorbing and AC-21B Ultraviolet-Absorbing Anterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 29, 1989, of the approval of the application.

**DATES:** Petitions for administrative review by December 14, 1989.

**ADDRESSES:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301-427-1212.

**SUPPLEMENTARY INFORMATION:** On July 6, 1987, Allergan Medical Optics, Santa Ana, CA 92799–5155, submitted to CDRH an application for premarket approval of the Models AC–21 Non-Ultraviolet-Absorbing and AC–21B Ultraviolet-Absorbing Anterior Chamber Intraocular Lenses. The devices are indicated for the visual correction of aphakia in patients 60 years of age and older where a cataractous lens has been removed by primary intracapsular cataract extraction (ICCE), or primary extracapsular cataract extraction (ECCE), where there is a structural reason that the anterior chamber lens is the preferred one, or other primary ECCE provided that this be performed only after the physician has compared the published results of the anterior chamber lens with posterior chamber lenses; or in a secondary implant procedure. The devices are available in a range of powers from 4 diopters (D) through 34 D in 0.5–D increments.

On April 21, 1988, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 29, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

## Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 13, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 6, 1989.

John C. Villforth,

*Director, Center for Devices and Radiological Health.*

[FR Doc. 89–26651 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–01–M

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[Docket No. 89M–0362]

## IOLAB® Intraocular; Premarket Approval of KRATZ™ Models 7243 and 7283, KRATZ™ Lightweight Models 8203 and 8233, KRATZ/JOHNSON Lightweight Model 8663 and Wide Loop Lightweight Model 8403 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by IOLAB® Intraocular, Claremont, CA, for premarket approval, under the Medical Device Amendments of 1976, of KRATZ™ Models 7243 and 7283, KRATZ™ Lightweight Models 8203 and 8233, KRATZ/JOHNSON Lightweight Model 8663 and WIDE LOOP Lightweight Model 8403 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 21, 1989, of the approval of the application.

**DATES:** Petitions for administrative review by December 14, 1989.

**ADDRESSES:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301–427–1212.

**SUPPLEMENTARY INFORMATION:** On August 18, 1988, IOLAB® Intraocular, Claremont, CA 91711, submitted to CDRH an application for premarket approval of KRATZ™ Models 7243 and 7283, KRATZ™ Lightweight Models 8203 and 8233, KRATZ/JOHNSON Lightweight Model 8663 and WIDE LOOP Lightweight Model 8403 Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses. The devices are intended to be used for primary implantation for the visual correction of aphakia in patients 60 years of age and older where a cataractous lens has been removed by extracapsular extraction methods. These lenses are intended to be placed in the ciliary sulcus or capsular bag. The devices are available in a range of powers from 4 diopters (D) through 34 D in 0.5 D increments.

On January 26, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 21, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 14, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

**John C. Villforth,**

*Director, Center for Devices and Radiological Health.*

[FR Doc. 89-26653 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0427]

## Lombart Lenses Ltd.; Premarket Approval of LL-55™ (Methafilcon A) Soft Hydrophilic Contact Lenses and LL-55 Toric™ (Methafilcon A) Soft Hydrophilic Contact Lenses

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by Lombart Lenses Ltd., Norfolk, VA, for premarket approval, under the Medical Device Amendments of 1976, of the spherical LL-55™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the LL-55™ TORIC™ (methafilicon A) Soft Hydrophilic Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with Kontur Kontact Lens Co., Inc., Richmond, CA, which has authorized Lombart Lenses Ltd. to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lens. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of September 28, 1989, of the approval of the application

**DATE:** Petitions for administrative review by December 14, 1989.

**ADDRESS:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

**SUPPLEMENTARY INFORMATION:** On July 19, 1989, Lombart Lenses Ltd., Norfolk, VA 23507, submitted to CDRH an application for premarket approval of the spherical LL-55™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the LL-55 TORIC™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear. The spherical lenses are indicated for daily wear from 1 to 7 days between removals for cleaning and disinfection as recommended by the eye-care practitioner. The lenses are indicated for the correction of visual acuity in aphakic and not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The lenses are indicated in a power range of −20.00 D to +20.00 for daily wear and −20.00 D to +10.00 D for extended wear. The toric lenses are indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic and have astigmatism up to 5.00 D and can obtain satisfactory visual acuity with the lenses. These lenses range in spherical powers from −20.00 D to +12.00 D. These lenses are to be disinfected using either a chemical or hydrogen peroxide lens care system. The application includes authorization from Kontur Kontact Lenses Co., Inc., Richmond, CA 94804, to incorporate information contained in its approved premarket approval application and related supplement for the spherical and toric configurations of the Kontur Soft (methafilcon A) Hydrophilic Contact Lens.

On September 28, 1989, CDRH approved the application by letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the spherical LL-55™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear and extended wear and the LL-55 TORIC™ (methafilcon A) Soft Hydrophilic Contact Lenses for daily wear states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request

either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 14, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

**John C. Villforth,**

*Director, Center for Devices and Radiological Health.*

[FR Doc. 89-26654 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

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[Docket No. 89M-0436]

## Ocular Technologies, Inc.; Premarket Approval of OTI-05 (Polymacon) Soft Contact Lenses and LATHE-40 (Polymacon) Soft Contact Lenses (Clear)

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by Ocular Technologies, Inc., Raleigh, NC, for premarket approval, under the Medical Device Amendments of 1976, of the clear spherical OTI-05 (polymacon) Soft Contact Lenses and LATHE-40 (polymacon) Soft Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with CTL, Inc., Sunnyvale, CA, which has authorized Ocular Technologies, Inc., to incorporate information contained in its approved premarket approval application and related supplements for the clear CustomEyes™-38 (polymacon) Hydrophilic Contact Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of September 5, 1989, of the approval of the application.

**DATES:** Petitions for administrative review by December 13, 1989.

**ADDRESSES:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301-427-1080.

**SUPPLEMENTARY INFORMATION:** On May 25, 1989, Ocular Technologies, Inc., Raleigh, NC 27609, submitted to CDRH an application for premarket approval of the spherical OTI-05 (polymacon) Soft Contact Lenses and LATHE-40 (polymacon) Soft Contact Lenses. The lenses are indicated for daily wear use for the correction of visual acuity in aphakic and not-aphakic patients with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.50 diopters (D) or less that does not interfere with visual acuity. The lenses are indicated in a power range of −9.00 D to +15.00 D and are to be disinfected using either a heat or chemical disinfection system. The application includes authorization from CTL, Inc., Sunnyvale, CA 94086, to incorporate information contained in its approved premarket approval application and related supplements for the clear CustomEyes™-38 (polymacon) Hydrophilic Contact Lenses.

On September 5, 1989, CDRH approved the application by letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the clear spherical OTI-05 (polymacon) Soft Contact Lenses and LATHE-40 (polymacon) Soft Contact Lenses for daily wear states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

### Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 13, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the

Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

**John C. Villforth,**

*Director, Center for Devices and Radiological Health.*

[FR Doc. 89-26652 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-01-M

## National Institutes of Health

### Establishment of Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972. [Pub. L. 92-463, 86 Stat. 770-776] and section 222 of the Public Health Service Act, as amended (42 U.S. Code 217a), the Acting Director, National Institutes of Health, announces the reestablishment by the Secretary, Department of Health and Human Services, on October 12, 1989. of the Acquired Immunodeficiency Syndrome Program Advisory Committee.

The Acquired Immunodeficiency Syndrome Program Advisory Committee advises the Secretary, the Assistant Secretary for Health, the Director, NIH, the NIH AIDS Coordinator, and the NIH AIDS Executive Committee on long- and short-term planning to meet research needs in AIDS. Specifically, the committee shall identify opportunities to further research in AIDS; recommend areas in which research should be stimulated; and suggest conferences, workshops or other activities NIH should support to facilitate exchange of information.

Unless renewed by appropriate action prior to expiration, the Acquired Immunodeficiency Syndrome Program Advisory shall terminate two years from the reestablishment date.

Dated: November 6, 1989.

**William F. Raub,**

*Acting Director, National Institutes of Health.*

[FR Doc. 89-26617 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

### Notice of Meeting of the Acquired Immunodeficiency Syndrome Program Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on December 11-12, 1989, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9 a.m. to 4 p.m. on December 11, and from 9 a.m. to 12:30 p.m. on December 12 in Building 31, C Wing, Conference Room 10. The meeting will be open to the public. The purpose of the meeting is to discuss recent developments relating to HIV infection in clinical trials, epidemiology, and central nervous system manifestations.

Anthony S. Fauci, M.D., Associate Director for Office of AIDS Research, National Institutes of Health, Shannon Building, Room 201, Bethesda, Maryland 20892, (301) 496-0357, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Dated: November 2, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-26618 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

### National Cancer Institute; Amended Notice of Meeting

Notice is hereby given to amend the notice of the Cancer Clinical Investigation Review Committee which was published in the **Federal Register** (54 FR 38451) on September 18, 1989.

The Committee was originally scheduled to meet on November 30-December 1, 1989, from 8:30 a.m. to adjournment at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814. The meeting will now meet on December 12, 1989, at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814 commencing at 9 a.m. The meeting will be open from 8:30 a.m. to 9 a.m. and closed from 9 a.m. to 6 p.m.

Dated: November 6, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-26619 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

### National Cancer Institute; Meeting of President's Cancer Panel

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, December 11, 1989, at The National Institutes of Health, Building 31, Conference Room 6, Bethesda, MD 20892.

This meeting will be open to the public on December 11 from 9 a.m. to 12 noon. Attendance will be limited to space available. Agenda items will include reports by the Chairman, President's Cancer Panel, members of the Executive Committee and staff of the National Cancer Institute, and others representing the Department of Health and Human Services.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A29, National Institutes of Health, Bethesda, Maryland 20892 (301/496-1148) will provide a roster of the Panel members, and substantive program information upon request.

Dated: November 6, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89-26620 Filed 11-13-89; 8:45 am]

BILLING CODE 4140-01-M

## Public Health Service

### National Center For Health Services Research and Health Care Technology Assessment; Assessment of Cardiac Rehabilitation Program Services for PTCA and Cardiac Valve Surgery Patients

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is performing an assessment of the safety, clinical effectiveness, and indications for use of cardiac rehabilitation program services for Percutaneous Transluminal Coronary Angioplasty (PTCA) and cardiac valve surgery patients. A previous assessment, cardiac rehabilitation services, was published by OHTA in 1987. A notice of that assessment appeared in the August 15, 1985 **Federal Register** Vol. 50 No. 158:32911 (50 FR 32911). Cardiac rehabilitation services are intended to identify patients at increased risk for further cardiac events as well as to restore their functional status.

Specifically, we are interested in knowing whether there are significant advantages of cardiac rehabilitation program services for PTCA and cardiac valve surgery patients. If it proves to be safe and clinically effective, what are specific indications for its use and how many courses of therapy are reasonable and necessary?

The PHS assessment process consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist HCFA in establishing a Medicare coverage policy. The information being sought is a review

and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as to the clinical acceptablity and the effectiveness of this technology and extent of use, is also being sought. Proprietary information is not being requested. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than January 19, 1990, or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 308(d). Indicate whether disclosure is acceptable.

Written material should be submitted to: Diane L. Adams, M.D., M.P.H., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18–40, Rockville, MD 20857 (301) 443–4990.

Dated: October 20, 1989.

**Donald Goldstone,**

*Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.*

[FR Doc. 89–26664 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–17–M

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## National Center For Health Services Research and Health Care Technology Assessment; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of the safety and effectiveness of positron emission tomography (PET) as a diagnostic and management tool for use in patients with coronary artery disease, focal or partial epilepsy, and brain tumors.

This assessment will be concerned with the uses of PET in (a) diagnosis and evaluation of the severity of coronary artery disease, (b) assessment of myocardial viability, (c) localization of seizure focus for surgical excision, and (d) differentiation of radiation necrosis from recurrent tumor in the brain. This assessment seeks to answer the following questions: (1) Does PET provide information of value to a clinician that is not otherwise available? (2) What is the extent of any incremental benefit obtained from the use of PET when the information obtained is comparable to that available from other diagnostic modalities? (3) How does the sensitivity and specificity of PET compare with other diagnostic modalities currently in use? (4) What is the extent of interobserver and intraobserver error associated with the clinical condition being assessed? (5) Where does PET fit in the overall scheme of diagnostic testing? Should it be used in lieu of, or in additon to, other diagnostic modalities? (6) What patient selection criteria should be applied?

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety, clinical effectiveness, and appropriate uses of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use are also being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than January 31, 1990 or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 308(d). Indicate whether disclosure is acceptable.

Written material should be submitted to: S. Steven Hotta, M.D., Ph.D., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18–40, Rockville, MD 20857 (301) 443–4990.

Dated: October 20, 1989.

**Donald Goldstone,**

*Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.*

[FR Doc. 89–26661 Filed 11–13–89; 8:45 am]

BILLING CODE 4160–17–M

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## Assessment of Medical Technology: Regional Hyperthermia Alone and in Conjunction With Chemotherapy for the Treatment of Tumors

The Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA) announces that it is performing an assessment of the safety, clinical effectiveness, and indictions for use of regional hyperthermia alone and in conjunction with chemotherapy for the treatment of tumors. A previous assessment, local hyperthermia for treatment of superficial and subcutaneous malignancies, was published by OHTA in 1984. A notice of that assessment appeared in the March 13, 1984, **Federal Register**, Vol. 49, No. 50:9476. That assessment recommended that (a) local hyperthermia should be covered under Medicare when used in conjunction with radiation therapy for the treatment of primary or metastatic cutaneous or subcutaneous superficial malignancies; (b) local hyperthermia *not* be covered under Medicare when used alone or in connection with chemotherapy. The Health Care Financing Administration (HCFA) adopted that PHS recommendation. They have now requested that OHTA evaluate the use of Regional Hyperthemia Alone and in Conjunction with Chemotherapy for the Treatment of Tumors.

Hyperthermia involves the production of local or regional heat in neoplasms without directly raising the temperature of uninvolved areas.

This assessment seeks to answer the following questions: (a) What are the beneficial effects of heat, vasodilation, enhanced pharmacologic activity, and the direct effect of heat on the tumor; (b) What complications are associated with regional hyperthermia and with chemotherapy for the treatment of tumor; (c) What evidence to date show that regional hyperthermia may have an impact upon cancer survival rates; (d)

What stage of the malanoma seems to show the best improvement of survival rates following heated perfusion? (e) What other treatment is available beside amputation for diffuse melanoma involving the upper and lower extremities?

The PHS assessment process consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist HCFA in establishing a Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as to the clinical acceptability and the effectiveness of this technology and extent of use, is also being sought. Any person or group wishing to provide OHTA with informaton relevant to this assessment should do so in writing no later than February 19, 1990, or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 308(d). Indicate whether disclosure is acceptable.

Written material should be submitted to:

**Diane L. Adams, M.D., M.P.H.,**

*Office of Health Technology Assessment, 5600 Fishers Lane, Room 18-40, Rockville, MD 20857, (301) 443-4990.*

Dated: November 3, 1989.

**Donald Goldstone,**

*Acting Director, Office of Health Technology Assessment, National Center for Health Services Research, and Health Care Technology Assessment.*

[FR Doc. 89-26660 Filed 11-13-89; 8:45 am]

BILLING CODE 4160-17-M

## DEPARTMENT OF THE INTERIOR

### Oral Comments Concerning Draft Natural Resource Damage Assessment Plan and Restoration Strategy for the Exxon Valdez Tanker Accident

**AGENCY:** Department of the Interior.

**ACTION:** Draft Natural Resource Damage Assessment Plan and Restoration Strategy for the *Exxon Valdez* Oil Spill; provision for oral comments.

**SUMMARY:** This Notice announces the opportunity for those who have submitted written comments on the Draft Natural Resource Damage Assessment Plan and Restoration Strategy to present elaborative oral comments in the near future. The draft plan was made available to the public on August 18, 1989, by notice published in the **Federal Register** on August 15, 1989, 54 FR 33618, that required all comments to be submitted by September 30, 1989. The written comment period was later extended to October 30, 1989, 54 FR 39586, September 27, 1989.

**SUPPLEMENTARY INFORMATION:** The March 24, 1989, grounding of the tanker Exxon Valdez in Alaska's Prince William Sound caused the largest oil spill in U.S. history. Approximately 11 million gallons of North Slope crude moved through the southwestern portion of the Sound and along the coast of the western Gulf of Alaska, causing extensive harm to natural resources.

The draft plan described the process by which that harm will be evaluated so that compensation can be sought from those potentially responsible for the spill. The State of Alaska and three federal agencies (the Departments of Agriculture and the Interior and NOAA) are the responsible trustees to protect and assess injuries to natural resources as provided by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act (CWA). The Environmental Protection Agency (EPA) is a consultant to the Trustee Council.

The Trustee Council has determined that it would be beneficial to provide the opportunity for those who provided written comments to present oral comments elaborating on their written comments. Such times and places are yet to be determined. All those who provided written comments will be sent a notice outlining the procedure for submitting a statement of oral comments. Oral comments shall be limited to elaborating upon written comments, which the party submitted on the Draft Assessment Plan. Oral comments should be technical in nature and for clarification of written comments. It is expected that the sessions will be conducted during November or early December and will take place in Alaska and Washington, DC. Parties wishing to comment need only appear at one of the meetings.

In addition, when appropriate, restoration alternatives will be made available for public comment by the Trustee Council.

**David A. Watts,**

*Acting Associate Solictor, Conservation and Wildlife.*

[FR Doc. 89-26832 Filed 11-9-89; 3:33 pm]

BILLING CODE 4310-10-M

## Bureau of Land Management

### Temporary Emergency Closure of the Barstow to Las Vegas Motorcycle Race Course, Barstow and Needles Resource Areas, San Bernardino County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of temporary closure on public lands in eastern San Bernardino County, California.

**SUMMARY:** Notice is hereby given that a temporary emergency closure of public lands on the Barstow to Las Vegas Motorcycle Race Course and the two pit areas. The course is closed to all uses except the permitted race vehicles, pit crews and authorized race officials. The closure includes, but is not limited to the following activities: driving, walking, standing, camping, spectating, protesting, and vandalism. This closure begins where the course enters public lands from Fort Irwin at the southwest corner of Section 5, Township 13 north, Range 6 east. The course travels to the northeast to the boundary of the state of Nevada in the southeast quarter of Section 7, Township 17 north, Range 15 east. The course length is approximately 100 miles. Pit 1 is located about 4 miles west of Highway 127 between the Boulder corridor and Silver Lake, covering an area of 75 feet wide by ¾ of a mile long. Pit 2 is located in Bull Spring Wash 2 miles south of Turquoise Mountain, covering an area of 75 feet by 1 mile. Pit 3 is located ½ mile south of the Boulder corridor on the California side of the Nevada boundary, covering an area about 75 feet by 1 mile.

*Order:* Effective November 23 through 26, 1989, the following temporary emergency closure restrictions will be in effect for the Barstow to Las Vegas Motorcycle Race Course and the three pit areas. All human activity, except

those associated with the normal operation of the permitted event will be excluded from the race course and the pit areas. Human activities include but are not limited to the following activities: driving, walking, standing, camping, spectating, protesting, and vandalism. Exceptions to the exclusions would include permitted racing, pit crews and their camps, authorized races officials conducting check point operations, rescue, assistance, security, and follow-up safety sweep of the course.

Authority for the temporary closure and interim use restrictions is contained in title 43 CFR 8364. Violation of these restrictions is punishable by a fine not to exceed $1,000 and/or 12 months in jail.

**SUPPLEMENTARY INFORMATION:** The purpose of the temporary closure and use restrictions is to provide protection for the desert tortoise and its habitat from unauthorized activities. The only area open to spectators is the start line, located within Fort Irwin. The remainder of the course will have restricted access. The desert tortoise has been listed on an emergency basis as an endangered species by the U.S. Fish and Wildlife Service. The race course uses existing routes of travel to cross tortoise habitat. Unauthorized activities on or adjacent to the race course and the pit areas would put the race participants and the desert tortoise at risk.

**FOR FURTHER INFORMATION CONTACT:** Gerald E. Hillier, District Manager, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507, (714) 351-6386, or Alden Sievers, Area Manager, Bureau of Land Management, 150 Coolwater Ln., Barstow, California 92311, (619) 256-3591.

Dated: November 7, 1989.

H.W. Riecken,

*Acting District Manager.*

[FR Doc. 89-26634 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-40-M

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[NM-010-4130-12-GPO-0003]

## Availability for the Molycorp Guadalupe Mountain Tailings Disposal Facility Final Environmental Impact Statement (EIS)

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Land Management, Albuquerque District, announces the availability of the Molycorp Guadalupe Mountain Tailings Disposal Facility FEIS for public review and comment. This document analyzes whether the proposed tailings facility will result in any unnecessary or undue degradation of the public lands near Questa, New Mexico, in BLM's the Taos Resource Area.

**DATE:** Comments on the Final EIS can be submitted for a period of 30 days following EPA's **Federal Register** Notice of the EIS availability.

**ADDRESS:** Comments should be sent to Robert Dale, District Manager, Bureau of Land Management, Albuquerque District Office, 435 Montano NE., Albuquerque, New Mexico 87107.

**FOR FURTHER INFORMATION CONTACT:** Kent Hamilton, Bureau of Land Management, Albuquerque, District Office, 435 Montano NE., Albuquerque, New Mexico 87107, telephone commercial (505) 761-4546, FTS 474-4546.

**SUPPLEMENTARY INFORMATION:** Molycorp Inc., has applied for approval of a "Plan of Operations" for a 1,230 acre tailings disposal facility to be on millsite claims located on Guadalupe Mountain near Questa, New Mexico, pursuant to 30 U.S.C. section 42 (1976). In the case of an action authorized under the mining laws, the only required determination is whether the proposal will result in any unnecessary or undue degradation of the public lands; there is no provision for a discussion of alternatives.

The Final EIS was prepared by ENSR Consulting and Engineering a third party contractor for the Bureau of Land Management.

A copy of the Final EIS will be sent to all individuals, government agencies and groups who have expressed an interest in the project. In addition, review copies may be examined at the following locations:

Bureau of Land Management, Taos Resource Area Office, Plaza Montevideo, Cruz Alto Road, Taos, New Mexico 87571-1045.

Bureau of Land Management, New Mexico State Office, South Federal Place, Joseph M. Montoya Federal Building, Sante Fe, New Mexico 87504-1449.

Dated: November 6, 1989.

Katy J. Eaton,

*Acting State Director.*

[FR Doc. 89-26635 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-FB-M

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[AZ-020-41-5410-ZAGH; AZA-24106]

## Receipt of Conveyance of Mineral Interest Application

Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Barnabas Hugh Wasson has applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 10 N., R. 5 W.,

Sec. 10, NW¼, N½SW¼, SW¼SW¼.

Containing 230 acres.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface ownership, for the lands described above, where there are no known mineral values or in those instances where the reservation of ownership of the mineral interest in the United States interferes with or precludes appropriate non-mineral development of the lands and such development would be a more beneficial use of the lands than its mineral development.

Additional information concerning this application may be obtained from the Area Manager, Lower Gila Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening, either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, October 27, 1989, whichever occurs first.

Dated: October 30, 1989.

Charles Frost,

*Associate District Manager.*

[FR Doc. 89-26611 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-00-4212-11; N-25810]

## Termination of Recreation and Public Purpose Classification and Order Providing for Opening of Land; Nevada

November 2, 1989.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This action terminates Recreation and Public Purpose (R&PP) Classification N-25810 in its entirety. The land will be opened to the public land laws generally, including the mining and mineral leasing laws.

**EFFECTIVE DATE:** Termination is effective with the publication of this document. The land will be open to entry at 10 a.m. on December 14, 1989.

**FOR FURTHER INFORMATION CONTACT:** Vienna Wolder, Nevada State Office, BLM, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702-328-6326.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of Bureau of Land Management Manual 1203 dated April 14, 1987, Recreation and Public Purpose Classification N-25810 is hereby terminated in its entirety:

**Mount Diablo Meridian, Nevada**

T. 21 S., R. 60 E., sec. 15, SW¼SW¼SW¼.

The area described contains 10 acres in Clark County.

The classification made pursuant to the Act of June 14, 1926, as amended, segregated the public land from all other forms of appropriation under the public land laws, including location under the United States mining laws and the mineral leasing laws. The land was leased to Clark County for a solid waste transfer station. The site was never developed and the lease expired November 12, 1985. There are no other applications pending. The classification is no longer considered appropriate.

At 10:00 a.m. on December 14, 1989, the land will be open to the operation of the public land laws and the mineral leasing laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10:00 a.m. on December 14, 1989 will be considered as simultaneously filed. All other applications received will be considered in order of filing.

At 10:00 a.m. on December 14, 1989, the land will also be open to the operations of the mining laws. Appropriation of lands under the general mining laws prior to the date and 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.

**Fred Wolf,**

*Associate State Director, Nevada.*

[FR Doc. 89-26608 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-HC-M

## Realty Action; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Correction of Notice COC-49757.

**SUMMARY:** The legal descriptions for three of the public land parcels classified for Recreation and Public Purposes lease in the notice published on May 19, 1989 (54 FR 21677) should read as follows:

**Sixth P.M., Colorado**

T. 18 S., R. 72 W.,
Section 21; that portion of the S½SW¼NW¼ and the N½NW¼SW¼ between the thread of the Arkansas River and U.S. Highway 50 containing two acres known as the Bootlegger parcel.

T. 49 N., R. 10 E.,
Section 28; that portion of lots 7, 8, and 9 between the thread of the Arkansas River and U.S. Highway 50 containing approximately 8 acres and known as the Rincon site.

T. 48 N., R. 12 E.,
Section 21; that poriton of lot 8 and the SW¼SW¼ between the thread of the Arkansas River and U.S. Highway 50.
Section 28; that portion of the NW¼NW¼ between the thread of the Arkansas River and U.S. Highway 50.
Section 29; that portion of the NE¼NE¼ between the thread of the Arkansas River and U.S. Highway 50. This site contains approximately 30 acres known as the Lone Pine site.

**Donnie R. Sparks,**

*District Manager.*

[FR Doc. 89-26607 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-JB-M

## Fish and Wildlife Service

### Issuance of Permit for Marine Mammals

On September 8, 1989, a notice was published in the **Federal Register** (54 FR 37382) that an application had been filed with the Fish and Wildlife Service by Fish & Wildlife Service, Alaska Office of Fish & Wildlife Research (PRT-690038) for a permit to amend their current marine mammal permit, PRT 690038, to include testing of the Bio-Electrical Impedance (BIA) as a means of measuring the fat and fat free body mass of polar bears (*Ursus maritimus*).

Notice is hereby given that on October 23, 1989 as authorized by the Marine Mammal Protection Act of 1972 (16 USC 1361-1407) the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Office of Management Authority, 4401 North Fairfax Drive, Arlington, VA 22203.

Dated: November 8, 1989.

**R.K. Robinson,**

*Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 89-26665 Filed 11-13-89; 8:45 am]

BILLING CODE 4510-55-M

## National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nomination for the following properties being considered for listing in the National Register were received by the National Park Service before November 4, 1989. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127. Washington, DC 20013-7127. Written comments should be submitted by November 29, 1989.

**Carol D. Shull,**

*Chief of Registration, National Register.*

**ARKANSAS**

**Pulaski County**

*Herschell—Spillman Carousel*, War Memorial Park midway, Little Rock, 89002065

**FLORIDA**

**Columbia County**

*Fort White Public School Historic District*, E. Dorch at N. Bryant St., Fort White, 89002061

**St. Lucie County**

*St. Lucie Village Historic District*, 2505—3305 N. Indian River Dr., St. Lucie Village, 89002062

**Sarasota County**

*Armada Road Multi-Family District (Venice MPS)*, Roughly bounded by Granada Ave., Harbor Dr. S., Armada Rd. S., and Park Blvd. S., Venice, 89002049

*Edgewood Historic District (Venice MPS)*, Roughly bounded by School St., Myrtle Ave., Venice-By-Way, and Groveland Ave., Venice, 89002048

*Venezia Park Historic District (Venice MPS)*, Roughly bounded by Palermo St., Sorrento St., S. Harbor Dr., and Salerno St., Venice, 89002047

**MASSACHUSETTS**

**Essex County**

*Adventure (schooner)*, State Fish Pier, Gloucester Inner Harbor, Gloucester, 89002054

**Suffolk County**

*Sheffield Center Historic District*, Roughly US 7/Main St. from Miller Ave. to Salisbury Rd., Sheffield, 89002060

**MISSISSIPPI**

**Harrison County**

*Dantzler, G.B., House*, 1238 E. Beach Blvd., Gulfport, 89002051

**Hinds County**

*Lewis, Ervin, House*, 5461 Old Byram Rd., Byram, 89002052

**Lauderdale County**

*Standard Drug Company* 601 25th Ave., Meridian, 89002050

**Lowndes County**

*Ervin, William E., House*, Armstrong Rd./Rt. 4, SE of Columbus, Columbus vicinity, 89002053

**NEW HAMPSHIRE**

**Belknap County**

*First Baptist Church of Gilmanton*, Province Rd./NH 107, .25 mi. N of Stage Rd., Gilmanton, 89002059

**Carroll County**

*Moultonborough Town House*, NH 25, .3 mi. SW of NH 109, Moultonborough, 89002057

*Union Hotel*, Main St. at Chapel St., Wakefield, 89002055

**Hillsborough County**

*Killicut—Way House*, 2 Old House Ln., Nashua, 89002056

*McClure—Hilton House*, 16 Tinker Rd., Merrimack, 89002058

**OREGON**

**Marion County**

*Collins, George, House*, 1340 Chemeketa St. ME., Salem, 89002063

**WISCONSIN**

**Dane County**

*Monona Mound (47DA275)*, Address Restricted, Monona vicinity, 89002064

[FR Doc. 89-26690 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-70-M

## Office of Surface Mining Reclamation and Enforcement

## Determination of Valid Existing Rights Within the Wayne National Forest

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of reopening of record and invitation for interested parties to participate.

**SUMMARY:** On August 30, 1989, the Office of Surface Mining Reclamation and Enforcement (OSM) issued a notice that it had decided to initiate reconsideration of its December 23, 1988, determination that Belville Mining Company (Belville) has valid existing rights (VER) to surface mine coal on five tracts within the Wayne National Forest in Ohio. The notice announced closing dates for public participation of September 14 for materials pertinent to the "McMullen tract" and September 29 for materials pertinent to all other issues. By this notice, OSM is informing interested parties that they may continue to submit relevant information and that OSM will consider all relevant information received up to the time a decision is made concerning the VER requests.

**DATES:** OSM will consider relevant materials submitted on the Belville matter until November 29, 1989.

**ADDRESSES:** Hand deliver written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, 1100 L Street, NW., Washington, DC or mail written materials to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131L, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240. Documents included in the administrative record are available for public review at this address.

**FOR FURTHER INFORMATION CONTACT:** Brent Wahlquist, Assistant Director-Program Policy, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; or telephone (202) 343-4264 (FTS or commercial).

**SUPPLEMENTARY INFORMATION:** By letter dated December 23, 1988, OSM notified Belville that, pursuant to section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Belville had VER to conduct surface mining activities on five properties involving 5,440 acres of Federal land within the Wayne National Forest in Ohio. This decision reversed a December 3, 1986, determination by OSM that Belville's earlier submissions were insufficient to establish VER for the five properties in question. By letter dated August 15, 1988, Belville had asked OSM to reconsider its prior determination.

During the course of a review of recent OSM actions concerning VER, OSM has concluded that the adminstrative record of the past Belville VER determination was inadequate to determine whether the decision was correctly made. Accordingly, in a **Federal Register** notice published on August 30, 1989, OSM reopened the matter and suspended its December 23, 1988, determination (54 FR 35945). The August 30, 1989, notice indicated that OSM would accept materials on issues related to the "McMullen tract" until September 14, 1989, and materials on all other issues until September 29, 1989.

As discussed in the August 30, 1989, notice of reopening, the effect of the decision to reopen the record is to stay the December 23, 1988, determination during the period of further consideration. Such a stay is necessary to preserve the status quo by precluding surface disturbance in the Wayne National Forest, pending full agency consideration of the VER question. By this notice, OSM is extending the period during which interested parties may submit written materials. relevant to the issues at hand until a decision is made. This action will allow development of an administrative record capable of supporting a final determination as to whether Belville has VER.

Dated: November 7, 1989.

**W. Hord Tipton,**

*Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.*

[FR Doc. 89-26659 Filed 11-13-89; 8:45 am]

BILLING CODE 4310-05-M

## DEPARTMENT OF JUSTICE

## Information Collections Under Review

November 7, 1989.

The Office of Management and Budget (OMB) has been sent the following proposals for the collection of information for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information: (1) The title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often

the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether section 3504(h) of Public Law 96–511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633–4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

**Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection**

(1) Application of Waiver of Grounds of Excludability.

(2) I–601. Adjudications Division (COADN), Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. The information given on this form will be used to determine an applicant's eligibility for a waiver of excludability from the United States under section 212 (g), (h), or (i) of the Immigration and Nationality Act.

(5) 3,000 respondents at .5 hours per response.

(6) 1,500 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Application to Preserve Residence for Naturalization.

(2) I–470. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. The information will be used to determine whether an alien who intends to be absent from the United States for a period of one or more years is eligible to preserve residence for naturalization purposes.

(5) 4,000 estimated annual respondents at .25 hours per response.

(6) 1,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) Waiver of Rights, Privileges, Exemptions and Immunities.

(2) I–508. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. The information is used by the Immigration and Naturalization Service to determine eligibility of an alien applicant to retain status of an alien lawfully admitted to the United States for permanent residence.

(5) 1,800 estimated annual responses at .083 hours per response.

(6) 150 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) Application to File Declaration of Intention.

(2) I–300. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Section 334(f) of the Immigration and Nationality Act provides for the issuance of a declaration of intention to become a citizen of the United States. The information gathered on this form will assist the INS in determining if an applicant is eligible for the issuance of such a declaration.

(5) 4,000 estimated annual responses at .5 hours per response.

(6) 2,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) Affidavit of Support.

(2) I–134. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This information will be used in determining that the applicant for benefits will not become a public charge if admitted into the United States.

(5) 44,000 estimated annual responses at .332 hours per response.

(6) 14,608 estimated annual public burden hours.

(7) Not applicable under 3504(h).

(1) Age, Sex, and Race of Persons Arrested.

(2) DO 62 (Used for persons age 18 and over), DO 62a (used for persons under age 18). Federal Bureau of Investigation.

(3) Monthly.

(4) State or local governments. Form is needed to collect information regarding the number(s) of persons arrested by law enforcement agencies throughout the United States. Summary statistics are published in a comprehensive annual and used for other law enforcement planning.

(5) 1,371 respondents, 12 responses per respondent per year totals 16,452 estimated annual responses at .5 hours per response.

(6) 8,226 estimated annual public burden hours.

(7) Not applicable under 3504(h).

**Larry E. Miesse,**

*Department Clearance Officer, Department of Justice.*

[FR Doc. 89–26589 Filed 11–13–89; 8:45 am]

BILLING CODE 4410–10–M

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## Lodging of Consent Decree Pursuant of the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *General Switch Corporation* was lodged with the United States District Court for the Southern District of New York on November 2, 1989. The Consent Decree addresses the United States' claims against the General Switch Corporation ("General Switch") under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601, *et seq.*, regarding the abatement of a release or substantial threat of release of perchloroethylene from the General Switch facility in Middletown, New York.

The Consent Decree requires General Switch to (1) excavate and aerate three hot spots of soil contaminated with PCE located on its Middletown property, (2) pump and treat groundwater from an interceptor well until PCE levels remain stable at a concentration of less than 5 parts per billion ("ppb"), (3) connect any facilities with downgradient wells which have PCE levels of 5 ppb or above to the municipal water supply, (4) pay EPA's oversight costs for the remedial actions, and (5) pay $55,000 in settlement of past removal oversight costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Order. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *General Switch Corporation*, D.J. Ref. #90–11–3–221.

The proposed Consent Decree may be examined at the office of the United

States Attorney, Southern District of New York, One St. Andrew's Plaza, New York, New York 10007, and at the Office of Regional Council, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, room 1647 (D), Ninth Street and Pennsylvania Ave., NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please refer to the referenced case name and D.J. Ref. number and enclose a check in the amount of $7.30 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

**Richard B. Stewart,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 89-26693 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

## Lodging of Consent Decree Pursuant to Cercla in United States v. Deere & Co., Inc.

In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9622(i) ("CERCLA"), and Departmental policy at 28 CFR 50.7, notice is hereby given that on October 17, 1989, a proposed consent decree in *United States* v. *Deere & Company, Inc.*, Civil Action No. C89-1036 was lodged with the United States District Court for the Northern District of Iowa, Eastern Division.

The complaint in this enforcement action was filed on October 17, 1989, against Deere & Company, Inc. ("Deere") under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, seeking injunctive relief and reimbursement of costs incurred by the United States in responding to the release or threat of release of hazardous substances from the Site, which consists of a portion of the John Deere Dubuque Works located near Dubuque, Iowa. The proposed consent decree requires Deere to finance and perform certain remedial action, maintenance and monitoring activities at the Site.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Deere & Company, Inc.*, Department of Justice #90-11-2-322.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Iowa, Eastern Division, 425 2nd Street, SE., The Center, Suite 950, Cedar Rapids, Iowa 52401, and the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed consent decree may also be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1748, U.S. Department of Justice, 9th and Pennsylvania Avenue, NW., Washington, DC 20530. When requesting a copy, please refer to *United States v. Deere & Company, Inc.*, DOJ #90-11-2-322, and enclose a check in the amount of $1.50 payable to the Treasurer of the United States.

**Richard B. Stewart,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 89-26610 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

## Antitrust Division

**[Civil No. 89-4522]**

## United States v. Pacific Dunlop Holdings Inc., et al. (E.D. Penn.)

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (a) and (b), the United States publishes below the comments it received on the Competitive Impact Statement and proposed Final Judgment in the captioned case, filed in the United States District Court for the Eastern District of Pennsylvania, together with the response of the United States to these comments.

Copies of the public comments and response are available on request for inspection and copying in Room 3229, Antitrust Division, Department of Justice, Washington, DC, and for inspection at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania in Philadelphia.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

**United States District Court for the Eastern District of Pennsylvania**

United States of America, Plaintiff, v. Pacific Dunlop Holdings Inc.; Becton, Dickinson and Company; and Edmont, Inc., Defendants.

Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment.

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**United States District Court for the Eastern District of Pennsylvania**

United States of America, Plaintiff, *v.* Pacific Dunlop Holdings Inc.; Becton, Dickinson and Company; and Edmont, Inc., Defendants.

**Response of the United States to Public Comments and Motion of the United States for Entry of Final Judgment**

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)–16(g) (the "APPA"), the United States hereby files its Response to Public Comments and an amended proposed Final Judgment against Pacific Dunlop Holdings Inc. ("PDH"); Becton, Dickinson and Company ("Becton, Dickinson"); and Edmont, Inc. ("Edmont"), and moves for entry of the proposed Final Judgment as amended.

I

**Introduction**

This action began on June 16, 1989, when the United States filed a complaint alleging that the proposed acquisition of Edmont by PDH would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleged that the effect of the acquisition would be substantially to lessen competition in the sale in the United States of dipped unsupported nitrile industrial gloves, liquid proof dipped supported latex industrial gloves, liquid proof dipped supported nitrile industrial gloves, liquid proof dipped supported neoprene industrial gloves, and liquid proof dipped supported PVC industrial gloves. Both companies sell all five of those types of industrial gloves in the United States. The Complaint seeks, among other relief, to enjoin the transaction to prevent its anticompetitive effects in the five relevant markets.

On June 16, 1989, the United States and defendants filed a Stipulation in which they consented to the entry of a proposed Final Judgment designed to eliminate the anticompetitive effects of the acquisition. In accordance with the provisions of the APPA, the United States also filed a Competitive Impact Statement explaining the basis for the Complaint and for the United States' conclusion that entry of the proposed Final Judgment would be in the public interest. As a result of public comments received by the United States, the parties have agreed to amend the proposed Final Judgment as discussed on page 17, *infra*. The proposed Final Judgment, as amended, would eliminate the anticompetitive effects alleged in the Complaint with respect to the five relevant markets by requiring PDH to sell: (1) Its subsidiary Ansell Granet Inc. ("Ansell Granet"), which manufactures liquid proof dipped supported gloves; and (2) Edmont's manufacturing facility located in Canton, Ohio ("Canton facility"), which manufactures unsupported nitrile gloves.

The United States and the defendants stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the Government withdraws its consent. Entry of the proposed Final Judgment, as amended, would terminate this action, except that the Court would retain jurisdiction to construe, modify, and enforce the Final Judgment and to punish violations of the Judgment.

II

**Compliance With the APPA**

Upon publication of this Response in the **Federal Register**, the procedures required by the APPA will have been completed, and the Court may enter the proposed Final Judgment, as amended.

*A. Stipulation, Proposed Final Judgment, and Competitive Impact Statement*

The United States has caused the proposed Final Judgment, the Stipulation between the parties for entry of the proposed Final Judgment, and the Competitive Impact Statement, in the form prescribed by 15 U.S.C. 16(b), to be published in the **Federal Register**, 54 FR 26,854, June 26, 1989.[1] It also has furnished copies of these documents to all persons who have requested them.

*B. Newspaper Notices*

The United States has caused newspaper notices of the proposed Final Judgment and the Competitive Impact Statement to be published in The Washington Post and the Philadelphia Inquirer in accordance with the procedures set forth in 15 U.S.C. 16(c).[2]

*C. Statements Regarding Communications*

As required by 15 U.S.C. 16(g), on June 23, 1989, PDH filed with the Court a description of communications, by or on its behalf, with officers and employees of the United States concerning the proposed Final Judgment. On the same date, Edmont and Becton, Dickinson jointly filed with the Court a description of communications, by or on their behalf, with officers and employees of the United States concerning the proposed Final Judgment.

*D. Waiting Period, Comments, and Publication of Comments and Response*

The 60-day period provided by 15 U.S.C. 16(d) for the submission of public comments expired on August 25, 1989. The United States received comments within the waiting period from the United Rubber, Cork, Linoleum & Plastic Workers of America ("URW") on August 25, 1989; LRC-Surety Products, Inc. ("LRC") on August 24, 1989; Comasec, Inc. ("Comasec") on August 24, 1989; JOMAC Inc. ("JOMAC") on July 17, 1989; and Latex Glove Company, Inc. ("Latex Glove") on July 10, 1989.[3] The United States also received comments from Playtex Family Products Corp. ("Playtex") on September 15, 1989.[4] In accordance with the APPA, the United States has evaluated the comments, and responds to them below. As required by 15 U.S.C. 16(b), the comments are being filed with this Response, and the comments and the Response will be published in the **Federal Register**. Counsel for the United States will inform the Court when publication has occurred.

*E. Standards for Review of Consent Decrees*

Under the APPA, the primary responsibility for enforcing the antitrust laws and protecting the public interest in competitive markets rests with the Department of Justice. *United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. (CCH) ¶ 66,651 at page 63,045 (D.D.C. 1985). In carrying out its responsibilities, the Department has broad discretion in prosecuting alleged antitrust violations and determining appropriate relief for the settlement of cases. *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas.

[1] Copies of the **Federal Register** Notices are attached to this Response as Exhibit A.

[2] Copies of the affidavits of publication are attached to this Response as Exhibit B.

[3] Copies of the comments are attached to the Response as Exhibits C through G.

[4] A copy of the Playtex comments is attached to the Response as Exhibit H. Although its comments were submitted after the expiration of the comment period, the United States will publish those comments and respond to them.

(CCH) ¶ 61,508 at page 71,980 (W.D. Mo. 1977), citing *Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683, 689 (1961) and *Swift & Co.* v. *United States*, 276 U.S. 311, 331–32 (1928). Before entering a proposed consent decree, the Court must determine that the decree is in the public interest, 15 U.S.C. 16(e),[5] but that test is limited to ensuring that the Government has met its public interest responsibilities, that is, determining that the proposed Final Judgment falls within the range of the Government's antitrust enforcement discretion. The Ninth Circuit Court of Appeals has explained these respective obligations as follows:

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General * * *. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." * * * More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

*United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.) (citations omitted), *cert. denied*, 454 U.S. 1083 (1981).

Indeed, the courts repeatedly have held that the purpose of their review of proposed antitrust consent decrees is not to determine whether this "is the best possible settlement that could have been obtained if, say, the Government had bargained a little harder," *United States* v. *G. Heileman Brewing Co.*, 563 F. Supp 642, 647 (D. Del. 1983), quoting *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975), or whether this is the remedy "the court might have imposed had the matter been litigated." *United States* v. *Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985). Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making the public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances. The Court must also give appropriate recognition * * * to the fact that every consent judgment normally embodies a compromise, and that the parties each give up something which they might have won had they proceeded to trial.

*United States* v. *Mid-America Dairymen, Inc., supra*, ¶ 61,508 at page 71,980.

In this case, the United States carefully considered the matters that are now being raised in the comments when it formulated its position with respect to this transaction, and the parties have agreed to amend the proposed Final Judgment after consideration of the comments received. We concluded, for the reasons discussed below and in the Competitive Impact Statement, that the public would be best served by the remedial action set forth in the proposed Final Judgment, as amended. If the Court finds that the United States' action represented a reasonable exercise of its antitrust enforcement responsibility and prosecutorial discretion, it may enter the proposed Final Judgment, as amended, as soon as compliance with the APPA is completed by publication of the comments and Response in the **Federal Register**.[6]

*F. The Competitive Analysis of the United States*

The Department believes that if the proposed Final Judgment, as amended, is entered, the transaction will no longer violate section 7 of the Clayton Act. The proposed Final Judgment, as amended, will ensure the preservation of competition in each relevant market by means of divestitures of manufacturing assets to new, or currently small, competitors in those markets. Thus, the United States concludes that entry of the proposed Final Judgment, as amended, is in the public interest.

1. The Products are Specific Types of Industrial Gloves

Industrial gloves are designed to protect hands from cuts and abrasions and environmental, chemical, and biological agents and/or to protect products from hand-borne contamination. They are manufactured using a variety of processes and materials. They may be as simple as cotton or leather gloves, or may be dipped unsupported gloves,[7] dipped supported gloves,[8] or impregnated gloves,[9] using either natural or synthetic materials. Dipped unsupported gloves are liquid proof, dipped supported gloves may or may not be liquid proof, depending on how they are made, and cotton, leather, and impregnated gloves are not liquid proof.

Industrial gloves have varying degrees of suitability for different uses depending on the manufacturing process and materials employed. Only liquid proof dipped supported and dipped unsupported gloves offer substantial protection for use with chemical agents. As between liquid proof supported and unsupported gloves dipped in the same material, the former offer superior protection from cuts and abrasions, while the latter have superior tactile and dexterity properties. Within the unsupported and liquid proof supported categories, each type of coating material offers protection against certain chemicals or other toxic or corrosive substances superior to other types. When different types of gloves are equally acceptable for a specific use, one type typically is sufficiently less costly to make its use obvious, and a small but significant and nontransitory increase in its price is not likely to cause a significant number of customers to switch to an alternative type of glove.

Consequently, at least among liquid proof supported and unsupported gloves, each type of glove constitutes a separate product market. The five product markets alleged in the Complaint are unsupported gloves dipped in nitrile and liquid proof supported gloves dipped in latex, nitrile, neoprene, or PVC.

2. The Geographic Market for Industrial Gloves is Nationwide

The geographic market for the various types of industrial gloves is the United States because firms that produce and sell those products compete with each other for sales throughout the country.

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[5] This determination can be properly made on the basis of the Competitive Impact Statement, the comments and this Response. The procedures of 15 U.S.C. 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the Court in resolving those issues. *See* H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9, *reprinted in* 1974 U.S. Code Cong. & Admin. News 6535, 6538.

[6] The United States respectfully requests that the Court enter the proposed Final Judgment, as amended, promptly. Congress expected federal courts to adopt "the least complicated and least time-consuming means possible" to determine if entry of a proposed final judgment would be in the public interest. *See* S. Rep. No. 93–298, 93d Cong. 1st Sess. 6 (1973), *reprinted in* 1974 U.S. Code Cong. & Admin. News. 6539; H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8, *reprinted* in 1974 U.S. Code Cong. & Admin. News 6539.

[7] Dipped unsupported gloves are made by dipping a "former," a porcelain or metal form shaped like a hand, into a coating material such as latex, nitrile, or neoprene. The result is a liquid proof, chemical resistant glove made only of the coating material.

[8] Dipped supported gloves are made by cutting and sewing a lining material, typically cotton, into the shape of a hand, placing it on a former, then dipping it into a coating material such as PVC, nitrile, latex, or neoprene.

[9] Impregnated gloves are made by impregnating a fabric with PVC, nitrile, etc., then cutting and sewing the resulting material into the shape of a hand as a cotton or leather glove would be made.

3. The Effect of the Transaction

PDH and Edmont sell numerous types of industrial gloves to distributors throughout the United States. They are direct competitors in many of those product markets. In the five product markets identified in the Complaint there are few alternative sources. In all of those five markets, the HHI,[10] measured by dollar sales, exceeded 2700 before the acquisition and increased by more than 380 as a result of the acquisition. The high level of concentration in those markets, combined with the difficulty of entry into those markets, led the Department to conclude that the acquisition would eliminate significant competition in those five markets, increasing the likelihood that prices would rise in those markets.

4. The Proposed Final Judgment, As Amended

Under the terms of the proposed Final Judgment, as amended, PDH is required to divest certain assets relating to the production of industrial gloves in the five product markets in which the acquisition poses a threat to competition. PDH would be required to divest a manufacturing facility in Canton, Ohio, one of two Edmont plants used for the production of unsupported nitrile gloves, and to divest Ansell Granet, which produces all of PDH's dipped supported gloves.

PDH currently manufactures unsupported nitrile gloves at a single plant in Redditch, England, while Edmont manufactures such gloves at its Canton plant and at a plant in Juarez, Mexico. For several reasons the divestiture of the Canton plant is preferable to divestiture of the Redditch plant. Capacity to produce nitrile gloves at Canton is somewhat greater than PDH's capacity at Redditch, and although the English plant is newer, it does not appear to have any competitive advantage relative to the Canton plant in the United States. Edmont has sold in this country substantially more unsupported nitrile gloves manufactured at Canton than PDH has sold manufactured at Redditch. Moreover, the ability of PDH to compete in the United States with gloves produced in England is subject to fluctuating foreign exchange rates and greater transportation costs, problems that have affected its sales efforts, and it is likely that PDH will concentrate sales of gloves manufactured at the Redditch plant in the growing European market. Divestiture of the Canton plant to a suitable new competitor should adequately replace the competition currently provided by PDH, which currently is a small player in the market. Divestiture to a suitable existing, small manufacturer could effectively increase competition by creating an additional strong competitor in a market currently dominated by two companies.

Divestiture of Ansell Granet will effectively eliminate the anticompetitive effects of the acquisition in the various dipped supported industrial glove markets. PDH only recently entered the dipped supported glove markets in 1988, through the acquisition of the Granet Division of the WCM Safety Corp, and PDH competes in the dipped supported markets solely through this facility. Thus, divestiture of Granet to a suitable new competetitor will completely replace PDH in these markets.

*G. Response to Comments*

With the exception of the comments received from the URW, all of the comments received were from industrial glove manufacturers in competition with PDH and Edmont. The comments primarily fall into three categories: (1) That the proposed divestitures of the Canton Facility and Ansell Granet will not provide adequate relief for the antitrust violations charged in the Complaint; (2) that the product markets charged in the Complaint do not reflect the actual product markets, and thus understate the anticompetitive effects of the acquisition; and (3) that even if the product markets charged in the Complaint are appropriate, the acquisition will enable PDH to wield market power unreasonably in several product markets.[11] Of significance, however, is that not a single purchaser of industrial gloves, including the large, sophisticated industrial glove distributors who comprise the bulk of the customers for gloves, has expressed any concern to the Court or the Department of Justice that the proposed Final Judgment would not adequately protect its interests.

Under the circumstances, the single issue presented here is whether the proposed Final Judgment, as amended, represents a reasonable exercise of the Department of Justice's antitrust enforcement discretion. For the reasons discussed below, the United States has concluded that the proposed Final Judgment, as amended, is an appropriate resolution of this litigation, that it reflects a careful study of the market and is reasonably calculated to prevent the anticompetitive effects alleged in the Complaint, and that its entry therefore is in the public interest.

1. The Viability of the Proposed Divestitures

The Final Judgment provides that the Canton and Ansell Granet operations will be sold to a purchaser or purchasers who can operate them as "viable ongoing businesses engaged in the production of industrial gloves." The Government reserves the right to satisfy itself that the purchase or purchases are for the purpose of competing effectively in the industrial glove market and that the purchaser or purchasers have the managerial, operational, and financial capability to compete effectively in the industrial glove market in the United States. The goal of the proposed Final Judgment, as amended, is to restore the competition in the relevant markets that the acquisition eliminates. The proposed divestitures will accomplish that goal completely. Specifically, the purchaser or purchasers of these facilities will fully supplant PDH in each of these markets.

a. *The Canton Facility.* LRC, Comasec, and JOMAC question whether the purchaser of the Canton facility can effectively compete in the market for unsupported nitrile gloves. The divestiture of the Canton facility to a qualified purchaser will, however, restore, if not improve, the competitive situation that existed before the merger.

As noted by LRC, PDH has not been a major player in the unsupported nitrile market with its Redditch plant. The new operator of the Canton facility will be able to compete in the U.S. market at least as effectively as PDH could compete from Redditch. Production costs at the Canton facility are competitive in the U.S. market. The Canton facility has the capacity to manufacture 600,000 dozen gloves, slightly more than the Redditch plant.[12]

[10] "HHI" means the Herfindahl-Hirshman Index, a measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30 30, 20, and 20 percent, the HHI is 2,600 ($30^2+30^2+20^2+20^2=900+900+400+400=2,600$). The HHI takes into account the relative size and distribution of the firms in the market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

[11] Although the public comments all concern the proposed Final Judgment as originally published, they are applicable equally to the proposed Final Judgment, as amended.

[12] Canton's capacity is well over 25 percent of the estimated United States market for unsupported nitrile gloves.

Canton's 1988 U.S. sales were around $7,700,000, compared to Redditch's sales of $1,269,000. Additionally, fluctuations in currency rates can render exports to the United States from Redditch unprofitable, and growing demand in Europe makes it likely that most of the production of the Redditch facility will be directed toward the Common Market in the future.

LRC, Comasec, and JOMAC argue that the production facility at Canton is obsolete and otherwise unable to compete in the United States market. Experience refutes that concern, however. Although most of the Canton equipment is between ten and fifteen years old, it is functional, currently operating, and well maintained. Only in the past few years has Edmont produced nitrile gloves in Mexico. Prior to that time it maintained its dominant position in the market by manufacturing its gloves at Canton. Even while manufacturing gloves in Mexico, Edmont continues to manufacture substantial quantities of nitrile gloves at Canton—approximately 50 percent of the gloves it sold in the United States in 1988.[13]

Comasec states that the Canton facility has been plagued by labor problems in recent years. The Canton workforce is highly skilled and trained, however, and there is no reason to believe that it would be any less motivated to work for the new purchaser than it has been for Edmont. Although one cannot predict the future course of labor relations at Canton, the parties entered into a four-year collective bargaining agreement in July 1989. Both the new purchaser and the union are bound by the terms of the agreement. The United States is unaware of any current labor problems.

Latex Glove states a concern that the proposed Final Judgment would preclude the purchaser of Canton from manufacturing green unsupported nitrile gloves. Upon further investigation, the United States has determined that the ability to produce green gloves is vital to the ability to successfully compete for the sale of nitrile gloves. Consequently, the parties are filing an amended proposed Final Judgment which deletes from section IV.I the right of Pacific Dunlop to preclude the purchaser or purchasers from manufacturing or selling a green nitrile glove for seven years.

Comasec and JOMAC question the ability of the purchaser to compete without acquiring a distribution system. PDH and other companies in the industry have competed in the market primarily through the use of independent marketing representatives, a marketing system similarly available to the purchaser of Canton if it does not have its own distribution system. Moreover, PDH is required to provide the purchaser with the names of Edmont customers, primarily independent distributors, who purchased gloves made at Canton, and to notify those customers that they bought Canton gloves. We would expect those customers who have been satisfied with Canton gloves to be willing to continue to purchase gloves of comparable quality manufactured there.[14]

LRC correctly notes that the proposed Final Judgment requires only that the purchaser manufacture industrial gloves, not nitrile gloves, but it would make no economic sense for the purchaser not to produce nitrile gloves. The unsupported nitrile market is reportedly growing at eight percent a year, and Edmont has been utilizing about 95 percent of the capacity of the Canton plant to serve that market.[15] In any case, it would make no economic sense to convert Canton's nitrile production to latex, since nitrile gloves are more profitable, and the vast majority of latex gloves are manufactured outside the United States to take advantage of proximity to raw materials and cheaper labor.[16]

Finally, JOMAC notes that PDH may try to increase its Juarez production of nitrile gloves, thus increasing the supply of such gloves in the U.S. market. That development would not be harmful to competition, however. Indeed, it would be beneficial.

b. *Ansell Granet.* Comasec, LRC, and JOMAC also question the ability of the Purchaser of Ansell Granet to compete in the markets for dipped supported gloves. As with unsupported nitrile gloves, however, this divestiture of Ansell Granet completely removes the competitive overlap between PDH and Edmont in the affected markets. It was only through this facility that PDH competed in dipped unsupported gloves. We believe that a purchaser will be at least as competitive in those markets as PDH was prior to the acquisition.

Ansell Granet manufactures a full line of dipped supported and impregnated gloves for industry. Within this category, Ansell Granet supplies about five percent of the United States market. Products manufactured include general purpose and chemically resistant gloves. Ansell Granet has the capability of producing short runs, special colors, and other non-standard product variations. The Ansell Granet organization is vertically integrated and is capable of doing most of the steps needed for the finished product on its premises. Ansell Granet is a well-established company and should be able to continue to compete in the markets for dipped supported gloves.[17]

2. The Relevant Product Markets

LRC and Playtex comment that unsupported nitrile industrial gloves do not comprise a separate relevant product market, as set forth in the Complaint. Rather, they contend that the relevant market is comprised of all liquid proof unsupported industrial gloves, including those made of latex and neoprene. LRC claims that in such a market the merger would be unlawful, and that the proposed Final Judgment does not adequately redress such a violation.

The short answer to this contention is that consideration of markets other than those that are the subject of the Complaint is beyond the purview of these proceedings. The APPA provides, in pertinent part:

Before entering any consent judgment proposed by the United States under this

[13] Canton also produces unsupported latex and unsupported neoprene gloves. The purchaser of the facility will acquire the ability to produce those products as well as unsupported nitrile gloves.

[14] The URW expresses concern that PDH is not required by the proposed Final Judgment to provide to the purchaser of the Canton facility the exact nitrile formulation used by PDH at Canton. There are several provisions in the Judgment that protect the purchaser in that regard, however. Section IV H requires PDH to provide the purchaser with a nitrile formula sufficient to produce gloves of a quality, and at a level of efficiency, "substantially equivalent" to the gloves currently made at Canton. Section IV C requires PDH to provide all proprietary information necessary to manufacture nitrile gloves "to standards of quality at least equal to currently manufactured product." IV C also requires PDH to provide the purchaser with a perpetual license to use all patents currently used in the production of gloves at Canton, and to provide technical assistance to the purchaser, if requested. These provisions assure that the gloves produced at Canton will be competitive in quality with gloves produced elsewhere.

[15] Indeed, PDH requested that the proposed Final Judgment include a provision requiring the new owner of the Canton facility to enter into a contract to sell unsupported nitrile gloves to PDH for a period of time. The United States rejected that Proposal; such supply agreements are difficult to administer by means of a judicial decree, and it is vastly preferable for the new purchaser to be free to negotiate its own terms with customers.

[16] Most of the United States production of latex industrial gloves is comprised of premium latex gloves, a stagnant market.

[17] It is true, as Comasec points out, that PDH will be able to manufacture similar products in Edmont's facilities, but in that event the competitive situation will be no worse than it was when those facilities were operated by Edmont.

section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

(1) The competitive impact of such judgment, including *termination of alleged violations*, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the *violations set forth in the complaint* including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

(15 U.S.C. 16(e)) (emphasis added.) In *United States* v. *BNS, Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988), the court stated: "[T]he APPA does not authorize a district court to base its public interest determination on antitrust concerns in markets other than those alleged in the government's complaint." [18] *Accord, United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. (CCH) ¶ 66,651, at p. 63,045 (D.D.C. 1985). Clearly there is no basis in the Act for the court to review the decision of the Government to allege, or not to allege, antitrust violations in any given market, as LRC and Playtex would have this Court do.

But further, for the reasons outlined above at section F.1., unsupported nitrile gloves and unsupported latex gloves are clearly in separate product markets. While it is true that unsupported nitrile, latex and neoprene gloves have some overlapping uses, there is little, if any, price sensitivity in demand for the three products, and the Government's investigation has determined that a small but significant change in the relative prices of the three products would not affect consumers' choices of them.

In determining which type of glove to purchase, a consumer's initial concern is the resistant qualities that a particular glove material has to the type of chemical agent with which the consumer works; manufacturers thus include chemical resistance tables in their catalogues. For many chemicals, either latex, nitrile, or neoprene is clearly superior. Where the differences are not so clear, cost is usually the determining factor.

LRC acknowledges that nitrile is substantially more expensive than latex, but asserts that it also is twice as durable, and thus that its value to a customer is virtually identical when nitrile costs twice what latex costs. LRC's assertion that nitrile wears twice as long as latex, offsetting its greater cost, is too simplistic, however. The relative durability of those materials can vary substantially depending upon the chemical agent involved. Safety is the primary concern of users of these gloves, and the cost of gloves usually is small compared to other costs. Thus, customers purchase nitrile gloves when they are convinced those gloves are clearly superior to latex. Otherwise they purchase latex gloves, since latex is substantially cheaper.

3. Ability to Exert Market Power

LRC and Playtex assert that even assuming that separate industrial glove product markets exist, the acquisition will enable PDH to increase its market power in those individual markets. They contend that PDH will be able to force customers to purchase its full line of products to the exclusion of other glove manufacturers. More specifically, LRC claims that the acquisition will enable PDH to engage in unlawful marketing practices. Our investigation did not produce evidence that would lead to such a conclusion, but in any case, if PDH were to violate the law at some future time there are adequate means for redress of such a violation, short of prohibiting what is now a lawful merger.

PDH's acquisition of Edmont does in fact combine leading positions in two distinct markets—latex and nitrile—but that fact does not itself make the acquisition anticompetitive. There is every reason to expect that buyers will continue to purchase both types of gloves on terms that are most advantageous to them, and hence, to consumers. As noted by LRC, currently there is diversity in the buying patterns of distributors, even though Edmont has been in a position to fill most, if not all, of their needs. This condition reflects the desire of distributors to maintain relationships with multiple manufacturers, and their willingness to purchase gloves from other sources when those gloves are competitive in price and of sufficient quality.

In sum, there is no significant evidence that PDH's acquisition of Edmont will give it any greater ability to engage in predatory practices than Edmont alone possessed, if any. Most telling is the absence of complaints from buyers on this point, and further, if PDH does attempt to engage in predatory practices, appropriate relief can be sought at that time.

4. Alternative Remedies Are Not Necessary

LRC takes the view that nothing less than a permanent injunction prohibiting PDH's acquisition of Edmont would provide an adequate remedy for the violation alleged in the Complaint. In effect, it argues that *no* settlement of this litigation should be permitted. Acceptance of that argument would represent an extraordinary restriction on the prosecutorial discretion of the United States. It would require this Court and the Department of Justice to undertake the substantial costs, risks, and delays of litigating to final conclusion a case of substantial complexity, despite the Department's considered judgment that an adequate remedy can be obtained without imposing such costs on the taxpayers.

We are unaware of any instance in which a court has rejected a proposed consent decree in its entirety in the course of a public interest review. Such a conclusion should not be reached absent a compelling demonstration of the inadequacy of other forms of relief, and no such demonstration has been made here.

LRC further suggests that short of an outright injunction barring the acquisition, there are alternatives that should be included in the Final Judgment. Comasec also offers suggested modifications. Both believe PDH should not be permitted to market certain brand name products. Three of the five products identified by LRC, Ansell Conform (unsupported latex), Ansell 224 (unsupported neoprene-latex blend), and Edmont True-Touch (disposable vinyl), and both products identified by Comasec, Edmont Neotek (unsupported neoprene) and Edmont Puretek (unsupported latex), are not in product markets that are identified in the Complaint. There is no basis for requiring PDH to divest products not in product markets charged in the Complaint.

The two remaining products that LRC identifies, Edmont's Sol-vex and PDH's Challenger, are both unsupported nitrile glove products. Requiring the divestiture of one of them is not necessary to preserve competition. Most nitrile glove purchases are made by relatively large, sophisticated distributors, who are likely to be willing to purchase a new product of satisfactory quality and price. The proposed Final Judgment, as amended, will ensure that the purchaser

[18] In *BNS*, the court did state that it is appropriate to take into account in its public interest consideration the effect of the transaction in other areas of the economy, to the extent those effects resulted from the antitrust violation in the markets alleged. For example, said the court, in a case alleging a violation in a grain market the court could consider "the resulting increase in the price of bread." That analogy is not applicable here, however. Unsupported nitrile gloves are not an input for unsupported latex gloves. In this case LRC and Playtex simply urge that the Court reject the product market alleged by the Government, an issue that is not properly the subject of the public interest determination under the APPA.

of the Canton plant can produce unsupported nitrile gloves comparable in quality to Edmont, the industry leader. The purchaser will be producing gloves at a facility at which Edmont currently produces a substantial quantity of the gloves it sells. Consequently, PDH's maintenance of both the Sol-vex and Challenger brand names does not appear to give it an unfair market advantage.

LRC also suggests that Edmont's unsupported nitrile plant in Juarez, Mexico should be divested rather than the Canton facility. Such a divestiture is unnecessary to correct the competitive problem caused by the acquisition in the unsupported nitrile glove market. As noted above, the new operator of Edmont's Canton facility will occupy a position in that market at least as significant, and probably more so, as that formerly held by PDH. There is no need for it to replace Edmont as a competitor.

Comasec suggests that the proposed Final Judgment be amended to prohibit PDH from competing against the purchaser or purchasers of Ansell Granet and the Canton facility for at least two years, and to restrain it from increasing production of unsupported nitrile gloves at Edmont's Juarez plant or its own plant in Redditch. Such a non-competition requirement would be unworkable as well as undesirable. It would be impossible to prevent competition between PDH and the purchasers of the divested assets without simultaneously inhibiting PDH's ability to compete with other competitors, and such a restraint would deprive customers of the benefits of competition. Comasec's suggestion that PDH be restrained from increasing production of unsupported nitrile gloves at the Juarez and Redditch plants, would also be harmful to competition, and is not necessary to enable the purchaser of the Canton plant to establish itself in the nitrile market.[19]

5. Determinative Documents

LRC notes that the Government identified no determinative documents in the Competitive Impact Statement filed with the Court and published in the **Federal Register**. There were no documents relied upon by the United States that directly caused it to enter into the proposed Final Judgment, as amended.

III

**Conclusion**

For the reasons set forth in the Competitive Impact Statement and this Response, the Court should find, after publication of this Response in the **Federal Register**, that the proposed Final Judgment, as amended, represents a reasonable exercise of the Department of Justice's antitrust enforcement discretion, is in the Public interest, and should be entered.

Respectfully submitted,

Richard S. Rosenberg

Mary Ann Ryan

Attorneys, Antitrust Division, U.S. Department of Justice, Middle Atlantic Office, The Curtis Center, Suite 650, 7th and Walnut Streets, Philadelphia, Pennsylvania 19106, Tel.: (215) 597-7401.

**Exhibits A and B**

EXHIBIT A previously was published in the **Federal Register** (54 FR 26854, June 26, 1989) and is not republished herein. EXHIBIT B, copies of affidavits of publication of newspaper notices of the proposed Final Judgment and Competitive Impact Statement, are also omitted from publication herein; these may be requested for inspection and copying at Room 3233, Antitrust Division, Department of Justice, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania in Philadelphia.

**Exhibit C**

August 23, 1989.

John J. Hughes,

*Chief, Middle Atlantic Office, Antitrust Division/Department of Justice, The Curtis Center, Suite 650, Seventh & Walnut Streets, Philadelphia, Pennsylvania 19106*

Re: United States of America, Plaintiff v. Pacific Dunlop Holdings Inc., Becton, Dickinson and Company; and Edmont, Inc., Defendants

Final Judgment

Dear Mr. Hughes: This letter is in response to the Notice on this subject which appeared in the Federal Register/Volume 54, No. 121/Monday, June 26, 1989.

The United Rubber, Cork, Linoleum & Plastic Workers of America (URW) is an international labor union headquartered in Akron, Ohio. The URW is affiliated with the AFL–CIO, the Canadian Labour Congress and the International Federation of Chemical, Energy and General Workers Unions. We represent approximately 120,000 workers in the United States and Canada.

URW Local Union No. 688 represents the hourly employees at Edmont's Canton, Ohio plant, one of the facilities to be divested under terms of the Final Judgment. These employees stand to be directly impacted by whatever final decision is made in this antitrust proceeding and their interests should be fully considered in the making of that decision.

Upon careful reading of the Complaint, the Final Judgment and the Competitive Impact Statement, we feel there are some issues that have not been adequately addressed. As a labor union, our primary concern is that our members have good secure jobs with decent pay and benefits. We are opposed to anything that threatens our members' livelihoods.

As you know, the Final Judgment calls for a number of safeguards in order to try to ensure that the divestiture of the Canton facility will not have an adverse impact and that the facility will be given a chance to continue as a viable operation. We appreciate the efforts of the Court and the Justice Department in that direction.

If the Canton facility should be unable to remain a viable operation and be forced to close, the result would be to decrease competition in the market—the direct opposite of the result intended and desired.

We are also concerned about what happens if sale of the Canton facility is not made within a year. The Judgment is not clear on this point.

During efforts to sell the Canton plant, the Judgment requires Pacific Dunlop to operate the plant as a going business and to use all reasonable efforts to maintain the Canton plant as a viable and active competitor. We would submit that the motivation and thus the effort referred to in the preceding sentence might very well mean different things to an owner with a future to work toward and an owner who is marking time while trying to sell the business. Future competitiveness and thus the future of the employees could easily be affected.

The Judgment also requires Pacific Dunlop to supply a purchaser of the Canton facility a nitrile formulation that will enable the production of gloves of a quality, manufacturing efficiency and yield substantially equivalent to that currently achieved at the Canton facility. It would seem to be in the interest of Pacific Dunlop to ensure that "substantially equivalent" means not quite as good as what the Canton

[19] LRC further suggests that the proposed divestitures be required as a precondition to the acquisition. This cannot be done since the acquisition has already occurred. The proposed Final Judgment, as amended, requires PDH to maintain the businesses it has agreed to divest separately from its other operations, and PDH has agreed to be bound by the proposed Final Judgment, as amended, pending its entry by the Court.

facility currently achieves. That could be detrimental to the purchaser and the employees.

In the interest of both the well-being of the employees at the Canton facility and maintaining competition in the nitrile glove industry, we believe these questions need more thorough examination and we would urge the Antitrust Division to withdraw its consent pending a resolution to the questions we have raised in these comments.

Thank you for your thoughtful consideration.

Sincerely,

Steve Clem,

*Director, Research & International Affairs.*

**Exhibit D**

*Hand Delivered*

John J. Hughes,

*Esquire, Chief—Middle Atlantic Office, Antitrust Division, The Curtis Center, Suite 650, 7th & Walnut Streets, Philadelphia, Pennsylvania 19106*

Re: United States of America v. Pacific Dunlop Holdings, Inc., Becton Dickinson and Company, and Edmont, Inc. (E.D. Pa. Civil No. 89-4522)

Dear Mr. Hughes: We represent LRC-Surety Products, Inc., a competitor of PDH and Edmont in liquidproof unsupported industrial gloves. In response to the notice in the June 26, 1989 issued of the **Federal Register** (54 FR 26854), this letter explains our view that the proposed settlement of this case is not in the public interest because

(1) It does not provide adequate relief from the antitrust violations charged in the complaint—the proposed divestitures are unlikely to be achieved, and even if affected, they would be competitively meaningless;

(2) It ignores the market for unsupported industrial gloves as a whole, including unsupported latex gloves, which PDH will dominate if the settlement proceeds; and

(3) It permits PDH to enhance its current market power in latex and to extend it into other related markets.

The proposed acquisition will result in a substantial reduction of competition in the U.S. Superficially, such a reduction in competition in the U.S. might seem to benefit those few suppliers who are left (though it clearly disserves the consumer, as the complaint recognizes). Indeed, you may already have observed that the major distributors, who themselves have acquired competitors in recent years, welcome further concentration at the supply level. Why then should LRC-Surety complain about a concentration-increasing merger of its to largest competitors?

The answer is that LRC-Surety's business interest in this matter coincides with consumer interests. The geographic market involved here is worldwide. If the settlement is approved, the world's largest seller of unsupported latex gloves will join the world's largest seller of unsupported nitrile gloves. The acquisition will bring together the worldwide number one and number two in industrial gloves in a combination that will outstrip its next nearest competitor by nearly three-to-one in worldwide gross sales. PDH will control an agglomeration of industry-leading trademarks, state-of-the-art production facilities, technical expertise and pervasive distribution networks that will dominate industrial gloves in virtually every country where those gloves are sold.

Being among the few survivors in a global market so completely dominated by PDH is not an attractive prospect for LRC-Surety, and it thus opposes the merger as fervently as would any sophisticated, cost-conscious consumer. At all events, irrespective of our admitted business interest in the matter, I trust that our comments will be judged on their merts.

We think the proposed settlement fails the APPA's public interest test in at least three ways.

1. The "relief" proposed in the settlement will not prevent, or even reduce, the merger's illegal impact.

The complaint correctly charges that the proposed merger will eliminate actual and potential competition in U.S. markets for industrial gloves, in clear violation of Section 7. But the settlement will do nothing to cure the illegalities the complaint identifies; nor will it stem the elimination of competition in unsupported latex gloves, or in unsupported gloves as a whole, which the government has completely overlooked (*see* pp. 6–8 below). The proposed divestitures won't even touch the problem of enhanced market power that will enable PDH to raise or lower prices at will in the relevant markets without regard to competitive pressures.

A. It is no cure for the anticompetitive consequences in unsupported nitrile gloves when PDH gets to keep Edmont's state-of-the-art manufacturing plant in Juarez, Mexico, and its dominate Sol-Vex brand, and has only to divest a 60-year old, thoroughly obsolete plant in Canton, Ohio.

The settlement merely requires PDH to do something it would have done anyway. Before it transferred its main nitrile production from Ohio to Mexico, Edmont was posting a wholesale price of $10.00 per dozen for its Sol-Vex nitrile glove. Since the move the wholesale price has dropped to $8.70 per dozen. Based on its own production costs at its competing facility in Carrollton, Ohio, LRC-Surety estimates Edmont's Canton cost at close to $8.00. But we estimate Edmont's cost in Mexico at about $5.00 per dozen, which permits an $8.70 wholesale price. It defies belief that PDH would continue to operate the Canton plant after the merger, irrespective of the proposed settlement.

No one can compete out of obsolete facilities with that kind of costs disparity. No rational competitor would want the Canton facility, and no new entrant would take it even temporarily to get a "foothold," since the high barriers to entry go far beyond production economics (Compl. ¶ 18). Without an established distributor network and the trademarks excluded from the settlement, even a facility as cost-efficient as Juarez is at best of marginal value to a potential competitive entrant.

Thus, it is unrealistic to expect, as predicted in the Competitive Impact Statement, that the settlement will result in divestiture of the Canton facility or, if divested, that it will be to a purchaser who "will *compete effectively* in the United States market for *unsupported nitrile gloves,* and will supplant the loss of PDH in this market" (CIS at 8) (emphasis added). The proposed Final Judgment itself says only that the divestiture shall be to a purchaser who can operate the plant "as [a] *viable,* ongoing business engaged in the production of *industrial* gloves" (Judgment, ¶ IV, E). There is no requirement that the plant continue to produce nitrile gloves or any other kind of unsupported gloves or that the purchaser be able to compete *effectively* as to those products.

Edmont's move to Mexico further belies the government's promise to preserve effective competition. No one can "compete effectively" out of the obsolete facility in Canton, not even Edmont as shown by its move to Mexico. Nor will there be any "loss of PDH in this market" (CIS at 8). To the contrary, PDH will forcefully be in the market, with all its financial muscle, its distributor relationships, its technical and marketing infrastructure, but now joined with Edmont to build upon, facilitate and enhance the market power of both parties.

B. The divestiture of Ansell Granet does not eliminate the problems of PDH's enhanced market power and

acquisition of dominance in new markets.

The Granet supported glove operation, acquired by PDH in 1987, is almost as big a white elephant as Edmont's Canton plant. Even before the PDH acquisition, Granet was a small player in supported industrial gloves, accounting at most for about 5 percent in the U.S. against Edmont's nearly 40 percent. After PDH brought Granet, the word in the industry was that Granet began to lose what market share it had. There is a real question whether PDH devoted any significant resources to Granet once the Edmont merger became a possibility. (For example, PDH apparently never acquired the building in which the Granet plant is housed, ostensibly for environmental reasons; it is still owned by Granet's prior owner, Wilson Granet Miller, Inc.).

Granet has such a small place in the industrial glove industry that it offers little incentive to anyone else to "fully replace it," despite the promise in the Competitive Impact Statement (at 9). Meanwhile, PDH's acquisition of Edmont would now make it the dominant force in supported, as well as unsupported, industrial gloves. It no longer needs Granet and, had there been no government intervention, PDH would probably have terminated its operations or folded them into Edmont.

The Granet divestiture proposal gives a cynical message to antitrust counselors—if your client wants to become the dominant market force through an acquisition, advise it to acquire a "dog" first; then have your client agree to divest the "dog" to clear the way for the really anticompetitive merger.

2. The settlement ignores unsupported latex gloves and misses altogether the merger's effect on the market for liquidproof unsupported industrial gloves.

PDH and Edmont somehow have succeeded in arguing gerrymandered markets. In unsupported gloves, the complaint charges defendants only with foreclosure of an alleged market limited to nitrile gloves. To be sure, Edmont has the dominant nitrile brands, and adding in PDH's smaller but still significant competing products, the combination is indeed illegally preemptive.

But as a matter of economic reality, the product market is broader than just unsupported nitrile. It includes gloves made from latex (natural rubber), where PDH is dominant. Latex and nitrile unsupported gloves compete directly, and can be produced on the same equipment in the same plants. There is cross-elasticity both at the production level and at the consumption level. Latex is generally cheaper but also less durable than nitrile. At the point where the price of nitrile falls or latex rises so that the ratio is less than 2 to 1, the products are virtually interchangeable.

Just ask the consumers—the food processors, electronics manufacturers, chemical producers and other businesses who buy these gloves in massive guantities. Look at Edmont's own advertising and promotion. Its explicit market strategy is to offer its industry-leading Sol-Vex nitrile gloves as a replacement for latex. And it's working. End-users have increasingly switched from latex to nitrile (or occasionally back again) for the same glove applications, based on a single calculus of product life versus comparative costs. To ignore latex in this proposed settlement is to ignore the teachings of the *Cellophane* case, the wellspring of the law of market definition.

If the settlement proceeds, the dominant latex producer, PDH, will join forces with Edmont to acquire overwhelming dominance in the U.S. market for liquidproof unsupported industrial gloves. The settlement would result in an increase in the Herfindahl-Hirschman Index by at least 900 points, to 1850. The next closest competitor, Pioneer would be at 225. (LRC-Surety, number four in the market, is at 36). The Department's Merger Guidelines should not be ignored (Guidelines, § 3.11(c) at II-135).

3. The settlement enables PDH to extend its dominance in latex gloves into related markets.

Even if unsupported latex gloves are treated as a separate market from unsupported nitrile gloves (as the government has apparently done), the settlement still furthers a disturbingly anticompetitive combination. It enables PDH, dominant in unsupported latex, to extend its power into unsupported nitrile, as well as into the four lines of supported gloves identified in the complaint. It opens the way for conduct such as "full line forcing," by which PDH can use its illegal dominance in unsupported lines to achieve similar dominance in supported lines. *See Smith-Kline v. Eli Lilly & Co.*, 575 F.2d 1056 (3d Cir.), *cert. denied*, 459 U.S. 838 (1978).

There is no doubting that such dominance will occur as to both unsupported latex and nitrile, even viewed separately. Measured in dollars, PDH's market share of unsupported latex is currently 38.4%, Edmont's 8.9%. The HHI for PDH following the proposed settlement would be 2237, an increase of over 760 points. In unsupported nitrile, Edmont's market share in dollars is currently 40%, PDH's 4.4%. The resulting combined HHI would be 1971, an increase of 371 points.

Thus, even accepting the government's approach to market definition, the increase in concentration in *both* latex and nitrile is improper under the Merger Guidelines. The increase in latex, ignored by the government, is even *worse* than in nitrile, which the government has attacked as illegal.

The proposed settlement enables PDH to extend its dominance into areas, such as unsupported nitrile where it has not previously played a major role. Distributors of liquidproof unsupported industrial gloves maintain stocks of both latex and nitrile products. As long as PDH and Edmont compete with each other, distributors and consumers benefit from competitive pricing and product choice. Suppliers such as LRC-Surety can still find a market niche with the distributors for their products.

But if PDH acquires Edmont, it can offer the leading brands in both latex and nitrile. And Edmont brings market power in supported gloves—nitrile, PVC, neoprene and latex—as stated in the complaint. PDH can then offer discounts based on tied-together product lines, the classic "if you want our best price on x, you've got to buy y and z as well" condemned in *Smith-Kline*.

The dangers of this bundling and leveraging, *i.e.* "full line forcing," are increased by the structure of the industrial glove industry. As the government has correctly observed (Complaint, ¶ 18), industrial glove producers must have substantial distributor relationships to compete effectively in the U.S. Distributors link the supplier and the consuming public. Edmont in particular has built a large, disciplined distributorship network that reaches every corner of the nation.

To date, no supplier (including PDH and Edmont) has had the ability to produce every line of industrial gloves. This has encouraged diversity in the buying patterns of distributors, even the most disciplined Edmont distributors, and enhanced competition. But now, the proposed settlement will allow PDH to add Edmont's dominance in nitrile to its own market power in latex, as well as to acquire dominance in at least four distinct markets for supported gloves. Such power enhancement has a simple description in antitrust law—monopolization and attempt to monopolize. Section 7 of the Clayton Act was enacted to prevent it.

* * * * *

The APPA requires the government to consider alternatives to the proposed settlement, but there is no indication this was seriously done. Injunctive relief as called for in the complaint is the appropriate remedy to protect the public interest. Yet even short of an outright injunction barring the acquisition, there are several alternative requirements not mentioned by the government that would have a real pro-competitive impact.

—*Divestiture of the Mexican Plant.* This underpins Edmont's supremacy in nitrile unsupported gloves. PDH is one of the few producers in the world whose current operations and whose plants in the Far East would allow it to replace the loss of the Juarez plant. Meanwhile, the Juarez plant (unlike the Canton plant) would be of real interest to existing producers currently attempting to compete in the market for liquidproof unsupported industrial gloves.

—*Divestiture of Dominant Brands.* PDH should not be permitted to retain Edmont *and* Ansell products with a high level of brand name recognition, *e.g.*, Ansell Conform unsupported latex, Ansell 224 unsupported neoprene-latex blend, and Edmont True Touch unsupported PVC. Divestiture of Edmont's Sol-Vex brand of liquidproof unsupported nitrile gloves should also be required. PDH already has the Challenger brand, an identical nitrile glove, which competes with Sol-Vex by underselling it. Divesting the Sol-Vex brand and keeping Challenger in the market will preserve that price competition.

—*Requiring Completion of Divestitures as Precondition to Acquistiton.* The proposed Canton and granet divestitures will not undo the competitive injury that will result from the acqusition, as explained above. But if the government decides to retain those divestitures as the only requirements of settlement, it should at least make sure that they actually occur. As a practical matter, it is doubtful that PDH (or a Trustee) will find a purchaser who can compete effectively in any of the relevant markets. In the past, in situations where the ability to achieve effective divestiture has been suspect, the Justice Department has required that the "fix" be effected *before* the acquisition was consummated. That approach is imperative here if the decree is to effect, at a minimum, even the negligible relief currently proposed.

* * * * *

Section 2(b) of the APPA requires the disclosure of "materials and documents which the United States considered determinative" in coming up with its settlement proposal. Here the government has disclosed no support for the settlement. But surely defendants must have provided at least some documents—such as arguments in correspondence, market share data, and the like—that persuaded the government to settle for less than what its complaint would require. The "determinative" documents requirement is to be taken seriously. *U.S. v. Central Contracting Co., Inc.*, 1982 Trade Cases (CCH) ¶ 64, 833 (E.D. Va. 1982). It appears to have been overlooked here.

* * * * *

The complaint shows that the government recognizes at least some, if not all, of the threats to competition presented by the proposed merger. But the proposed settlement fails to do what proper antitrust enforcement should do. It ignores the real economics of the industry. It prescribes economically meaningless gestures in place of enforcement. The settlement should be completely rethought and renegotiated.

We appreciate the opportunity to comment and would welcome the opportunity to provide further information about the industry and the anticompetitive implications of the proposed merger.

Respectfully yours,

Arthur H. Kahn.

**Exhibit E**

August 21, 1989.

John J. Hughes,

*Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, The Curtis Center, Suite 650, 7th & Walnut Streets, Philadelphia, PA 19106*

Reference: United States of America V. Pacific Dunlop Holdings Inc.; Becton, Dickinson and Company; and Edmont, Inc. (E.D. Pa, No. 89-4522, Filed June 16, 1989)

Dear Mr. Hughes: We submit this letter pursuant to 15 U.S.C. Paragraph 16(d) as a formal written comment on the proposed consent judgment relating to the above-reference matter. Comasec, Inc. produces dipped supported gloves at its plant in Enfield, Connecticut and has considerable familiarity with the sale and manufacture of various types of industrial gloves in the United States. Comasec International, S.A., its parent company, is the second largest producer of synthetic industrial gloves in the world.

In this action, the United States government challenges the proposed acquisition of the United States assets of Edmont, Inc. by Pacific Dunlop Holdings, Inc. as a violation of section 7 of the Clayton Act, 15 U.S.C. Paragraph 18. To eliminate the competitive threat posed by the acquisition, the government proposes to require PDH to divest itself of its Ansell Granet, Inc. plant in North Carolina and of Edmont's manufacturing facility in Canton, Ohio. The competitive Impact Statement explains that an acceptable purchaser of the Ansell Granet plant will fully replace PDH as a competitor in the market for liquid dipped supported gloves and that an acceptable purchaser of the Canton facility will replace PDH as a competitor in the market for unsupported nitrile gloves.

Unfortunately, the consent judgment submitted in this matter will fail to accomplish both of the government's objectives.

PDH acquired the Granet plant in North Carolina through its subsidiary Ansell, Inc. several years ago. Utilizing the information thus obtained relating to customer identity, buying trends and prices, PDH markets Granet products through the Ansell distribution network, no longer through an independent sales force. Divestiture of this plant does not eliminate PDA after the Edmont acquisition from the liquid-proof dipped supported glove market as the government surmises, because PDH will continue selling the products formerly known as Granet to former Granet customers and compensate for any shortfall in production by increasing output at the newly acquired Edmont facilities in Ohio, North Carolina, Louisiana and Canada. This all the more so since major products in the dipped supported gloves market tend to overlap significantly across the various manufacturer ranges.

There is not so much proprietary technology or patent protection in making the products per se, as in achieving low cost position, constant high quality and market recognition of a specific item within a widely produced type.

In order to "fully replace" PDH as a competitor in this market, the prospective purchaser must be given the Ansell Granet customer lists accompanied by a non-compete agreement from PDH of at least two years in duration. Even then, the purchaser would have to reconstruct the Granet marketing network and re-establish its name recognition in order to compete effectively.

The Edmont facility in Canton, Ohio suffers similar disabilities and further has been plagued with labor problems in recent years. PDH production requirements will remain largely

unaffected by the proposed divestiture since any shortfall will be met by increased output at the Edmont plants in Juarez, Mexico and Bristol, UK K., both of which are currently operating below capacity. To preserve the present level of competition in the unsupported nitrile glove market PDH must be required to enter into a non-compete agreement with the prospective purchaser coupled with a limitation on production increases at the Juarez and Bristol plants for a minimum two-year period. Additionally, PDH must refrain from marketing other gloves currently produced in Canton, including the unsupported neoprene and natural rubber gloves known respectively as Neotek and Puretek. Although these product lines comprise a relatively minor part of the unsupported industrial glove market, their unavailability from PDH/Edmont should facilitate transfer of current customers of Canton to the purchaser of the facility.

Unless modified as suggested above, the divestiture ordered by the judgment offers prospective purchasers two older production facilities with no market share, no brand name recognition, no sales organization and no established management team. Without the benefit of the intangibles required to make the operations competitive, purchasers would merely be accommodating PDH by taking unnecessary equipment off its hands. It would be cheaper and simpler to organize an independent company for entry into these segments of the industrial glove market.

We trust these comments will assist you in evaluating the future efficacy of the proposed consent judgment and the impact of its entry upon the public. Thank you for your consideration.

Very truly yours,
COMASEC, INC.
**Francis T. Berend,**
*Its President.*

**Exhibit F**

July 14, 1989.
Mr. John J. Hughes,
*Chief, Middle Atlantic Office, Anti-trust Division, Curtis Center-Suite 650, 7th and Walnut Streets, Philadelphia, PA 19106*

Dear Chief Hughes: I am writing in reference to Civil Action 89–4522, United States of America vs. Pacific Dunlop Holding, Inc.; Becton Dickinson and Company; and Edmont, Inc.

I realize that much time and effort has gone into the evaluation of the proposed transaction between Pacific Dunlop Holding and Becton, Dickinson. I believe that the proposed final judgement falls short of achieving any real change in the premise that "PDH" would have substantial control of the market for unsupported nitrile gloves or for liquid proof supported gloves.

The divestiture of Edmont's manufacturing facility in Canton, Ohio would probably result in "PDH" transferring the production to Juarez, Mexico thus providing "PDH" with an adequate supply of unsupported nitrile gloves and enable it to dominate the U.S. market and maintain an unfavorable advantage over any and all competitiors.

A potential purchaser of the Canton facility would certainly be at a disadvantage. They would be "johnny come lately" in the market and have to develop a new marketing team and compete with the giant that certainly has a running start.

I believe investigation will indicate that Edmont is already in the process of transferring much of it's production from the Canton facility to Juarez, Mexico. This would lead me to believe that the Canton facility is by it's very nature antiquated and noncompetitive.

The divestiture of Ansell Granet, Inc. would, in my opinion, result in the transfer of the production at the Snow Hill facility to other Edmont facilities in the United States, Canada, and Mexico. Ansell has through it's operation of Granet obviously obtained access to all Granet's marketing information and this is certainly the big plus when it comes to a company that has more than adequate production facilities. The divestiture of old, and possibly obsolete, facilities or equipment serves no practical purpose unless there is a procedure to prevent "DHL" from calling on or selling any of the accounts that were part of Ansell Granet's, Inc. marketing program.

I do not have access to Edmont's production information, the above comments are intended to prompt further investigation and possibly a better answer to the question at hand.

Respectfully,
**W.J. Grundy,**
*Chairman, Jomac Products, Inc.*

**Exhibit G**

July 5, 1989.
U.S. Department of Justice,
*Antitrust Division, Middle Atlantic Office, The Curtis Center, Suite 650, Independence Square West, Philadelphia, PA 19106*

Attention: Mr. Richard S. Rosenberg, Attorney

Reference: 60–2381–0001, *United States v. Pacific Dunlop*

Dear Mr. Rosenberg: Thank you very much for sending me a copy of the proposed final judgment from the subject case. Our company may be interested in acquiring the Canton facility and Ansell Granet and have expressed that interest directly to Pacific Dunlop. However, in reviewing the terms of the final judgment there are several questions which come to mind.

Under sections IV.B and IV.C, we understand that the divestiture of the Canton facility excludes nitrile formulations. However, section C states that the purchaser of the Canton facility will be provided with proprietary information to manufacture each type of industrial glove product produced at Canton since 1987. To our knowledge, this would include nitrile industrial gloves for which a nitrile formulation would be required. Please explain this apparent discrepancy.

We have taken note of Section H which provides that Pacific Dunlop will supply the purchaser with a nitrile formulation to make gloves of a quality, manufacturing efficiency, and yield substantially equivalent to those manufactured by Edmont at Canton but it is our belief that those three criteria would in fact require that the gloves be made using the nitrile formulation currently used by Edmont at the Canton facility.

Section I includes a prohibition from the manufacture or sale of a green nitrile glove for seven years following the date of divestiture. The world market for nitrile gloves has basically standardized on a green color and gloves of any other color account for a minimal percentage of both the American market and world market for nitrile gloves. All other American producers of nitrile gloves including our company use the green color. There acre, since our company has been manufacturing green nitrile gloves, we could not consider the acquisition of the Canton facility without removal of the prohibition from selling a green nitrile glove for seven years. Although we have not yet seen financial statements relating to the Edmont Canton facility or Ansell Granet, we are concerned about our ability to obtain sufficient financing to acquire these assets as well as supply sufficient working capital to maintain and expand these businesses on an ongoing basis. Therefore, with reference to section VII, we would appreciate knowing under what conditions the United States, as plaintiff, would consent to defendants financing any part of a proposed purchase.

Thank you again for your consideration and assistance. We look forward to hearing from you soon.

Sincerely,

Richard A. Rivkin,

*President.*

**Exhibit N**

September 12, 1989.

*Via Federal Express*

James Rill,

*Esq., Assistant Attorney General, Antitrust Division, Department of Justice, 10th Street & Pennsylvania Avenue, NW., Washington, D.C. 20530.*

Re: *Pacific Dunlop Holdings, Inc., et al.*

Dear Mr. Rill: I am Executive Vice President of Playtex Family Products Corporation ("Playtex"), and am writing to express our concerns over the proposed acquistion of the United States assets of Edmont Inc. ("Edmont") by Pacific Dunlop Holdings Inc. We recently were informed of the proposed settlement reached by the parties to the acquisition and the Department of Justice, and we wanted to bring to your attention our views.

Playtex is a small producer of unsupported neoprene latex gloves, with 1988 sales of approximately $2.5 million. The gloves manufactured by Playtex are used interchangeably with other unsupported gloves, including unsupported nitrile gloves and unsupported latex gloves, and with some supported neoprene gloves. For example, photo processors use both unsupported neoprene latex gloves and unsupported nitrile gloves. The same is true of various electronics manufacturers, such as makers of computer micro-chips, and other manufacturers whose processes include handling acids. Manufacturers of fiber optic cable, who use neoprene latex gloves, could also use other gloves which are cut resistant, such as nitrile gloves in response to a price difference among various types of cut resistant gloves. We believe Edmont is the dominant producer in the U.S. market for unsupported gloves while Pacific Dunlop's subsidiary, Ansell Granet, is the third largest producer. The proposed combination, even allowing for the divestitures proposed by the settlement agreement, will be the dominant firm in the manufacture and sale of unsupported gloves.

The proposed combination will also result in a dominant producer of industrial gloves, which includes both supported and unsupported gloves. Ansell will possess a full line of industrial gloves, which it currently does not possess. This is important because of the means of distribution used in the industrial glove market. Virtually all industrial gloves are sold by producers to distributors, who make the actual sales to end users. We believe that approximately 95% of industrial gloves are sold through such distributors. One hundred percent of Playtex's industrial glove production is sold through distributors. Such distributors are interested in carrying a full line of industrial gloves, and the proposed combination of Edmont and Pacific Dunlop will allow Edmont and Pacific Dunlop to offer a full line of products to such distributors. This could easily result in small producers with limited product lines, such as Playtex, being squeezed out of the only access to the market.

The pricing plan already adopted by Edmont suggests that such foreclosure is a distinct possibility. Edmont offers discounts for larger orders. For example, under its "Alpha" pricing plan, distributors are rewarded with larger discounts for the purchase of $40,000 of a combination of industrial gloves and rain suits. By offering discounts for large orders covering all types of industrial gloves, Edmont will be able to use its market power to prevent producers with limited lines and limited sales of industrial gloves, such as Playtex, from sales to distributors, effectively foreclosing such producers from reaching the consumers of industrial gloves.

In sum, we believe that further investigation is required before the proposed settlement is approved. We believe that your Department should investigate further the implications of Ansell possessing a full line of products in light of the only existing means of distribution in this industry.

Very truly yours,

Ronald B. Gordon.

[FR Doc. 89-26616 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-01-M

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## Immigration and Naturalization Service

**[INS No. 1246-89]**

## Immigration and Naturalization Service User Fee Advisory Committee; Meeting

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of meeting.

*Committee Holding Meeting:* Immigration and Naturalization Service User Fee Advisory Committee.

*Date and Time:* December 7, 1989 at 2:00 p.m.

*Place:* Hyatt Regency Phoenix at Civic Plaza, 122 North Second Street, Phoenix, Arizona 85004.

*Status:* Open. Fourth meeting of this Advisory Committee.

*Purpose:* Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act of 1952, as amended. [8 U.S.C. 1356(k)] and the Federal Advisory Committee Act [5 U.S.C. App. 2].

*Agenda:*

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of relevant written statements submitted in advance by members of the public.
6. Scheduling of next meeting.

*Public Participation:* The meeting is open to the public, but advance notice of attendance is requested to assure adequate seating. Persons planning to attend should notify the Contact Person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the Contact Person for consideration by this Advisory Committee. Only written statements received at least five (5) days prior to the meeting by the Contact Person will be considered for discussion at the meeting.

*Contact Person:* Sharon L. Isenberg, Program Analyst, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 7123, Chester Arthur Bldg., 425 I Street NW., Washington, DC 20536, Telephone (202) 633-2695.

Dated: October 26, 1989.

Richard E. Norton,

*Associate Commissioner, Examinations, Immigration and Naturalization Service.*

[FR Doc. 89-26582 Filed 11-13-89; 8:45 am]

BILLING CODE 4410-10-M

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 89-78]**

## NASA Advisory Council (NAC), History Advisory Committee (HAC); Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee.

**DATES:** November 20, 1989, 9:00 a.m. to 4 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Room 7002, Federal Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sylvia D. Fries, Code XH, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–8300).

**SUPPLEMENTARY INFORMATION:** The History Advisory Committee was established to provide advice and guidance to the NASA history program, which maintains a non-record historical reference file and publishes works in the history of aeronautics and space science and technology. The Committee, chaired by Dr. Arthur Norberg, consists of 8 members. The meeting will be open to the public up to the seating capacity of the room, which is approximately 20 persons, including Committee members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

*Type of Meeting:* Open.

*Agenda:*

November 20, 1989

9 a.m.—Introductory Remarks.
9:15 a.m.—Program Review.
10 a.m.—Update on Five Year Plan.
1:00 p.m.—Program Planning.
4:00 p.m.—Adjourn.

Dated: November 7, 1989.

**John W. Gaff,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 89–26700 Filed 11–13–89; 8:45 am]

BILLING CODE 7510–01–M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### International Exhibitions Federal Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held on November 29, 1989, from 9:30 a.m.–4:00 p.m. at the U.S. Information Agency, Arts International, Arts America Program, 301 Fourth Street SW., Fifth Floor, Washington, DC 20547.

This meeting will be open to the public on a space available basis. The topics for discussion will include guidelines, solicitation of proposals for the San Paulo Bienal and the Venice Biennale, and procedures for evaluation.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: November 11, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–26706 Filed 11–13–89; 8:45 am]

BILLING CODE 7537–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–445]**

### Texas Utilities Electric Co., et al.[1]; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from a portion of the requirements of Appendix J of 10 CFR part 50 to the Texas Utilities Electric Company, et al. (the applicant). The exemption would apply to the facility operating license for the Comanche Peak Steam Electric Station, Unit 1, located on the applicant's site in Somervell County, Texas.

[1] The current owners of the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric), Tex-La Electric Cooperative of Texas, Inc. (Tex-La), and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendment No. 9 to Construction Permit CPPR–126 for Comanche Peak, Unit 1 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 will no longer retain any ownership interest in Comanche Peak, Unit 1. Transfer of ownership from Tex-La to TU Electric was previously authorized by Amendment No. 11 to Construction Permit CPPR–126 for Comanche Peak, Unit 1 on August 29, 1989 as set forth in the agreement attached to the application for Amendment dated May 4, 1989. At the completion thereof, Tex-La will no longer retain any ownership interest in Comanche Peak, Unit 1.

**Environmental Assessment**

*Identification of the proposed action:* The proposed action would allow an exemption from the requirements of 10 CFR part 50, Appendix J, section III.D.2(b)(ii) for the operation of Comanche Peak, Unit 1 in response to the applicant's request dated January 20, 1986.

*The need for the proposed action:* Section III.D.2(b)(ii) of appendix J states that "Air locks open during periods when containment integrity is not required by the plant's Technical Specifications shall be tested at the end of such periods at not less than $P_a$." In its request, the applicant requested that the Comanche Peak Unit 1 Technical Specifications be written to instead require an overall air lock leakage test at $P_a$ to be performed only upon completion of maintenance which has been performed on the air lock that could affect the air lock sealing capability. Otherwise, if an air lock is opened during periods when containment integrity is not required and no such maintenance has been performed, a door seal leak rate test (a less time-consuming test) must be performed. This requested exemption is consistent with the staff's position on the acceptable testing frequency necessary to demonstrate air lock sealing capability intended in appendix J. The staff's current position is shown in the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (NUREG–0452, Revision 4). Until Commission rulemaking changes the current requirement in appendix J, an exemption to the present regulation must be granted before the applicant can adopt the requested Technical Specification. The proposed exemption is needed because, based on experience at various plants, the staff found that literal compliance with section III.D.2(b)(ii) of Appendix J is not necessary to assure containment leaktightness. The requested exemption is consistent with the staff's technical position and has been granted to many plants. Literal compliance with the regulation would lead to increased costs and occupational exposure.

*Environmental impacts of the proposed action:* The proposed exemption to 10 CFR part 50, Appendix J, section III.D.2(b)(ii) will assure air lock sealing capability and containment integrity; therefore, this exemption will not increase the probability of accidents and post-accident radiological releases, nor otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant

radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR part 20. The proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. The Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

*Alternative to the proposed action:* The principal alternative would be for the Commission to deny the requested exemption. This would result in increased costs and occupational exposure and would not reduce the environmental impacts of plant operation.

*Alternative use of resources:* This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0775), dated September 1981.

*Agencies and persons consulted:* The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this exemption for Comanche Peak, Unit 1. The NRC did not consult other agencies or persons in preparing this assessment.

**Finding of No Significant Impact**

The Commission has determined that preparation of an environmental impact statement for this proposed action is not necessary. Based on the foregoing environmental assessment, the Commission concludes that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for exemption dated January 20, 1986. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room at the Somervell County Public Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043. The staff's evaluation of the request will be published in the Safety Evaluation Report related to the operation of the Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0797), Supplement No. 22, and will be available for inspection at the locations listed above.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission.

**Christopher I. Grimes**

*Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.*

[FR Doc. 89–26673 Filed 11–13–89; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50–445]**

## Texas Utilities Electric Co., et al.[1]; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR 50.33(k) and 10 CFR 50.75 to Texas Utilities Electric Company, et al. (the applicant). The exemption would apply to the facility operating license for the Comanche Peak Steam Electric Station, Unit 1 (the facility) located on the applicant's site in Somervell County, Texas.

**Environmental Assessment**

*Identification of proposed action:* The proposed action would allow a temporary exemption from the requirements of 10 CFR 50.33(k)(1) and 10 CFR 50.75 for the operation of Comanche Peak, Unit 1, in response to the applicant's request dated July 28, 1989. The applicant has requested that it be allowed to file its decommissioning funding report within the same time frame as is specified in 10 CFR 50.33(k)(2), that is, on or before July 26, 1990.

*Need for proposed action:* 10 CFR 50.33(k)(1) requires that each application for an operating license for a production or utilization facility include information in the form of a report, as described in 10 CFR 50.75, indicating how reasonable assurance will be provided that funds will be available to decommission the facility. 10 CFR 50.75 establishes requirements for indicating how reasonable assurance will be provided that funds will be available for decommissioning. 10 CFR 50.33(k)(2) specifies that each holder of an operating license is required to submit information in the form of a report indicating how reasonable assurance will be provided that funds will be available to decommission the facility on or before July 26, 1990. By letter dated July 28, 1989, the applicant requested a temporary exemption from the requirements of 10 CFR 50.33(k)(1) and 10 CFR 50.75 for Comanche Peak, Unit 1 and proposed to delay submittal of its decommissioning funding report until July 26, 1990. The proposed exemption is needed because there has been insufficient time for the applicant to complete all of the actions necessary to submit its decommissioning funding report as an operating license application document. The funding report and required certification are complex and require careful and deliberate financial planning. The applicant is evaluating the funding options to determine which is more appropriate. Once this decision is made, the applicant must effectuate its decision by financial instrument. If the applicant chooses to use an external sinking fund, it will need to execute one or more trust agreements. Exactly how the trust and external sinking fund would be structured would in turn depend on Internal Revenue Service and Texas Public Utility Commission requirements. The exemption is being sought to provide the time the applicant believes is necessary to perform proper planning and provide the Commission with an accurate and informed report.

*Environmental impacts of the proposed action:* There are no environmental impacts associated with the proposed action. The proposed exemption from 10 CFR 50.33(k)(1) and 10 CFR 50.75 will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant cumulative radiation exposure. Accordingly, the Commission concludes that the proposed exemption would result in no significant radiological environmental impact. Additionally, it does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant environmental impacts associated with the exemption.

*Alternative to the proposed action:* The Commission has concluded that there are no measurable environmental impacts associated with the proposed

[1] The current owners of the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric), Tex-La Electric Cooperative of Texas, Inc. (Tex-La), and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendment No. 9 to Construction Permit CPPR–126 for Comanche Peak, Unit 1 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 will no longer retain any ownership interest in Comanche Peak, Unit 1. Transfer of ownership from Tex-La to TU Electric was previously authorized by Amendment No. 11 to Construction Permit CPPR–126 for Comanche Peak, Unit 1 on August 29, 1989 as set forth in the agreement attached to the application for Amendment dated May 4, 1989. At the completion thereof, Tex-La will no longer retain any ownership interest in Comanche Peak, Unit 1.

action. The principal alternative would be for the Commission to deny the requested exemption. This would not reduce the environmental impacts of plant operation.

*Alternative use of resources:* This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0775), dated September 1981.

*Agencies and persons consulted:* The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this exemption for Comanche Peak, Unit 1. The NRC did not consult other agencies or persons in preparing this assessment.

**Finding of No Significant Impact**

The Commission has determined that preparation of an environmental impact statement for the proposed exemption is not necessary. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for exemption dated July 28, 1989. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room at the Somervell County Public Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043. The staff's evaluation of the request will be published in the Safety Evaluation Report related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0797), Supplement No. 22, and will be available for inspection to the locations listed above.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission.

**Christopher I. Grimes,**

*Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.*

[FR Doc. 89–26674 Filed 11–13–89; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50–445]**

## Texas Utilities Electric Co., et al.[1]; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR 70.24 to Texas Utilities Electric Company, et al. (the applicant). The exemption would apply to the facility operating license for the Comanche Peak Steam Electric Station, Unit 1 (the facility) located on the applicant's site in Somervell County, Texas.

**Environmental Assessment**

*Identification of proposed action:* The proposed action would allow an exemption from the requirements of 10 CFR 70.24 for the operation of Comanche Peak, Unit 1 in response to the applicant's request dated June 30, 1989.

*The need for the proposed action:* The exemption from 10 CFR 70.24 would allow irradiated or unirradiated fuel assemblies to be handled and stored in the Comanche Peak fuel handling building without having a monitoring system which will energize clearly audible alarms if accidental criticality occurs. This exemption will be deemed acceptable provided that no more than two fuel assemblies are outside an approved shipping container, storage rack, or fuel transfer tube at any time and a minimum 12-inch, edge-to-edge distance is maintained between such assemblies. The proposed exemption is needed to permit fueling and refueling operations at Comanche Peak without the criticality monitoring systems specified by 10 CFR 70.24(a).

*Environmental impacts of the proposed action:* There are no environmental impacts of the proposed action. Criticality will be precluded by the restriction that no more than two fuel assemblies shall be authorized to be outside of an approved shipping container, storage rack, or the fuel transfer tube at any time and a minimum 12-inch, edge-to-edge distance is maintained between such assemblies. Because these measures provide assurance that criticality will not occur during receipt, inspection, or storage of fuel, this is an acceptable alternative to a monitoring system. Since the proposed exemption does not otherwise affect radiological plant effluents nor cause any significant occupational exposures, the Commission concludes that there are no radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR part 20. The proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

*Alternative to the proposed action:* The Commission has concluded that there are no measurable environmental impacts associated with the proposed exemption. The principal alternative would be for the Commission to deny the requested exemption. This would not reduce the environmental impacts of the plant operation.

*Alternative use of resources:* This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2 (NUREG–0775), dated September 1981.

*Agencies and persons consulted:* The NRC staff reviewed the applicant's request and applicable documents referenced therein that support this exemption for Comanche Peak, Unit 1. The NRC did not consult other agencies or persons in preparing this assessment.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for exemption dated June 30, 1989. This document is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room at the Somervell County Public Library on the Square, P.O. Box 1417, Glen Rose, Texas 76043. The Commission's evaluation of the request will be published in the Safety Evaluation Report related to the operation of Comanche Peak Steam

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[1] The current owners of the Comanche Peak Steam Electric Station are: Texas Utilities Electric Company (TU Electric), Tex-La Electric Cooperative of Texas, Inc. (Tex-La), and Texas Municipal Power Agency (TMPA). Transfer of ownership from TMPA to TU Electric was previously authorized by Amendment No. 9 to Construction Permit CPPR–126 for Comanche Peak, Unit 1 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 will no longer retain any ownership interest in Comanche Peak, Unit 1. Transfer of ownership from Tex-La to TU Electric was previously authorized by Amendment No. 11 to Contruction Permit CPPR–126 for Comanche Peak, Unit 1 on August 29, 1989 as set forth in the agreement attached to the application for Amendment dated May 4, 1989. At the completion thereof, Tex-La will no longer retain any ownership interest in Comanche Peak, Unit 1.

Electric Station, Units 1 and 2 (NUREG-0797), Supplement No. 22, and will be available for inspection at the locations listed above.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission.

**Christopher I. Grimes,**

*Director, Comanche Peak Project Division, Office of Nuclear Reactor Regulation.*

[FR Doc. 89-26675 Filed 11-13-89; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Trade Policy Staff Committee; Generalized System of Preferences (GSP)

At the direction of the President, the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) is initiating a special review to consider requests from the Governments of Bolivia, Colombia, Ecuador and Peru to Add Products to the List of Articles Eligible for Duty-Free Treatment Under the GSP. Notice is hereby given that, in order to be considered in the special review, all petitions requesting the additions to the list of articles eligible for duty-free treatment under the Generalized System of Preferences (GSP) must be received at the Office of the U.S. Trade Representative no later than 5 p.m. on Monday, January 15, 1990. The GSP provides the duty-free importation of qualifying articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V of the Trade Act of 1974, as amended, and has been implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive Orders and Presidential Proclamations.

Special GSP Review for Countries in the Andean Region

The governments of Bolivia, Colombia, Ecuador and Peru may submit petitions requesting the President (1) to designate additional articles as eligible for GSP; (2) to waive the competitive need limits with respect to specific GSP eligible articles; and (3) to otherwise expand GSP coverage. Requests to expand GSP product coverage from parties other than the governments noted above, and requests for other modifications of the GSP program will not be accepted at this time. Such requests can be submitted in the 1990 GSP annual review, with a tentative submission deadline of June 1, 1990.

**Submission of Petitions and Requests**

Petitions and requests to expand GSP treatment should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. Petitions which are hand-carried should be delivered to room 517. All such submissions must conform with regulations codified in 15 CFR part 2007. In addition to these requirements, the petition should identify the product of interest in the Harmonized Tariff System (HTS) nomenclature. The petition should also identify the former TSUS headings for the products of interest and provide the petition history for those TSUS tariff headings. Trade data for the last three years should be provided in the HTS category. Where the conversion to the new nomenclature makes this difficult, HTS estimates can be provided, along with the relevant TSUS data. The methods used to arrive at HTS estimates should also be described.

Information submitted will be subject to public inspection by appointment only with the staff of the USTR Reading room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. The telephone number for the USTR Reading room is (202) 395-6186. Petitions and requests must be submitted in twenty copies in English. If the petition or request contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential").

Prospective petitioners and requestors are strongly advised to review the GSP regulations published in the **Federal Register** on Tuesday, February 11, 1986 (51 FR 5035). Prospective petitioners and requestors are reminded that submissions which do not provide all information required by § 2007.1 will not be accepted for review except upon a detailed showing in the submission that the petitioner or requestor made a good faith effort to obtain the information required. This requirement will be strictly enforced. Petitions with respect to competitive need waivers must meet the informational requirements for product addition requests in § 2007.1(c). A model petition format is available from the GSP Information Center [(202) 395-6971] and USTR Reading room in the publication *A Guide to the U.S. Generalized System of Preferences.* Prospective petitioners are requested to use this model petition format so as to ensure that all informational requirements are met. Furthermore, interested parties submitting petitions that request modifications with respect to specific articles should list on the first page of the petition the following information: (1) the requested action; (2) the classification of the article(s) of interest in HTS nomenclature; and (3), if applicable, the beneficiary country(s) of interest. Questions about the preparation of petitions and requests should be directed to the staff of the GSP Information Center.

Notice of petitions and requests accepted for review will be published in the **Federal Register** on or about Thursday, March 1, 1990. The notice will also provide updated information concerning the opportunity for interested parties to comment on requests accepted for review through public hearings and written submissions. The tentative schedule for public hearing and comment is as follows:

*Deadline for Bolivia, Colombia, Ecuador and Peru to submit petitions:* January 15, 1990

*Deadline for submitting pre-hearing briefs:* April 12, 1990

*Public Hearings:* April 26, 1990

*Deadline for submitting post hearing briefs:* May 10, 1990

*Deadline for submitting rebuttal briefs:* May 31, 1990

*Deadline for public comment on ITC advice:* June 21, 1990

Any modifications to the GSP resulting from the GSP special review will be announced on or about July 13, 1990 and will take effect on or about August 1, 1990.

**David A. Weiss,**

*Chairman, Trade Policy Staff Committee.*

[FR Doc. 89-26691 Filed 11-13-89; 8:45 am]

BILLING CODE 3190-01-M

## PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS

### Meeting

The Presidential Commission on Catastrophic Nuclear Accidents, pursuant to its authority under subsection 170(l), of Public Law 100-408, the Price-Anderson Amendments Act of 1988, will hold a meeting on November

30, 1989, from 10 a.m.–5 p.m. and on December 1, 1989, from 8:30 a.m.–11 a.m., at the Quality Hotel Capitol Hill, 415 New Jersey Ave., NW., Washington, DC 20001. The Commission was created to conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident and to submit a final report to Congress no later than August 20, 1990.

At this meeting, representatives of the insurance industry will discuss the industry response to Hurricane Hugo and the San Francisco earthquake, and Dennis Kwiatkowski, Assistant Associate Director of the Office of Natural and Technological Hazards from the Federal Management Agency, will speak on the various funds and methods of responding to natural and man-made disasters as well as FEMA's response to the recent disasters. (Mr. Kwiatkowski was scheduled to speak at the last meeting, but had to postpone because of schedule conflicts). In addition, Jack B. Weinstein, Judge of the U.S. District Court of the Eastern District of New York, will discuss the Agent Orange litigation. There may be additional speakers.

The Commission will also conduct working sessions to begin work on its report to Congress.

At its last meeting, the Commission set dates for meetings in 1989 and 1990. These dates include December 21, January 11–12, February 7–8, March 15–16, April 19–20, May 10–11, and June 4. Agendas and detailed information about these meetings will be available through the Commission office.

The public is permitted to attend all of these meetings, and there will be time during each meeting for brief statements. Transcripts or minutes of these meetings will be available at the Commission office, 600 E St., NW., room 660.

For further information, contact Jerome Saltzman at 600 E St., NW., room 660, Washington, DC 20004, (202) 272–5695. Members of the public planning to attend the Commission meeting should contact Mr. Saltzman at (202) 272–5695 at least two days before the meeting date.

Dated: November 8, 1989.

**Jerome Saltzman,**

*Executive Director, Presidential Commission on Catastrophic Nuclear Accidents.*

[FR Doc. 89–26701 Filed 11–13–89; 8:45 am]

BILLING CODE 6820-SP-M

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. 34-27423; File No. SR-PSE-89-26]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc.; Relating to the Conducting of a Pilot Program of the Pacific Options Exchange Trading System ("POETS")

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 6, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("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 Exchange intends to conduct a pilot program of its Pacific Options Exchange Trading System ("POETS"). The system is comprised of an options order routing system ("ORS"), an automatic and semi-automatic execution system ("Auto-Ex"), an on-line book system ("Auto-Book"), and an automatic market quote update system ("Auto-Quote"). The pilot is scheduled to begin in December 1989, and continue for six months. POETS will be implemented in one equity options class in December and will be expanded to all equity options classes at two trading posts by January 22, 1990. POETS is expected to be floorwide by the end of the pilot program. This statement of the terms of substance of the proposed rule change will describe the operation of the various components of the POETS System.

#### Order Routing System

The options order routing system ("ORS") will be available to all members of the Exchange. ORS will provide the Exchange with a means of accepting, editing and routing orders that are submitted electronically for execution at market prices or placement in the Public Limit Order Book, as well as cancellation of orders previously submitted. Member firm access to ORS will be controlled through the process of connecting member firms to the system by communication links. Eligible orders will be submitted through ORS from member firm offices. Exchange floor brokers will have access to ORS, as will Exchange staff. Member firms, floor brokers, and Exchange staff will receive on-line reports of order execution and cancellation confirmations through ORS.

Orders entered through ORS may be sent to one of three destinations: automatic execution system ("Auto-Ex"), on-line book ("Auto-Book"), or a member firm's default destination. All market orders and executable limit orders that are received by ORS will be directed to Auto-Ex. All non-executable limit orders will be directed to Auto-Book. The default destination is a firm specified point to which orders that are unable to be routed to Auto-book or Auto-Ex are sent. In connection with Auto-Ex, orders can be re-routed from full Auto-Ex to semi-Auto-Ex if the options class eligibility criteria have been changed.

#### Automatic Execution Description

Firms placed on ORS will automatically be on Auto-Ex for purposes of routing small public customer market and marketable orders for automatic execution. Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate in the pilot will be given access to Auto-Ex from terminals at their booths on the floor. Auto-Ex will be piloted in classes of options on individual equity issues as determined by the Options Floor Trading Committee ("OFTC"). The Auto-Ex function will operate in two modes, full Auto-Ex and semi-Auto-Ex. The semi-Auto-Ex function provides for Order Book staff and crowd intervention.

*Full Auto-Ex*

When full Auto-Ex receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system. A buy order will pay the offer; a sell order will sell the bid. A participating market maker will be designated as contra-broker on the trade.

Auto-Ex will preserve limit order book priority in all options. Orders will be executed against the book when the prevailing market bid or offer is equal to the best bid or offer on the Exchange's book.

Participating market makers will be assigned by Auto-Ex on a rotating basis, with the first market maker selected at random from the list of signed on market makers. Participating market makers are obligated to trade at the displayed market quote at the time an order enters the system for Auto-Ex.

Except for the provisions of Exchange Rule VI, sections 5 and 6, applicable to

position and exercise limits, Exchange rules shall not apply to the extent that they are inconsistent with the terms of the pilot, including but not limited to Rule VI, section 49 (Priority of Bids and Offers), Rule VI, section 47 (Manner of Bidding and Offering), and Rule VI, section 73 (Market Maker Defined). Position and exercise limits will remain in effect for Auto-Ex transactions, pursuant to Rule VI, sections 5 and 6. Transactions executed through Auto-Ex will count towards a market makers fulfillment of the in person requirement of Rule VI, section 5.

Once a trade is executed, all participants are immediately informed of the execution. A fill report is generated to the firm at the firm's point of entry into the system (i.e., either its branch office or floor booth). A market maker is informed of the trade through a scrolling screen above the trading crowd. This display includes the time of execution, executed price, and other trade confirmation information. A market maker will also have access to trade information through the on-line system. Each market maker and member firm may only view their own Auto-Ex trades. Trade reports will be distributed to firms and market makers the following business day, summarizing trade information for the previous day.

Eligible Auto-Ex orders must be market or marketable limit orders for the number of contracts approved by the OFTC. The Exchange, at the OFTC's discretion, may determine to restrict eligible orders, including but not limited to, limiting orders to market order and to lowering or increasing contract limits. The Exchange will have discretion to place on the system such series in the eligible classes of options as the OFTC determines are appropriate. Information concerning eligible series will be made available by the Exchange on a daily basis.

Each day the system is available, Exchange supervisory personnel will start the system after quotes in the eligible series have been updated following opening rotation. If market maker participation is insufficient, the system will not be started. The determination of sufficient participation will be by the OFTC. If the system is or becomes unavailable for any reason, eligible orders will be handled manually.

Eligibility criteria for participation as a contra-broker to Auto-Ex trades during the pilot program will be limited to individual market makers and joint accounts. Market makers must be in the trading crowd when signed onto the system. A market maker must be logged off the system when leaving the trading crowd, except if it is for a short time. Any market maker logging onto the system during an expiration month must log onto the system in that options class whenever he is in the trading crowd until the next expiration. Moreover, if any time there is inadequate participation in a particular options class, the OFTC may require market makers who are members of the trading crowd, as defined in Exchange Options Floor Procedure Advice B-13, Commentary .01, to log onto the Auto-Ex absent reasonable justification for non-participation. Should a member not meet its obligations pursuant to eligibility requirements, disciplinary action may be taken pursuant to Exchange Rule VI, section 39 and Exchange Rule XX.

The Exchange may suspend book participation in Auto-Ex for an option class upon a declaration of unusual market conditions. Such a declaration may be made in an options class whenever the Exchange's Chairman (or his respective nominees) concur in determining that the conditions in that options class are such that it is no longer possible for Exchange operations personnel to conduct normal trading operations and to handle the manual integration of booked and Auto-Ex orders. Such concurrence is also required to restore book participation in Auto-Ex.

*Semi-Auto-Ex*

The same issue eligibility requirements for full Auto-Ex will be applicable for semi-Auto-Ex. When the semi-Auto-Ex function is used, an order entered by ORS will be sent to Book staff. Upon receipt, Book staff will call for a market in the particular options class and series. If a market maker betters the market, the Book staff can execute the trade with the market maker or allocate the trade among market makers. If no one in the crowd updates the displayed market quote, Book staff can execute the trade against the screen market using the rotation list. Semi-Auto-Ex will then operate in the same manner as full Auto-Ex. If the crowd updates the market and the correct best Book quote is at or better than the market, Book staff can trade the Auto-Ex order and the booked order that makes up the best quote against each other. All orders in the semi-Auto-Ex files can be cancelled in the same manner as in full Auto-Ex.

Pursuant to Article VI, section 6 of the PSE Constitution, the Exchange shall not be liable for any damages sustained by a member or member firm resulting from the use of the Auto-Ex system in the conduct of their business.

**Automatic Market Quote Update**

Auto-Quote allows market quotes to be generated systematically, using programmed theoretical models and variable criteria which are entered through the Auto-Quote function by Book staff. Market quotes are entered into the trading system, and are used to update the disseeminated market screens. Market quote updates also generate records that are sent to OPRA for dissemination to the public.

Auto-Quote will be used by Book staff at the direction of members in the trading crowd. Auto-Quote generation will be initiated at the issue level, per option type, and quotes will be generated and updated at the series level.

The initial implementation of Auto-Quote will include only one variation of the Cox/Ross/Rubinstein model to be used for puts, and the Black-Scholes models for calls. As the pilot progresses, other models, and additional variations on each model, will be reviewed.

**On-Line Book System**

The new system will eliminate the use of the physical file of orders. Processing of Book orders is currently performed using a physical inventory of orders and a manual tracking system. Auto-Book will provide an on-line Book function that provides Book staff with the ability to enter, update, inquire, delete, cancel and execute Book orders, as well as providing member firms the ability to enter, cancel, update and inquire against their own Book orders.

Book staff will access Auto-Book for a specific series. Open buy orders are displayed first, followed by open sell orders. Auto-Book will also automatically display the total number of contracts per limit price for open Book orders in a specific option series.

The eligibility requirements will remain the same whereby only customer limit orders and cabinet orders may be submitted to the Book.

A member firm may enter its orders to the Book through ORS, Book staff, or the Member Book function. The Member Book function allows a member firm to enter an order from its booth as the order is received.

Auto-Book also allows members to inquire against their own book activity/transactions using the Member Book function. In addition, this Member Book function may also be utilized to cancel orders through the on-line system and confirm outstanding good until cancelled ("GTC") orders.

**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 Exchange proposes to conduct a pilot program to test its Pacific Options Exchange Trading System ("POETS"). The Exchange will review POETS to determine the system's effects and capabilities, as well as the benefits to public customers, market makers, floor brokers and member firms. The Exchange expects that the implementation of the options order routing system ("ORS"), the automatic and semi-automatic execution system "(Auto-Ex") the on-line book system ("Auto-Book") and the automatic market quote update system ("Auto-Quote") will have a profound effect on the trading of listed options on the Exchange and will provide substantial benefits to the investing public.

In connection with the Auto-Ex system, the Exchange intends to allow for the automatic execution of small customer market and marketable limit orders in classes of options on individual equity securities. The Options Floor Trading Committee ("OFTC") will be responsible for reviewing the pilot to determine order and market maker eligibility as well as the pilot program effectiveness. The Auto-Ex pilot will commence with providing execution for small customer orders of five contracts just-out-of the money, just-in-the-money and at-the-money option series. Book priority will be in effect at all times. Auto-Ex will also be open only to individual market makers. Groups will not be allowed to participate. However, a market maker may have Auto-Ex trades clear into his joint account. Auto-Ex, along with Auto-Book, is expected to reduce the amount of paper that trading crowds and Exchange order books have to deal with.

The Exchange believes that the rule change is consistent with the purposes and provisions of the Securities Exchange Act of 1934, and in particular section 6(b)(5) thereof, in that the proposed rule change offers the potential for improving the accuracy, reporting and handling of small public customer orders, booked orders and market quotes.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change imposes a burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**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 and 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-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 5, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: November 6, 1989.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 89-26702 Filed 11-13-89; 8:45 am]

BILLING CODE 8010-01-M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[CGD 89-095]**

### Towing Safety Advisory Committee; Meeting of Subcommittee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Special Subcommittee on Marine Vapor Control of the Towing Safety Advisory Committee (TSAC). The subcommittee meeting will be held on November 30, 1989 in the Bienville Room #838 at the Airport Sheraton Hotel, 2150 Veterans Memorial Blvd., New Orleans, LA. The meeting is scheduled to begin at 10 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Opening remarks.
3. Review of Notice of Proposed Rulemaking (NPRM) or Marine Vapor Control Systems published on October 6, 1989 (54 FR 41366).
4. Adjournment.

Members of the public may present oral or written statements at the meeting.

**FOR FURTHER INFORMATION CONTACT:** LCDR Robert H. Fitch, U.S. Coast Guard Headquarters (G-MTH-1), 2100 2nd Street SW., Washington, DC 20593-0001, (202) 267-1217 or Mr. Gene Hammel, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard Headquarters (G-MP-2), 2100 2nd St. SW., Washington, DC 20593-0001, (202) 267-1406.

Dated: November 7, 1989.

M. J. Schiro,

*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 89-26602 Filed 11-13-89; 8:45 am]

BILLING CODE 4910-14-M

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[1] 17 CFR 200.30-3(a)(12) (1989).

## Maritime Administration

### Change of Name of Approved Trustee

Notice is hereby given that effective March 31, 1989, First City National Bank of Houston, Houston, Texas, changed its name to First City, Texas-Houston, N.A.

By Order of the Maritime Administrator.

Dated: November 7, 1989.

**James E. Saari,**

*Secretary.*

[FR Doc. 89-26655 Filed 11-13-89; 8:45 am]

BILLING CODE 4910-81-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

November 6, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

**Financial Management Service**

*OMB Number:* 1510-0004.

*Form Number:* TFS 285-A.

*Type of Review.* Extension.

*Title:* Schedule of Excess Risks.

*Description:* Listing of Excess Risks written or assumed by Treasury certified companies showing compliance with Treasury regulations to assist Treasury in determining solvency of certified companies for benefit of writing Federal surety bonds.

*Respondents:* Businesses or other for-profit, Small businesses or organizations.

*Estimated Number of Respondents:* 340.

*Estimated Burden Hours Per Response:* 20 hours.

*Frequency of Response:* On occasion and Quarterly.

*Estimated Total Reporting Burden:* 24,800 hours.

*Clearance Officer:* Rita Franklin (301) 436-5300, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782.

*OMB Reviewer:* Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports, Management Officer.*

[FR Doc. 89-26587 Filed 11-13-89; 8:45 am]

BILLING CODE 4810-25-M

### Public Information Collection Requirements Submitted to OMB for Review

November 6, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2409, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**Departmental Offices**

*OMB Number:* 1505-0058.

*Form Number:* None.

*Type of Review:* Extension.

*Title:* Survey of Corporate Tax Payments

*Description:* The 550 surveyed corporations represent over 35 percent of total corporate tax payments. The survey allows the earliest possible inclusion of this data into revenue models used in developing the President's Annual Budget. The survey is also used in analyzing the revenue effects of certain tax legislation.

*Respondents:* Businesses or other for-profit.

*Estimated Number of Respondents:* 550.

*Estimated Burden Hours Per Response:* 30 minutes.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 225 hours.

*Clearance Officer:* Dale A. Morgan (202) 566-2693, Departmental Offices, Room 2409, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

*OMB Reviewer:* Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports, Management Officer.*

[FR Doc. 89-26588 Filed 11-13-89; 8:45 am]

BILLING CODE 4810-25-M

## Office of the Secretary

**[Dept. Cir.—Public Debt Series—No. 32-89]**

### 8⅛% Treasury Bonds of 2019

Washington, November 2, 1989.

**1. Invitation for Tenders**

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated 8⅛% Treasury Bonds of 2019 (CUSIP No. 912810 ED 6), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. Additional amounts of the Bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

**2. Description of Securities**

2.1. The Bonds will be issued November 15, 1989, and are offered as an additional amount of 8⅛% Treasury Bonds of 2019 (CUSIP No. 912810 ED 6) dated August 15, 1989. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from August 15, 1989, to November 15, 1989. Interest on the Bonds offered as an additional issue is payable on a semiannual basis on February 15, 1990, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 2019, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form, and in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Bonds offered in this circular.

**3. Sale Procedure**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1 p.m., Eastern Standard time, Thursday, November 9, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 8, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan association; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organization in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 8.81% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

**4. Reservations**

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

**5. Payment and Delivery**

5.1. Settlement for the bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from August 15, 1989, to November 15, 1989, in the amount of $20,31250 per $1,000 of Bonds allotted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form is used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

**6. Separability of Principal and Interest**

6.1. Under the Secretary's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: Each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a bond to be separated into the components described in section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to obtain the separate components for this offering is $320,000. Par amounts than the minimum amount must be in multiples of that amount.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

**7. General Provisions**

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachment A is incorporated as part of this offering circular.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

*CUSIP Nunbers and Designations for the Principal Component and Interest Components of 8⅛% Treasury Bonds of August 15, 2019, CUSIP No. 912810 ED 6*

The Principal Component is designated 8⅛% Treasury Principal (TPRN) 2019 due August 15, 2019, CUSIP No. 912803 AR 4.

INTEREST COMPONENTS

| Designation | CUSIP No. 912833 | Designation | CUSIP No. 912833 |
|---|---|---|---|
| Treasury Interest (TINT) due | | Treasury Interest (TINT) due | |
| Feb. 15, 1990 | BF 6 | Feb. 15, 2005 | CM 0 |
| Aug. 15, 1990 | BG 4 | Aug. 15, 2005 | CN 8 |
| Feb. 15, 1991 | BH 2 | Feb. 15, 2006 | CP 3 |
| Aug. 15, 1991 | BJ 8 | Aug. 15, 2006 | CQ 1 |
| Feb. 15, 1992 | BK 5 | Feb. 15, 2007 | CR 9 |
| Aug. 15, 1992 | BL 3 | Aug. 15, 2007 | CS 7 |
| Feb. 15, 1993 | BM 1 | Feb. 15, 2008 | CT 5 |
| Aug. 15, 1993 | BN 9 | Aug. 15, 2008 | CU 2 |
| Feb. 15, 1994 | BP 4 | Feb. 15, 2009 | CV 0 |
| Aug. 15, 1994 | BQ 2 | Aug. 15, 2009 | CW 8 |
| Feb. 15, 1995 | BR 0 | Feb. 15, 2010 | CX 6 |
| Aug. 15, 1995 | BS 8 | Aug. 15, 2010 | CY 4 |
| Feb. 15, 1996 | BT 6 | Feb. 15, 2011 | CZ 1 |
| Aug. 15, 1996 | BU 3 | Aug. 15, 2011 | DA 5 |
| Feb. 15, 1997 | BV 1 | Feb. 15, 2012 | DB 3 |
| Aug. 15, 1997 | BW 9 | Aug. 15, 2012 | DC 1 |
| Feb. 15, 1998 | BX 7 | Feb. 15, 2013 | DD 9 |
| Aug. 15, 1998 | BY 5 | Aug. 15, 2013 | DE 7 |
| Feb. 15, 1999 | BZ 2 | Feb. 15, 2014 | DF 4 |
| Aug. 15, 1999 | CA 6 | Aug. 15, 2014 | DG 2 |
| Feb. 15, 2000 | CB 4 | Feb. 15, 2015 | DH 0 |
| Aug. 15, 2000 | CC 2 | Aug. 15, 2015 | JT 8 |
| Feb. 15, 2001 | CD 0 | Feb. 15, 2016 | KG 4 |
| Aug. 15, 2001 | CE 8 | Aug. 15, 2016 | KJ 8 |
| Feb. 15, 2002 | CF 5 | Feb. 15, 2017 | KL 3 |
| Aug. 15, 2002 | CG 3 | Aug. 15, 2017 | KN 9 |
| Feb. 15, 2003 | CH 1 | Feb. 15, 2018 | KQ 2 |
| Aug. 15, 2003 | CJ 7 | Aug. 15, 2018 | KS 8 |
| Feb. 15, 2004 | CK 4 | Feb. 15, 2019 | KU 3 |
| Aug. 15, 2004 | CL 2 | Aug. 15, 2019 | KW 9 |

[FR Doc. 89-26834 Filed 11-9-89; 2:30 pm]

BILLING CODE 4810-40-M

**[Dept. Cir.—Public Debt Series—No. 31-89]**

## Treasury Notes of November 15, 1999, Series D-1999

Washington, November 2, 1989.

**1. Invitation for Tenders**

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of November 15, 1999, Series D-1999 (CUSIP No. 912827 YE 6), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be

determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

**2. Description of Securities**

2.1. The Notes will be dated November 15, 1989, and will accrue interest from that date, payable on a semiannual basis on May 15, 1990, and each subsequent 6 months on November 15, and May 15 through the date that the principal becomes payable. They will mature November 15, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure desposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

**3. Sale Procedures**

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239 1500, prior to 1 p.m., Eastern Standard time, Wednesday, November 8, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 7, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determination of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

**4. Reservations**

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers

it in the public interest. The Secretary's action under this Section is final.

**5. Payment and Delivery**

5.1. Settlement for the Notes alloted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes alloted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

**6. Separability of Principal and Interest**

6.1. Under the Treasury's STRIPS Programs (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in attachment A to this circular.

6.2. Attachment A also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment B to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

6.6. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.7. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.8. The book-entry transfer of each Interest Component and Principal Component included in a reconstruction transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

**7. General Provisions**

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

**Attachment A**

*CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of November 15, 1999, Series D–1999, CUSIP No. 912827 YE 6*

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series D–1999 due November 15. 1999, CUSIP No. 912820 AU 1.

INTEREST COMPONENTS

| Designation | CUSIP No. 912833 | Designation | CUSIP No. 912833 |
|---|---|---|---|
| Treasury Interest (TINT) due | | Treasury Interest (TINT) due | |
| May 15, 1990 | EQ 9 | May 15, 1995 | FA 3 |
| Nov. 15, 1990 | ER 7 | Nov. 15, 1995 | FB 1 |
| May 15, 1991 | ES 5 | May 15, 1996 | FC 9 |
| Nov. 15, 1991 | ET 3 | Nov. 15, 1996 | FD 7 |
| May 15, 1992 | EU 0 | May 15, 1997 | FE 5 |
| Nov. 15, 1992 | EV 8 | Nov. 15, 1997 | FF 2 |
| May 15, 1993 | EW 6 | May 15, 1998 | FG 0 |
| Nov. 15, 1993 | EX 4 | Nov. 15, 1998 | FH 8 |
| May 15, 1994 | EY 2 | May 15, 1999 | FJ 4 |
| Nov. 15, 1994 | EZ 9 | Nov. 15, 1999 | FK 1 |

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER 'O PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

| COUPON ($) | MINIMUM FACE ($) | INTEREST PAYMENT ($) | COUPON ($) | MINIMUM FACE ($) | INTEREST PAYMENT ($) | COUPON ($) | MINIMUM FACE ($) | INTEREST PAYMENT ($) |
|---|---|---|---|---|---|---|---|---|
| 5.000 | 40000.00 | 1000.00 | 10.125 | 1600000.00 | 81000.00 | 15.250 | 800000.00 | 61000.00 |
| 5.125 | 1600000.00 | 41000.00 | 10.250 | 800000.00 | 41000.00 | 15.375 | 1600000.00 | 123000.00 |
| 5.250 | 800000.00 | 21000.00 | 10.375 | 1600000.00 | 83000.00 | 15.500 | 400000.00 | 31000.00 |
| 5.375 | 1600000.00 | 43000.00 | 10.500 | 400000.00 | 21000.00 | 15.625 | 64000.00 | 5000.00 |
| 5.500 | 400000.00 | 11000.00 | 10.625 | 320000.00 | 17000.00 | 15.750 | 800000.00 | 63000.00 |
| 5.625 | 320000.00 | 9000.00 | 10.750 | 800000.00 | 43000.00 | 15.875 | 1600000.00 | 127000.00 |
| 5.750 | 800000.00 | 23000.00 | 10.875 | 1600000.00 | 87000.00 | 16.000 | 25000.00 | 2000.00 |
| 5.875 | 1600000.00 | 47000.00 | 11.000 | 200000.00 | 11000.00 | 16.125 | 1600000.00 | 129000.00 |
| 6.000 | 100000.00 | 3000.00 | 11.125 | 1600000.00 | 89000.00 | 16.250 | 160000.00 | 13000.00 |
| 6.125 | 1600000.00 | 49000.00 | 11.250 | 160000.00 | 9000.00 | 16.375 | 1600000.00 | 131000.00 |
| 6.250 | 32000.00 | 1000.00 | 11.375 | 1600000.00 | 91000.00 | 16.500 | 400000.00 | 33000.00 |
| 6.375 | 1600000.00 | 51000.00 | 11.500 | 400000.00 | 23000.00 | 16.625 | 1600000.00 | 133000.00 |
| 6.500 | 400000.00 | 13000.00 | 11.625 | 1600000.00 | 93000.00 | 16.750 | 800000.00 | 67000.00 |
| 6.625 | 1600000.00 | 53000.00 | 11.750 | 800000.00 | 47000.00 | 16.875 | 320000.00 | 27000.00 |
| 6.750 | 800000.00 | 27000.00 | 11.875 | 320000.00 | 19000.00 | 17.000 | 200000.00 | 17000.00 |
| 6.875 | 320000.00 | 11000.00 | 12.000 | 50000.00 | 3000.00 | 17.125 | 1600000.00 | 137000.00 |
| 7.000 | 200000.00 | 7000.00 | 12.125 | 1600000.00 | 97000.00 | 17.250 | 800000.00 | 69000.00 |
| 7.125 | 1600000.00 | 57000.00 | 12.250 | 800000.00 | 49000.00 | 17.375 | 1600000.00 | 139000.00 |
| 7.250 | 800000.00 | 29000.00 | 12.375 | 1600000.00 | 99000.00 | 17.500 | 80000.00 | 7000.00 |
| 7.375 | 1600000.00 | 59000.00 | 12.500 | 16000.00 | 1000.00 | 17.625 | 1600000.00 | 141000.00 |
| 7.500 | 80000.00 | 3000.00 | 12.625 | 1600000.00 | 101000.00 | 17.750 | 800000.00 | 71000.00 |
| 7.625 | 1600000.00 | 61000.00 | 12.750 | 800000.00 | 51000.00 | 17.875 | 1600000.00 | 143000.00 |
| 7.750 | 800000.00 | 31000.00 | 12.875 | 1600000.00 | 103000.00 | 18.000 | 100000.00 | 9000.00 |
| 7.875 | 1600000.00 | 63000.00 | 13.000 | 200000.00 | 13000.00 | 18.125 | 320000.00 | 29000.00 |
| 8.000 | 25000.00 | 1000.00 | 13.125 | 320000.00 | 21000.00 | 18.250 | 800000.00 | 73000.00 |
| 8.125 | 320000.00 | 13000.00 | 13.250 | 800000.00 | 53000.00 | 18.375 | 1600000.00 | 147000.00 |
| 8.250 | 800000.00 | 33000.00 | 13.375 | 1600000.00 | 107000.00 | 18.500 | 400000.00 | 37000.00 |
| 8.375 | 1600000.00 | 67000.00 | 13.500 | 400000.00 | 27000.00 | 18.625 | 1600000.00 | 149000.00 |
| 8.500 | 400000.00 | 17000.00 | 13.625 | 1600000.00 | 109000.00 | 18.750 | 32000.00 | 3000.00 |
| 8.625 | 1600000.00 | 69000.00 | 13.750 | 160000.00 | 11000.00 | 18.875 | 1600000.00 | 151000.00 |
| 8.750 | 160000.00 | 7000.00 | 13.875 | 1600000.00 | 111000.00 | 19.000 | 200000.00 | 19000.00 |
| 8.875 | 1600000.00 | 71000.00 | 14.000 | 100000.00 | 7000.00 | 19.125 | 1600000.00 | 153000.00 |
| 9.000 | 200000.00 | 9000.00 | 14.125 | 1600000.00 | 113000.00 | 19.250 | 800000.00 | 77000.00 |
| 9.125 | 1600000.00 | 73000.00 | 14.250 | 800000.00 | 57000.00 | 19.375 | 320000.00 | 31000.00 |
| 9.250 | 800000.00 | 37000.00 | 14.375 | 320000.00 | 23000.00 | 19.500 | 400000.00 | 39000.00 |
| 9.375 | 64000.00 | 3000.00 | 14.500 | 400000.00 | 29000.00 | 19.625 | 1600000.00 | 157000.00 |
| 9.500 | 400000.00 | 19000.00 | 14.625 | 1600000.00 | 117000.00 | 19.750 | 800000.00 | 79000.00 |
| 9.625 | 1600000.00 | 77000.00 | 14.750 | 800000.00 | 59000.00 | 19.875 | 1600000.00 | 159000.00 |
| 9.750 | 800000.00 | 39000.00 | 14.875 | 1600000.00 | 119000.00 | 20.000 | 10000.00 | 1000.00 |
| 9.875 | 1600000.00 | 79000.00 | 15.000 | 40000.00 | 3000.00 | 20.125 | 1600000.00 | 161000.00 |
| 10.000 | 20000.00 | 1000.00 | 15.125 | 1600000.00 | 121000.00 | 20.250 | 800000.00 | 81000.00 |

[FR Doc. 89-26835 Filed 11-9-89; 2:30 pm]

BILLING CODE 4810-40-C

[Dept. Circ.—Public Debt Series—No. 30-89]

## Treasury Notes of November 15, 1992, Series U-1992

Washington, November 2, 1989.

### 1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated Treasury Notes of November 15, 1992, Series U-1992 (CUSIP No. 912827 YD 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate of the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

### 2. Description of Securities

2.1. The Notes will be dated November 15, 1989, and will accrue interest from that date, payable on a semiannual basis on May 15, 1990, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5 The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

### 3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1 p.m., Eastern Standard time, Tuesday, November 7, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 6, 1989, and received no later than Wednesday, November 15, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3 A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

### 4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or

reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

**5. Payment and Delivery**

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, November 15, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, November 13, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forefeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration or the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

**6. General Provisions**

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 89-26836 Filed 11-9-89; 2:30 pm]

BILLING CODE 4810-40-M

# Sunshine Act Meetings

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 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).

## FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:28 p.m. on Tuesday, November 7, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Request of Putnam Fiduciary Trust Company (formerly Marsh & McLennan Trust Company), Boston, Massachusetts, for rescission of certain conditions imposed in granting Federal deposit insurance and trust powers.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. FL-89-0016
American Diversified Savings Bank, Costa Mesa, California
Case No. FL-89-0021
American Diversified Savings Bank, Costa Mesa, California
Case No. FL-89-0024
Southwest Savings and Loan, Abilene, Texas
Matters relating to the possible closing of certain insured banks.
Matters relating to the Corporation's corporate activities.
Administrative enforcement proceedings.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director M. Danny Wall (Director of the Office of Thrift Supervision), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: November 8, 1989.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Deputy Executive Secretary.*

[FR Doc. 89-26784 Filed 11-9-89; 11:09 am]

BILLING CODE 6714-01-M

## FEDERAL ENERGY REGULATORY COMMISSION

Notice

November 8, 1989.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-49), 5 U.S.C. 552B:

**DATE AND TIME:** November 15, 1989, 10:00 a.m.

**PLACE:** 825 North Capitol Street NE., Room 9306, Washington DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note.**—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Lois D. Cashell, Secretay, Telephone (202) 357-8400.

This is list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

**Consent Power Agenda, 905th Meeting—November 15, 1989, Regular Meeting (10:00 a.m.)**

CAP-1.
Project No. 2971-004, Allegheny Electric Cooperative
Project No. 7914-005, Allegheny Hydropower, Inc.
Project No. 8908-002, Borough of Brownsville, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewable Resources, Inc.
Project No. 4675-004, Borough of Charleroi, Pennsylvania, Washington County Board of Commissioners, and Pennsylvania Renewable Resources, Inc.
Project No. 4474-005, Borough of Cheswick, Pennsylvania, and Allegheny Valley North Council of Governments
Project No. 7660-002, Borough of Point Marion, Pennsylvania, and Noah Corporation
Project No. 7307-002, City of Grafton, West Virginia
Project No. 6939-007, City of Jackson, Ohio
Project Nos. 6901-003 and 6902-006, City of New Martinsville, West Virginia
Project No. 3218-002, City of Orrville, Ohio
Project No. 4017-004, City of Pittsburg, Pennsylvania
Project No. 10098-001, City of Point Pleasant, West Virginia and WV Hydro, Inc.
Project No. 9999-002, City of St. Mary's West Virginia, and WV Hydro, Inc.
Project Nos. 7568-002 and 7909-003, Allegheny County, Pennsylvania
Project No. 9042-002, Gallia Hydro Partners
Project Nos. 7399-006, 8990-002 and 8654-004, Noah Corporation
Project Nos. 3490-005 and 7041-003, Potter Township, Pennsylvania
Project No. 6998-002, Upper Mississippi Water Company, Inc.
Project No. 10332-001, WV Hydro, Inc.

CAP-2.
Project No. 9732-002, Brookside Hydroelectric Company, Inc.
Project No. 9277-002, Riverside Dam, Inc.
Project No. 10080-001, Lower Falls Hydro Company, Inc.

CAP-3.
Docket No. UL89-33-001, Madison Electric Works

CAP-4.
Docket No. UL89-36-001, Spartanburg Water System

CAP-5.
Docket No. UL89-24-001, City of Albany

CAP-6.
Omitted

CAP-7.
Project No. 9840-001, Appomattox River Water Authority

CAP-8.
Project No. 8863-003, Northeast Hydrodevelopment Corporation

CAP-9.
Project No. 4632-004, Clifton Power Corporation

CAP-10.
Omitted

CAP-11.
Project No. 3109-001, Eugene Water & Electric Board

CAP-12.
Project No. 2079-07, Placer County Water Agency

CAP-13.
Project No. 2299-009, Turlock and Modesto Irrigation District

CAP-14.
Docket No. ER89-355-001, CP National Corporation

CAP-15.
Docket No. ER89-522-001, Vermont Electric Power Company, Northeast Utilities Service Company and New England Power Company

CAP-16.
Docket Nos. ER80-573-005, ER84-604-011 and ER85-477-004, Southwestern Public Service Company

CAP-17.
Docket No. ER88-456-001, Central Vermont Public Service Corporation
CAP-18.
Docket Nos. ER84-560-014, 015, 016, 017, 018, 019, 020 and 021, Union Electric Company
CAP-19.
Docket Nos. ER86-107-005, ER87-327-002 and ER88-397-001, Pacific Gas Electric Company Docket No. EL89-34-000, Northern California Power Agency v. Pacific Gas & Electric Company
CAP-20.
Docket No. EL89-43-000, Boston Edison Company v. Town of Concord, Massachusetts
CAP-21.
Docket No. EL88-22-000, Western Area Power Administration v. Pacific Gas & Electric Company, The Northern California Power Agency, and the Cities of Alameda, Healdsburg, Ukiah, Santa Clara, Lodi, and Lompoc, California
CAP-22.
Docket No. EL89-27-000, City of Watertown, New York, v. Niagara Mohawk Power Corporation
CAP-23.
Docket No. ER82-545-002, Texas Utilities Electric Company
Docket No. EL89-15-000, Texas Utilities Electric Company v. Central Power & Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

**Consent Miscellaneous Agenda**

CAM-1.
Docket No. FA85-34-001, Stingray Pipeline Company
CAM-2.
Docket No. RM89-16-000, Final Regulations Implementing the Natural Gas Wellhead Decontrol Act of 1989
CAM-3.
Docket No. GP89-51-000, Michigan Department of Natural Resources
CAM-4.
Docket No. GP90-1-000, Illinois Department of Mines and Minerals
CAM-5.
Omitted
CAM-6.
Omitted
CAM-7.
Omitted
CAM-8.
Docket No. GP88-28-000, Rocky Mountain Natural Gas Company v. Jack J. Grynberg, individually, as general partner for the Greater Green River Basin Drilling Program: 72-3
CAM-9.
Docket No. GP89-38-000, Corinne B. Grace, Complainant v. El Paso Natural Gas Company, Respondent

**Consent Gas Agenda**

CAG-1.
Docket Nos. RP9-14-000 and RP89-49-000, National Fuel Gas Supply Corporation
CAG-2.
Docket Nos. RP90-12-000, 001 and 002, Colorado Interstate Gas Company
CAG-3.
Docket No. RP90-11-000, Seagull Interstate Corporation
CAG-4.
Docket No. RP90-1-000, Algonquin Gas Transmission Company
CAG-5.
Docket Nos. RP82-55-041, 045 and 046, Transcontinental Gas Pipe Line Corporation
CAG-6.
Docket No. RP89-136-004, Northern Natural Gas Company
CAG-7.
Docket Nos. TQ90-148-000, 001 and RP89-161-003, ANR Pipeline Company
CAG-8.
Docket Nos. RP89-199-000 and RP90-13-000, Algonquin Gas Transmission Company
CAG-9.
Docket No. TQ90-2-4-000, Granite State Gas Transmission, Inc.
CAG-10.
Docket Nos. RP89-140-005 and RP89-195-002, Williams Natural Gas Company
CAG-11.
Omitted
CAG-12.
Docket Nos. RP89-116-000 and RP88-207-000, Columbia Gas Transmission Corporation
CAG-13.
Docket No. TA89-1-63-000, Carnegie Natural Gas Company
CAG-14.
Omitted
CAG-15.
Docket No. RP89-119-001, Texas Gas Transmission Corporation
CAG-16.
Docket No. RP89-200-004, Pacific Gas Transmission Company
CAG-17.
Docket Nos. RP89-223-001, RP89-75-002 and RP89-213-003, Black Marlin Pipeline Company
CAG-18.
Docket Nos. TQ90-1-16-002 and TM90-1-16-002, National Fuel Gas Supply Corporation
CAG-19.
Docket Nos. RP89-008 and RP89-133-005, Colorado Interstate Gas Company
CAG-20.
Docket No. RP88-28-002, Northern Illinois Gas Company v. Natural Gas Pipeline Company of America
CAG-21.
Docket No. RP85-193-008, North Penn Gas Company
CAG-22.
Docket Nos. RP89-134-003, RP89-9-006 and RP88-241-007, Panhandle Eastern Pipe Line Company
CAG-23.
Docket Nos. CP89-470-002 and CP88-522-007, Tennessee Gas Pipeline Company
CAG-24.
Docket Nos. RP88-10-006 and RP88-211-006, CNG Transmission Corporation
CAG-25.
Docket No. RP89-190-001, Northwest Pipeline Corporation
CAG-26.
Docket No. RP89-73-005, Pelican Interstate Gas System
CAG-27.
Docket No. RP87-73-005, Algonquin Gas Transmission Company
CAG-28.
Docket No. RP88-45-019 and RP88-46-004, Arkla Energy Resources, a Division of Arkla, Inc.
CAG-29.
Docket No. RP89-113-000, Tennessee Gas Pipeline Company
CAG-30.
Docket No. RP85-177-069, Texas Eastern Transmission Corporation
CAG-31.
Omitted
CAG-32.
Docket Nos. RP87-62-000 and RP86-148-000, Pacific Gas Transmission Company
CAG-33.
Docket Nos. RP88-131-000 and 003, Carnegie Natural Gas Company
CAG-34.
Docket Nos. RP88-115-007, CP89-31-000, CP88-818-000, CP89-59-000 and CP89-59-001, Texas Gas Transmission Corporation
CAG-35.
Docket No. RP88-69-000, Stingray Pipeline Company
CAG-36.
Docket Nos. ST85-956-003, ST85-1572-001, ST86-6-001, ST86-1010-000, ST86-1064-000, ST86-1647-000, ST86-1792-000, ST86-2087-000, ST86-2505-000, ST86-430-000, ST87-588-000, ST87-589-000, ST87-1126-000, ST87-1525-000, ST87-1526-000, ST87-1527-000, ST87-1974-000, ST87-2399-000, ST87-3708-000, ST87-3709-000, ST87-3710-000, ST87-3711-000, ST87-3874-000, ST87-4257-000, ST88-585-000, ST88-1440-000 and ST88-1441-000, Acadian Gas Pipeline System
Docket Nos. ST88-5599-001, ST88-5761-001, ST88-5762-001, ST88-5763-001, ST88-5764-001, ST88-5765-001, ST88-5766-001, ST88-5767-001, ST88-5768-001, ST88-5769-001 and ST88-5770-001, Gulf South Pipeline Company
CAG-37.
Docket No. ST88-5804-001, Acacia Natural Gas Corporation
CAG-38.
Docket No. ST85-957-000, Mississippi Fuel Company
CAG-39.
Docket Nos. RI89-1063-001, Pogo Producing Company
CAG-40.
Docket No. CI89-465-000, Union Pacific Fuels, Inc.
CAG-41.
Docket Nos. CP87-57-007, CP87-166-006 and CP88-424-004, Florida Gas Transmission Company
CAG-42.
Docket No. CP89-1121-001, Mississippi River Transmission Corporation
CAG-43.
Docket No. CP87-451-021, Northeast U.S. Pipeline Projects
Docket Nos. CP86-329-001 and CP86-330-001, Erie Pipeline System
Docket Nos. CP86-523-000, 001, 002, 003, CP86-524-000 and CP88-198-000, Iroquis Gas Transmission System

Docket Nos. CP88-168-000 and CP88-169-000, Champlain Pipeline Company
Docket Nos. CP88-173-000, CP88-174-000 and CP88-176-000, Tennessee Gas Pipeline Company
Docket No. CP88-175-000, Northeastern Gas Transmission Company
Docket Nos. CP88-182-000 and 001, PennEast Gas Service Company, CNG Transmission Corporation and Eastern Transmission Corporation
Docket Nos. CP88-189-000, CP88-192-000 and 001, Algonquin Gas Transmission Company
Docket Nos. CP88-190-000 and CP88-191-000, Greater Northeast Pipeline Corporation
Docket No. CP88-193-000, Eastern American States Transmission Company

CAG-44.
Docket No. CP87-238-001, Ozark Gas Transmission System

CAG-45.
Docket Nos. CP88-490-003 and CP88-548-003, Panhandle Eastern Pipe Line Company

CAG-46.
Docket No. CP89-3-003, Panhandle Eastern Pipe Line Company

CAG-47.
Docket Nos. CP88-574-001 and CP88-779-001, CNG Transmission Corporation

CAG-48.
Docket No. CP87-376-001, Viking Gas Transmission Company (formerly Midwestern Gas Transmission Company)

CAG-49.
Docket No. CP75-104-053, High Island Offshore System
Docket No. CP76-118-015, U-T Offshore System

CAG-50.
Docket No. CP89-2199-000, United Gas Pipe Line Company

CAG-51.
Docket No. CP90-61-000, United Gas Pipe Line Company

CAG-52.
Docket No. CP90-166-000, United Gas Pipe Line Company

CAG-53.
Docket No. CP90-169-000, Colorado Interstate Gas Company

CAG-54.
Docket No. CP89-333-000, Tennessee Gas Pipeline Company

CAG-55.
Docket No. CP89-1066-000, Kansas Pipeline Company, L.P.

CAG-56.
Docket No. CP87-106-006, Viking Gas Transmission Company (formerly Midwestern Gas Transmission Company)

CAG-57.
Docket No. CP89-989-000, United Gas Pipe Line Company

CAG-58.
Docket Nos. CP89-1991-000 and CP89-2001-000, Mississippi River Transmission Corporation

CAG-59.
Docket No. CP90-1-000, Pacific Gas Transmission Company

CAG-60.
Docket No. CP89-1571-000, Niagara Mohawk Power Corporation

CAG-61.
Docket No. CP79-467-018, ANR Pipeline Company

CAG-62.
Omitted

CAG-63.
Docket No. CP88-332-004, El Paso Natural Gas Company

CAG-64.
Docket No. CP89-267-000, Atlantic Richfield Company and Intalco Aluminum Corporation (Ferndale Pipeline System)

CAG-65.
Docket Nos. CP83-254-332 and CP83-335-252, Williston Basin Interstate Pipeline Company

CAG-66.
Docket No. RP88-239-000, Trunkline Gas Company
Docket No. RP88-27-000, United Gas Pipeline Company
Docket No. RP89-43-000, Valero Interstate Transmission Company
Docket No. RP90-31-000, Alabama-Tennessee Natural Gas Company
Docket No. RP89-45-000, *et al.*, ANR Pipeline Company
Docket No. RP89-135-000, Arkla Energy Resources
Docket No. RP89-98-000, *et al.*, Colorado Interstate Gas Company
Docket No. RP89-124-000, CNG Transmission Corporation
Docket No. RP88-207-000, *et al.*, Columbia Gas Transmission Corporation
Docket No. RP90-32-000, East Tennessee Natural Gas Company
Docket No. RP90-33-000, Mississippi River Transmission Corporation
Docket No. RP90-34-000, National Fuel Gas Supply Corporation
Docket No. RP88-94-000, *et al.*, Natural Gas Pipeline Company
Docket No. RP89-136-000, Northern Natural Gas Company
Docket No. RP89-137-000, Northwest Pipeline Corporation
Docket No. RP88-184-000, *et al.*, El Paso Natural Gas Company
Docket No. RP90-35-000, Florida Gas Transmission
Docket No. RP90-36-000, K-N Energy, Inc.
Docket No. RP90-37-000, Kentucky-West Virginia Gas Company
Docket No. RP90-38-000, Mid-Louisiana Gas Company
Docket No. RP88-241-000, *et al.*, Panhandle Eastern Pipe Line Company
Docket No. RP89-120-000, Questar Pipeline Company
Docket No. RP89-141-000, United Gas Pipe Line Company, Operator of the Sea Robin Pipeline Company
Docket No. RP86-63-000, Southern Natural Gas Company
Docket No. RP88-191-000, *et al.*, Tennessee Gas Pipeline Company
Docket No. RP90-39-000, Texas Eastern Transmission Corporation
Docket No. RP89-119-000, *et al.*, Texas Gas Transmission Corporation
Docket No. RP88-68-000, *et al.*, Transcontinental Gas Pipe Line Corporation
Docket No. RP88-198-000, *et al.*, Transwestern Pipeline Company
Docket No. RP89-121-000, West Texas Gathering Company
Docket No. RP89-140-000, *et al.*, Williams Natural Gas Company
Docket No. RP89-118-000, Williston Basin Interstate Pipeline Company

*I. Licensed Project Matters*

P-1.
Project Nos. 8142-005, 006, 007 and 014, Henwood Associates, Inc. Order on rehearing of May 2, 1989, order.

P-2.
Project No. 7267-006, Joseph Martin Keating. Order regarding water quality certification.

*II. ER-1. Reserved*

**Miscellaneous Agenda**

M-1.
Docket No. RM87-33-001, Hydroelectric Relicensing Regulations Under the Federal Power Act. Order on rehearing.

M-2.
Docket No. RM89-7-000, Regulations Governing Submittal of Proposed Hydropower License Conditions and Other Matters. Notice of proposed rulemaking concerning revisions to the Commission's procedural rules for hydropower proceedings.

M-3.
Docket No. RM87-34-000, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Final Rule.

M-4.
Reserved

*I. Pipeline Rate Matters*

RP-1.
Reserved

*II. Producer Matters*

CI-1.
Reserved

*III. Pipeline Certificate Matters*

CP-1.
Docket No. CP89-2114-000, United Gas Pipe Line Company. Order regarding United's restructuring proposals.

CP-2.
Docket No. CP89-1499-000, Pan National Gas Sales, Inc.
Docket No. CP87-418-000, Trunkline LNG Company. Order on application for certificate to provide LNG terminal service and request for authorization to make sales of regasified LNG.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-26878 Filed 11-9-89; 3:54 pm]

BILLING CODE 6717-0-M

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**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 11:00 a.m., Monday, November 20, 1989.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street

entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 9, 1989.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 89-26874 Filed 11-9-89; 3:30 pm]

BILLING CODE 6210-01-M

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**INTERNATIONAL TRADE COMMISSION**

**USITC SE-89-39**

**TIME AND DATE:** Monday, Nov. 20, 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 Key Blanks for Keys of High Security Cylinder Locks (D/N 1535)
5. Inv. No. 731-TA-426-428 (F) (Certain Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan)—briefing and vote.
6. Any items left over from previous agenda

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 252-1000.

Dated: November 9, 1989.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 89-26876 Filed 11-9-89; 8:45 am]

BILLING CODE 7020-02-M

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**INTERNATIONAL TRADE COMMISSION**

**[USITC SE-89-40]**

**TIME AND DATE:** Wednesday, Nov. 29, 1989 at 10:00 a.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
5. Inv. No. 701-TA-299 (F) and 731-TA-431 (F) (Aluminum Sulfate from Venezuela)—briefing and vote.
6. Any items left over from previous agenda

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 252-1000.

Dated: November 9, 1989.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 89-26877 Filed 11-9-89; 3:38 pm]

BILLING CODE 7020-02-M

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**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of November 13, 20, 27, and December 4, 1989.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of November 13**

*Wednesday, November 15*

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of November 20—Tenatative**

*Tuesday, November 21*

9:00 a.m.
Briefing on Implementation of the U.S. Environmental Protection Agency's HLW Disposal Standards (Public Meeting)

*Wednesday, November 22*

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of November 27—Tentative**

*Thursday, November 30*

2:00 p.m.
Briefing on DOE Views on Advanced Light Water Reactor Design and Certification (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of December 4—Tentative**

*Monday, December 4*

2:00 p.m.
Briefing on Contract for Upgrading Operations Center's Emergency Telecommunications Center (Public Meeting)

*Friday, December 8*

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**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: November 9, 1989.

**William M. Hill, Jr.,**

*Office of the Secretary.*

[FR Doc. 89-26857 Filed 11-9-89; 2:28 pm]

BILLING CODE 7590-01-M

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**POSTAL SERVICE BOARD OF GOVERNORS**

Notice of Vote To Close Meeting

At its meeting on November 6, 1989, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for December 4, 1989, in Phoenix, Arizona. The members will discuss preparations for the rate case filing.

The meeting is expected to be attended by the following persons: Governors Alvarado, del Junco, Griesemer, Hall, Mackie, Nevin, Pace, Ryan, and Setrakian; Postmaster General Frank, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Cox.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, 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.

The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

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) and (10) of title 5, United States Code; section 410(c)(4) of title 39, United States Code; and section 7.3(c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

David F. Harris,

*Secretary.*

[FR Doc. 89-26858 Filed 11-9-89; 2:33 am]

BILLING CODE 7710-12-M

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**RESOLUTION TRUST CORPORATION**

Change in Date of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the previously announced meeting of the Board of Directors of the Resolution Trust Corporation scheduled to be held on Tuesday, November 14, 1989 at 3:00 p.m. (open session) has been *RESCHEDULED* for Thursday, November 16, 1989 at 3:00 p.m.

No earlier notice of this change in the date of the meeting was practicable.

Dated: November 8, 1989.

Resolution Trust Corporation.

William J. Tricarico,

*Assistant Executive Secretary.*

[FR Doc. 89-26785 Filed 11-9-89; 11:09 am]

BILLING CODE 6714-01-M

# Corrections

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Parts 71 and 78

[Docket No. 89-006]

RIN 0579-AA27

### Swine Identification

*Correction*

In proposed rule document 89-24848 beginning on page 43065 in the issue of Friday, October 20, 1989, make the following correction:

**§ 71.4 [Corrected]**

On page 43068, in the third column, in the 11th line, (item 7(b)) "71.7" should read "71.4".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 146

[FRL-3631-5]

### Underground Injection Control Program; Water-Brine Interface Mechanical Integrity Test for Class III Salt Solution Mining Injection Wells

*Correction*

In rule document 89-19465 beginning on page 34169 in the issue of Friday, August 18, 1989, make the following correction:

On page 34171, in the second column, in the sixth line, "0.5" should read "0.05".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 6750

[CO-930-09-4214-10; C-46833]

### Withdrawal of National Forest System Land for Protection of Recreational Values; Colorado

*Correction*

In rule document 89-24934 appearing on page 43178 in the issue of Monday, October 23, 1989, make the following correction:

On page 43178, in the second column, under *White River National Forest*, under "T.5 S., R. 82 W.", the sixth line should read "NW¼, and E½SW¼,".

BILLING CODE 1505-01-D

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 26

RIN 3150-AC81

### Fitness-for-Duty Programs

*Correction*

In the correction to rule document 89-12806 appearing on page 29139 in the issue of Tuesday, July 11, 1989, a portion of the text was inaccurate and should have appeared as follows:

**§ 26.73 [Corrected]**

In the third column, in item 2, in the last line, "December 4, 1989" should read "January 3, 1990".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

*Correction*

In notice document 89-26021 appearing on page 46677 in the issue of Monday, November 6, 1989, make the following correction:

On page 46677, in the second column, in the 13th line, "any" should read "and".

BILLING CODE 1505-01-D

federal register

Tuesday
November 14, 1989

# Part II

# Department of Transportation

## Research and Special Programs Administration

49 CFR Part 171 et al.

**Transportation Regulations; Compatibility With Regulations of the International Atomic Energy Agency; Notice of Proposed Rule**

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 171, 172, 173, 174, 175, 176, 177, and 178**

**[Docket No. HM-169A; Notice No. 89-8]**

**RIN 2137-AB60**

## Transportation Regulations; Compatibility With Regulations of the International Atomic Energy Agency

**AGENCY:** Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rule (NPRM).

**SUMMARY:** This notice proposes to amend the Hazardous Materials Regulations (HMR) concerning radioactive material to make them compatible with those of the International Atomic Energy Agency (IAEA) and thus with those of most major nuclear nations of the world. Although several substantive changes are proposed to provide a more uniform degree of safety for various types of shipments, the basic standards for packaging radioactive material remain unchanged. The intended effect of this rulemaking is to increase the level of safety and facilitate international commerce as it relates to the transportation of radioactive materials. On June 8, 1988, the U.S. Nuclear Regulatory Commission (USNRC) published a corresponding proposed rule change (53 FR 21550) to its transportation regulations found in 10 CFR part 71.

**DATES:** Comments must be received on or before February 9, 1990.

**ADDRESSES:** Address comments to Dockets Unit, Office of Hazardous Materials Transportation, (DHM-30), U.S. Department of Transportation, Washington, DC 20590. Comments should be submitted, when possible, in five copies and should identify the docket. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Docket Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael E. Wangler, Chief, Radioactive Materials Branch, Technical Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4545.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In 1958, at the request of the Economic and Social Council of the United Nations, the IAEA undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the IAEA in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964, and further effort in 1966, a version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6" was published in 1967. The IAEA regulations have since been adopted generally by most nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Nuclear Regulatory Commission (USNRC) (formerly the Atomic Energy Commission (AEC)) has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. In October 1968 the Hazardous Materials Regulation Board of DOT published amendments which were also in substantial conformance with the 1967 IAEA standards (Docket HM-2, 33 FR 14918).

In February 1969, recognizing that the international standards should be revised from time to time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited its member states to submit comments and suggested changes to the regulations. Other goals of this IAEA procedure were to remove any ambiguities and to simplify the presentation of the text of the regulations.

Within the U.S., comments and suggested revisions to the IAEA regulations were collected by DOT from the AEC, the American National Standards Institute (ANSI), the Atomic Industrial Forum and others. As a result of that effort, a compilation of approximately 40 comments was forwarded by DOT to the IAEA in July 1969. Some of those suggested changes were intended to more closely align U.S. regulations with the IAEA regulations.

In 1970 the IAEA convened a panel of experts to review the regulations and consider the comments which had been submitted by member states. As a result of this review panel's efforts and additional revisions, the Director General of the IAEA (Director General) transmitted a third revision draft to all IAEA member states and to interested international organizations.

In January 1971, the Office of Hazardous Materials of the DOT published a public notice (36 FR 1280) in the form of a "Request for Public Advice on Revisions of International Regulations." Interested persons thereby were informed of the issuance and availability of this third revised draft, identified as IAEA Document No. PL-383, entitled "Regulations for the Safe Transport of Radioactive Materials, Third Revised Draft, November 1970".

In cooperation with the AEC, the DOT solicited comments on this third draft. Copies were distributed to all AEC operating contractors, as well as the Atomic Industrial Forum and ANSI Subcommittee N14 (Transportation of Fissile and Radioactive Materials) for redistribution to their members and other interested persons. Formal U.S. comments on the third draft were forwarded by DOT to the IAEA through the Department of State.

A final Review Panel of experts was convened by the IAEA in October 1971, to finalize the revisions. As a result of that Panel, the IAEA subsequently issued its "Safety Series No. 6, Regulations for the Safe Transport of Radioactive Materials 1973 Revised Edition," in late 1973. Subsequent to the issuance of the 1973 Edition of IAEA Safety Series No. 6, the IAEA convened another Review Panel in December 1974. The purpose of this Panel was to consider any minor inconsistencies, omissions or errors that were revealed in the course of national and international applications to the IAEA's 1973 Revised Standards, and to recommend, among other things, any changes in details that should be made in the regulations under the established procedures of the IAEA Board of Governors.

As a result of the 1974 Review Panel work, the IAEA developed a list of minor drafting changes to the 1973 Revised Edition of Safety Series No. 6, which became effective in May 1975, as well as a list of substantive proposed changes under the "90-day" amendment procedure. These latter changes were adopted in 1977 by the IAEA.

At its first meeting in October 1978, IAEA's Standing Advisory Group for the Safe Transport of Radioactive Materials (SAGSTRAM), established by the Director General in October 1977, reviewed and recommended a small number of additional amendments, some

of which slightly modified the changes issued by the IAEA in 1977. The recommendations of SAGSTRAM were subsequently published by the Director General as the "1973 Revised Edition, As Amended."

On March 10, 1983, RSPA published Docket HM-169 (48 FR 10218), which revised the HMR relating to the transportation of radioactive materials. That revision, in combination with a parallel revision of 10 CFR part 71 administered by the USNRC, brought United States domestic transport safety regulations at the Federal level in accord with relevant portions of the IAEA design and performance requirements to the extent considered feasible. This action made U.S. regulations compatible with the domestic regulations of most of the international community.

At the time of the 1971 Review Panel, a decision was made that periodic review of Safety Series No. 6 should be carried out at intervals of about 10 years to assure that the requirements were kept current. As a result, a review was initiated in 1979 to fulfill this commitment for periodic evaluation.

As in the past, the IAEA solicited comments and proposals for changes from member states and international organizations. Based on more than 200 pages of comments, the IAEA convened a Review Panel for the comprehensive review of Safety Series No. 6 considering changes in transport conditions and methods used for shipping radioactive materials. The Review Panel was again composed of the major countries involved in radioactive material transportation. The Review Panel was asked to strike a balance between keeping the regulations reasonably the same for continuity and ease of application and making necessary changs as a result of experience gained in their application. Two additional panel meetings produced a draft document that was issued in 1985 by the IAEA as the "1985 Edition" of Safety Series No. 6. Minor changes to the 1985 edition were made in 1986. Docket HM-169 was written to incorporate, to the extent possible, some of the changes anticipated in the 1985 version of Safety Series No. 6.

At its Fifth Meeting in 1986 SAGSTRAM recommended that Safety Series No. 6 undergo revision every ten years for major changes, and that minor changes and changes of detail be made at two-year intervals to ensure that it remains current with technology and needs. Minor changes are promulgated by the Director General without specific member state acceptance; changes of detail are subject to the "90 day" rule in which members states are given the opportunity to submit their acceptance or rejection of individual changes of detail. These recommendations were accepted by the Director General.

To initiate the revision process, the IAEA in 1986 again solicited comments and proposals for changes to the regulations and to its supporting documents. A Technical Committee was convened in 1987 to review the member state submittals, to determine which submittals warranted consideration and to assign each submittal to the appropriate category of change. Given the recommendations of this Technical Committee, the Director General promulgated the minor changes and submitted the changes of detail under the "90 day" rule. The changes were accepted by the member states and were published as "Supplement 1988" to the 1985 edition of Safety Series No. 6.

This notice proposes to revise the HMR, as it relates to the transportation of radioactive materials, so that it is in essential conformance with the 1985 edition of Safety Series No. 6 and the Supplement 1988. These revisions to the HMR are necessary to allow for the international transportation of radioactive materials to and from the United States.

## II. Discussion of Changes

While this notice proposes an extensive revision of that portion of the regulations dealing with the transportation of radioactive materials, the majority of the changes are not substantive in nature. Many changes involve revision of section and paragraph numbers and their references and the use of the International System of Units (SI units) for radiological measurements where appropriate. In addition, a few sections are proposed to be rewritten to provide clarity without changing their subject matter. Although not all of subpart I of part 173 of 49 CFR, entitled "Radioactive Materials", has been proposed to be changed, it has been reprinted in its entirety for ease of understanding. Substantive changes are discussed in the following paragraphs.

### *Radiation Protection*

On January 27, 1987, the Environmental Protection Agency (EPA) published a document titled, "Radiation Protection Guidance to Federal Agencies for Occupational Exposure: Recommendations Approved by the President." This document updated radiation guidance to Federal agencies. The recommendations are provided to Federal agencies to enable them to revise or develop detailed standards and regulations in those areas for which they have regulatory or administrative jurisdiction. As the lead Federal agency in this area, the EPA will monitor Federal agency compliance with the recommendations, will provide clarification and interpretation, as appropriate, to reflect new information, and will promote the necessary coordination to achieve an effective Federal program of worker protection.

Among its recommendations, the EPA specifies that no exposure should occur unless an overall benefit will be derived from the activity causing the exposure; that radiation dose should be maintained as low as it is reasonably achievable (ALARA); that the annual effective dose equivalent be limited to 50 milliSieverts (5 rems) to the whole body, 150 milliSieverts (15 rems) to lens of the eye, and 500 milliSieverts (50 rems) to any other organ, tissue or extremity of the body; that occupation exposure for individuals under the age of 18 not exceed 1/10 of values recommended for radiation workers; and that the dose equivalent to an unborn child as a result of the occupational exposure of a woman who has declared herself to be pregnant should not exceed 5 milliSieverts (500 millirems) during the entire gestation period. Since this proposal only summarizes EPA's recommendations, the full text should be obtained from EPA for study.

RSPA proposes to incorporate the EPA recommendations into the HMR. The HMR would incorporate the EPA document by reference, would require that an ALARA program be established, and would limit radiation exposures to those specified in the EPA recommendations. The HMR would also provide for a three-tier approach for developing a radiation protection program to monitor the dose to any worker exposed to radiation for meeting the recommendations of the EPA guidance. For annual effective dose equivalents not exceeding 5 milliSieverts (500 millirems), a shipper or carrier would not be required to provide any detailed monitoring program for the workers. However, the shipper or carrier would be responsible for periodically evaluating operations to ensure that no activity would cause an annual dose to exceed 5 milliSieverts (500 millirems). For operations which will cause an annual dose of between 5 milliSieverts (500 millirems) and 15 milliSieverts (1.5 rems), the shipper or carrier would be required to perform periodic assessments of radiation exposure levels for each worker in this range to determine if controls to limit exposure should be implemented or if

constant personnel exposure monitoring is required. For operations which will cause an annual dose of between 15 milliSieverts (1.5 rems) and 50 milliSieverts (5 rems), a radiation exposure monitoring program for each individual would be implemented. Programs would be able to satisfy this latter requirement through the issuance and monitoring of individual personnel exposure devices on a monthly or quarterly basis.

The promulgation of a radiation protection program will bring the HMR in line with other Federal agencies which control the radiation exposure of occupationally exposed individuals. For example, under the Atomic Energy Act of 1954, as amended, the USNRC limits the radiation exposure of individuals who are employed by its licensees. Similarly, the Department of Energy under this same Act conducts a radiation protection program for its employees meeting the requirements of the Federal guidance.

*General Design Requirements for All Packages*

As proposed, certain packagings used for the transportation of radioactive materials would be required to have greater integrity. Excepted packages are currently required to meet the requirements only for a strong, tight package. Under the proposal, all packages of radioactive materials, including excepted packages, would be required to meet general design requirements prescribed in § 173.410. These packages would be required to be designed for ease of handling and proper restraint during shipment. They would be required to be free of protuberances and easily decontaminated. They would be required to be capable of withstanding the effects of vibration during transport. They also would be required to meet reduced pressure and temperature requirements. Minimum design requirements for excepted packages will increase the overall integrity of the packages.

*Low Specific Activity Material and Surface Contaminated Objects*

The IAEA has been working to update its requirements for shipment of low specific activity material (LSA) to provide for the transportation of irradiated and contaminated parts and equipment from decommissioned nuclear plants. The IAEA adopted a new designation for radioactive material called surface contaminated object (SCO). Unlike LSA, which requires a uniform distribution of radioactive material within the material, SCO is not inherently radioactive but is superficially contaminated. Not every conceivable type of radioactive material that is removed from a facility during the decommissioning process will be covered by this proposal. New materials can be added to the SCO definition as needed. RSPA and USNRC concur with the IAEA in recognizing the need to issue regulations for the transportation of this specific type of material.

New LSA and SCO regulations consist of the following:

1. An expansion of the LSA definition to include new types of material;

2. A new definition of "surface contaminated object" (SCO) which is treated in a manner similar to LSA material; and

3. An increase of specific activity limits for nondispersible, nonrespirable forms of LSA material while at the same time limiting the quantity of LSA material which can be shipped in other than a Type B package. The package quantity limit is intended to limit external radiation levels produced as a result of shielding loss in a transportation accident.

In the past, overlapping statutory authority between the USNRC and DOT for regulating the transportation of radioactive material has created some confusion about which agency had regulatory authority for packages containing LSA. To clarify regulatory authority in this area, the current proposal establishes RSPA regulatory authority for packages containing LSA and SCO materials in amounts not exceeding 2 times the $A_1$ value ($2A_1$) for the specific nuclide being transported. Above that level the USNRC will assume regulatory responsibility.

Although the proposed regulations establish $2A_1$ as the level of contained radioactive material above which the USNRC regulations become applicable, the corresponding IAEA standard is expressed as an external radiation level at 3 meters from the unshielded material or object of 10 milliSievert/hr (1 rem/hr). The value $A_1$ for any specified radionuclide is the quantity of that radionuclide as a point source which produces a radiation level of 10 milliSieverts/hr (1 rem/hr) at a distance of 3 meters. Considering that LSA and SCO materials are bulk sources with considerable self-shielding, the value $2A_1$ was chosen by RSPA and the USNRC as a close approximation of the IAEA standard of 10 milliSieverts/hr (1 rem/hr) at 3 meters. This approach will make U.S. regulations inconsistent with those of IAEA, but little impact in international transportation should be experienced.

A new type of package, called the "industrial package", is being proposed for the handling of low specific activity material (LSA) and surface contaminated objects (SCO). Three categories of industrial packages (IP) IP-1, IP-2 and IP-3 are being proposed; each would have to meet differing packaging requirements. These packages would replace the modified Type A package, that is currently required for nonexclusive use shipments, and the strong, tight package, that is currently permitted for exclusive use shipments. For nonexclusive use shipments, the packaging requirements for LSA would not be substantially changed. The proposed provision would allow a shipper to determine the acceptable industrial package as based on the type of LSA or SCO to be shipped. In most cases, existing LSA packages could continue to be used. Certain lower hazard LSA and SCO could be shipped in a package equivalent to an excepted package. For exclusive use shipments, the industrial package would be required to meet minimum design requirements that are currently required for all packaging except for excepted packages. However, based on the type of LSA or SCO to be shipped, the shipper would have some flexibility in the design of the package.

This proposal is intended to produce an overall increase in the integrity of the packaging used for LSA and SCO. It will also ensure that industrial packages produced in the U.S. can be used in international commerce with a minimum of delay in shipment.

**Expansion of Radionuclide List and Changes in Radionuclide Limits**

Based on numerous proposals for additions to the table of radionuclides, in which limits are listed for the quantity of radioactive material in a single package, IAEA concluded that its table needed to include all radionuclides which have the potential for transportation. As a result, the table in § 173.435, which provides $A_1$ and $A_2$ values, has been expanded from 284 entries to 378 entries. Because there now should be few instances where unlisted radionuclides would be transported, the rules for calculating values for unlisted radionuclides would be simplified. The determination of limits for unlisted radionuclides, except for very conservative values, would be made subject to RSPA approval.

The preamble to the 1983 revision of the HMR (48 FR 10218) noted that the IAEA had replaced its concept of transport groups with a system of $A_1$ and $A_2$ values determining the package

type needed to transport radioactive materials. The $A_1$ and $A_2$ values are the maximum quantities of a particular radionuclide permitted in Type A packages in special form and normal form, respectively. Type A packages are those which provide adequate containment, shielding, and criticality control under normal conditions of transport and minor accidents, but are not designed to survive severe transportation accidents. Accident-resistant packages are identified as Type B. Radioactive material in special form is either a nondispersible solid or an encapsulated source to minimize the dispersibility and, therefore, the radiological hazard of the radioactive material. This system of limiting the radioactive content of Type A packages to $A_1$ and $A_2$ values depending on the dispersibility of the contents is the regulatory scheme for limiting the potential radiological hazard of a serious transportation accident involving packages of radioactive material.

The IAEA has since modified the system for determining $A_1$ and $A_2$ values. Although this system is based on achieving essentially the same limitations on potential accident radiological hazards as its predecessor system, the new system has the following advantages:

1. It states more clearly the radiation protection criteria employed;
2. It incorporates the data and conclusions on metabolic pathways provided during the years 1977–1981 by the International Commission on Radiological Protection (ICRP)
3. It includes dosimetric routes through human organs not previously considered; and
4. It harmonizes IAEA regulations with ICRP recommendations on radiological safety in Publications ICRP26 and ICRP–30.

The effect of IAEA's adoption of this new system for calculating $A_1$ and $A_2$ values, and the subsequent incorporation of the new values in the HMR, is that most current $A_1$ and $A_2$ values would be amended. Of the 284 radionuclide entries in section 173.435, $A_2$ values would be raised in 129 cases and lowered in 95 cases. Of the $A_1$ values, 144 would be raised and 73 lowered.

The new IAEA system for calculating $A_1$ and $A_2$ values is described in Appendix I, "The Q System for the Calculation of A and A Values," of IAEA Safety Series No. 7, "Explanatory Material for the IAEA Regulations for the Safe Transport of Radioactive Material (1985 Edition)."

*Classification of Fissile Material*

As a result of the evolution of the fissile material criteria, IAEA recognized that the current three fissile classes could be combined and simplified into a single system. The effect of the simplification of the IAEA system now being proposed for U.S. regulations is:

1. Elimination of the three fissile class designations;
2. Establishment of a single set of criteria for all packages of fissile materials;
3. Use of the transport index as the primary control of accumulations of packages in transport under nearly all conditions.

*Review by Section*

Section 172.203(d) would be revised to add references to SI units; References to Fissile Class III would be replaced with "Fissile Material, Controlled Shipments"; and for LSA and SCO shipments appropriate group notations would be required on shipping papers.

Section 172.310 would be amended to require the trefoil symbol, as specified in Appendix B to part 172, to be marked on packages of radioactive material.

Section 172.403 would be amended to add referenece to SI unit.

Paragraph (c)(17) of Appendix B to part 172 would be amended to note size requirements for the trefoil symbol on package markings labels and placards.

A new § 173.402, "SI units", would be added to phase in the use of the International System of Units (SI) for radiological measurements; that is, levels currently expressed in the customary units of rems and curies could be expressed in SI equivalents of Sieverts and Becquerels or customary units. The proposed revisions to the HMR use SI units followed by the customary units in parentheses. In many cases the limits in customary units have been extended to 3 significant figures so they represent a functional equivalent to the limits expressed in SI units. Limits on length, pressure, weight, and temperature are also expressed in SI units with functionally equivalent values in customary units following in parentheses. The objective of this approach is to maintain consistency with international regulations while allowing U.S. shippers to use the units with which they are most familiar. These changes would be made throughout the HMR.

Section 173.403 "Definitions", would be amended as follows:

—Contamination would be defined;

—Fissile material would be defined as the listed radionuclides, and the definition would delete reference to §173.455;

—The definition of low-specific-activity (LSA) material would be extensively changed to correspond to that of IAEA. The one remaining significant difference would be the addition of a provision in the HMR for transportation of contaminated earth in a closed vehicle in unpackaged form. Extensive removal of contaminated earth has been found necessary in decommissioning facilities in the United States;

—A new definition for industrial packages (IP) providing for three classifications, IP–1, IP–2, and IP–3, to be used for the transport of LSA and SCO in quantities not to exceed $2A_1$;

—The grandfather clause for special form radioactive material encapsulation would be updated; and

—A new definition of Surface Contaminated Object (SCO) would be added to correspond to the parallel definition in IAEA regulations. SCO would be treated in the regulations similarly to LSA materials, with industrial packaging required for most applications.

A new §173.404, "U.S. Competent Authority", wich specifies the address of the U.S. Competent Authority for the transport of radioactive materials, would be added for ease of reference.

A new §173.405, "General Radiation Protection Principles", would be added to implement a requirement for the establishment of radiation protection programs as follows:

—Radiation exposures of transport workers would be subject to the recommendations specified in EPA's "Radiation Protection Guidance to Federal Agencies for Occupational Exposure";

—Radiation exposures would be maintained as low as is reasonably achievable (ALARA);

—Transport workers who are exposed to radiation would have to be given appropriate training concerning the hazards of radiation. On July 26, 1989, RSPA published in the Federal Register (54 FR 31144) an NPRM, entitled "Training for Hazardous Materials Transportation", under Docket HM–126F which proposed new training requirements for those persons involved in the transportation of hazardous materials. If and when this proposal and HM–126F become final rules, RSPA will make the necessary editorial changes to assure regulatory consistency;

—The annual effective dose equivalent of transport workers exposed to radiation would be limited to 50 milliSieverts (5 rems), which additional

limits of 150 milliSieverts (15 rems) for exposure of the lens of the eye and 500 milliSieverts (50 rems) for exposure of any other organ, tissue, or extremity of the body;

—Effective dose equivalent to an unborn child would be restricted to 5 milliSieverts (500 millirems); and

—Radiation exposures would be subject to a graded approach for actions to be used to control radiation. This approach would be determined by the magnitude and likelihood of exposure.

Section 173.410, "General design requirements", would be amended as follows:

—A package would have to be capable of withstanding the effects of acceleration, vibration or vibration resonance during transport;

—The materials of the packaging and any components would have to be chemically and physically compatible;

—All values through which the package contents could escape would have to be protected; and

—A package intended for air transport would have to be designed to withstand reduced temperature and pressure during transport;

—A package would be required to have a minimum dimension of 10 cm. (4 inches).

A new §173.411, "Additional design requirements for industrial packages", would be added to specify the requirements for IP-1, IP-2, and IP-3 packages. The IP-1 would have to meet the general design requirements for all packages designed for the transportation of radioactive material. An IP-2 would have to meet the requirements for an IP-1, as well as being subjected to free drop and compression tests specified for a Type A package. An IP-3 would have to meet the requirements for a Type A package for non-liquids.

Section 173.412, "Additional design requirements for Type A packages", would be amended to permit all packages containing liquids to use a double containment system. This would eliminate the current small package prohibition of this practice as well as requiring that expansion of liquids during temperature changes considered during design. This section would also be amended to include a closure requirement on containment systems that are separate unit of the packaging.

A new §173.414, "Authorized industrial packages", would be added to permit the use of IM 101 and IM 102 portable tanks and freight containers as industrial packages.

Section 173.415, "Authorized Type A packages", would be amended to eliminate the reference to DOT Specification 55 packaging, which has not been authorized since July 1, 1985. This section would also be amended to permit the use of Type A packaging that also meets the requirements of the USNRC for fissile materials packaging.

Section 173.416, "Authorized Type B packages", would be amended to eliminate the reference to the DOT Specification 55 packaging. This would also eliminate the use of DOT Specification 55 packaging as an inner container for DOT Specification 20WC and 21WC overpacks.

Section 173.417, "Authorized packaging—fissile materials", would be amended to eliminate references to different fissile classes and to remove a direct reference to authorized packaging for 500 grams of Uranium 235 and 320 grams of plutonium through a cross-reference to the USNRC regulations. In addition, § 173.417(a)(8) and (b)(5) specify the authorized packagings for Type A and Type B, respectively, quantities of fissile radioactive material. Section 173.417(b)(5)(iii) limits the amount of uranium hexafluoride in a package to the amount specified in "Table 6—Authorized Quantities Of Uranium Hexafluoride ($UF_6$) As Fissile Class II" (Table 6). In Table 6, however, only DOT specifications 20PF-1 and 20PF-2 are authorized to contain a Type B quantity of uranium hexafluoride. Therefore, § 173.417(b)(5) would be revised to authorize only the DOT specifications 20PF-1 and 20PF-2 for the transportation of Type B quantities of uranium hexafluoride.

Section 173.421-1, "Excepted packages for limited quantities of radioactive material" would be amended to require compliance with the design requirements of § 173.410.

Section 173.421-1, "Additional requirements for excepted packages", would be amended to incorporate new proper shipping names and new UN identification numbers for excepted packages.

Section 173.422, "Excepted packages for instruments and articles," would be amended to require that the instrument or article be marked with the word "radioactive".

Section 173.423, "Table of activity limits—excepted quantities and articles", would be amended to remove the direct reference to tritiated water.

Section 173.425, "Transport requirements for low specific activity material (LSA) and surface contaminated objects (SCO)", would be amended to limit the activity in any LSA or SCO package to $2A_1$, and to specify the appropriate industrial package for LSA and SCO transport in a new Table 8, "Industrial package integrity requirements for LSA material and SCO."

Section 173.433, "Requirements for determination of $A_1$ and $A_2$ values for radionuclides", would be completely amended to incorporate a less complex method for calculating the $A_1$ and $A_2$ values.

Section 173.435, "Table for $A_1$ and $A_2$ values for radionuclides", would be amended to incorporate new A values as specified in the IAEA regulations.

Section 173.447, "Storage incident to transportation—general requirements", would be amended to delete references to fissile classes.

Section 173.448, "General transportation requirements", would be amended to delete references to fissile classes.

Section 173.453, "Fissile materials—exceptions", would be amended by deleting the exception for thermal reactor irradiated uranium and for thorium or uranium with not more than 0.72% fissile material.

Section 173.455, "Classification of fissile materials packages", would be deleted entirely because of the elimination of fissile classes.

Section 173.457, "Transportation of fissile material, controlled shipment-requirements", would redefine fissile class III shipments in terms of a new fissile material, controlled shipment.

Section 173.459, "Mixing of fissile materials packages", would be amended to delete references to fissile classes and express shipment controls in terms of fissile material, controlled shipments.

Section 173.461, "Demonstration of compliance with tests", would be amended to clarify that surrogate materials would be used in packaging to demonstrate compliance with the performance requirements for the package.

Section 173.469, "Tests for special form radioactive material", would be amended to add an alternative method to qualify special form radioactive material under the specific impact and temperature tests prescribed in the specified standard of the ISO.

A new § 173.470, "Test for LSA-III material", would be added to specify a leak test to examine the solid nature of the material for qualification of the material as LSA-III.

Section 173.471, "Requirements for U.S. Nuclear Regulatory Commission Approved packages", would be amended to require that the applicant submit a description, to RSPA, of the quality assurance program in effect during the design, manufacture, testing, documentation, use, maintenance, and

inspection of the package as required by the IAEA.

Section 173.472, "Requirements for exporting DOT Specification Type B and fissile packages", would be amended to require that the applicant submit a description, to RSPA, of the quality assurance program in effect during the design, manufacture, testing, documentation, use, maintenance, and inspection of the package as required by the IAEA.

Section 173.476, "Approval of special form radioactive materials", would be amended to require that the applicant provide evidence of the quality assurance program in effect during the design, manufacture, testing, documentation, use, maintenance, and inspection of the package as required by the IAEA.

Section 173.477, "Approval for export shipments", would be amended to delete references to fissile classes. Additionally, a new subparagraph specifying the contents of an application for shipment approval under special arrangement would be addressed.

Section 173.478, "Notification to competent authorities for export shipments", would be amended to delete references to fissile classes and would require additional information to be submitted to other national competent authorities for special arrangement shipments. Specifically, a notification of a special arrangement shipment will be required to include the name of the radionuclide, a description of the physical and chemical form, and the activity of the material.

In the modal requirements, parts 174 through 177, those sections involving radioactive material transportation would be updated to reflect the proposed changes in parts 171 through 173. Some of these proposed changes include the addition of metric and SI units and changes in regulatory references. In addition, those proposed changes to part 177, entitled "Carriage by Public Highway", will also be incorporated into a future rulemaking being developed by RSPA which will propose to recodify part 177.

## II. Administrative Notices

### *A. Executive Order 12291*

The RSPA has determined that this proposed rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A preliminary regulatory evaluation is available for review in the Docket.

### *B. Executive Order 12612*

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

### *C. Impact on Small Entities*

Based on limited information concerning size and nature of entities likely to be affected, I certify that the proposed regulation will not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

### *D. Paperwork Reduction Act*

Information collection requirements contained in this proposal, which are additional to those already approved, are being submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511).

### List of Subjects

*49 CFR Part 171*

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

*49 CFR Part 172*

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

*49 CFR Part 173*

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 174*

Hazardous materials transportation, Rail carriers, Radioactive materials.

*49 CFR Part 175*

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 176*

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 177*

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 178*

Hazardous materials transportation, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171 through 178 would be amended as follows:

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR part 1.

2. In § 171.7, paragraph (d)(10), (d)(16)(ii) and (d)(24) would be revised and paragraphs (c)(36) and (d)(34) would be added, to read as follows:

**§ 171.7 Matter incorporated by reference.**

* * * * *

(c) * * *

(36) USEPA: United States Envorinmental Protection Agency, Washington, DC 20460.

* * * * *

(d) * * *

(10) IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1985 Edition" including "Supplement 1988".

* * * * *

(16) * * *

(ii) USDOE, ORO–651 is titled, "Uranium Hexaflouride Handling Procedures and Container Descriptions," Revision 5, 1987 edition.

* * * * *

(24) International Organization for Standardization (ISO):

(i) "ISO 82–1974(e) Steel-Tensile Testing," First Edition 1974–08–01.

(ii) ISO/TR4826–1979(E), "Sealed radioactive sources—Leak test methods."

(iii) ISO 2919–1980(E), "Sealed radioactive sources—Classification."

(iv) ISO 1496/1–1978, "Series 1 Freight Containers—Specifications and Testing—Part 1: General Cargo Containers."

* * * * *

(34) U.S. Environmental Protection Agency, "Radiation Protection Guidance to Federal Agencies for Occupational Exposure: Recommendations Approved by the President", published in the **Federal Register** January 27, 1987 (52 FR 2822).

* * * * *

3. In § 171.12, paragraph (e) introductory text and paragraph (e)(4) would be revised to read as follows:

**§ 171.12 Import and export shipments.**

* * * * *

(e) Radioactive materials being imported into or exported from the United States, or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation when packaged, marked, labeled and otherwise prepared for shipment in accordance with IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1985 Edition" including "Supplement 1988", if:

* * * * *

(4) The country of origin for the shipment has adopted the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6, 1985 Edition", including "Supplement 1988"; and

* * * * *

## PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATION REGULATIONS

4. The authority citation for part 172 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1, unless otherwise noted.

5. The following entries in the Hazardous Materials Table in § 172.101, would be added or removed, as indicated:

**172.101 Hazardous Materials Table**

| (1) | (2) Hazardous materials descriptions and proper shipping names | (3) Hazard Class | (3A) Identification number | (4) Label(s) required (if not excepted) | (5) Packaging | | (6) Maximum net quantity in one package | | (7) Water shipments | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| +/A/W | | | | | (a) Exceptions | (b) Specific requirements | (a) Passenger carrying aircraft or railcar | (b) Cargo only aircraft | (a) Cargo vessel | (b) Passenger vessel | (C) Other requirements |
| | ADD | | | | | | | | | | |
| | Radioactive material, excepted package—articles manufactured from natural *or* depleted uranium *or* natural thorium. | Radioactive material. | UN 2910 | None | 173.421-1<br>173.424 | 173.421-1<br>173.424 | | | 1,2 | 1,2 | |
| | Radioactive material, excepted package—empty packaging. | do | UN 2910 | Empty | 173.421<br>173.421-1<br>173.427 | 173.421-1<br>173.427 | | | 1,2 | 1,2 | |
| | Radioactive material, excepted package—instrument *or* articles. | do | UN 2910 | None | 173.421-1<br>173.422 | 173.421-1<br>173.422 | | | 1,2 | 1,2 | |
| | Radioactive material, excepted package—limited quantity, n.o.s. | do | UN 2910 | None | 173.421<br>173.421-1 | 173.421<br>173.421-1 | | | 1,2 | 1,2 | |
| | Radioactive material, surface contaminated object (SCO). | do | UN 2913 | Radioactive | 173.421<br>173.422<br>173.424 | 173.425 | | | 1,2 | 1,2 | |
| | Uranium hexafluoride *fissile excepted or non-fissile.* | do | UN 2978 | Radioactive and corrosive. | 173.421 | 173.420<br>173.425 | | | 1,2 | 1,2 | |
| | REMOVE | | | | | | | | | | |
| | Radioactive material, articles, manufactured from natural or depleted uranium or natural thorium. | do | UN 2909 | None | 173.421-1 | 173.421-1 | No limit | No limit | 1,2 | 1,2 | |

| (1) | (2) Hazardous materials descriptions and proper shipping names | (3) Hazard Class | (3A) Identification number | (4) Label(s) required (if not excepted) | (5) Packaging | | (6) Maximum net quantity in one package | | (7) Water shipments | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| +/A/W | | | | | (a) Exceptions | (b) Specific requirements | (a) Passenger carrying aircraft or railcar | (b) Cargo only aircraft | (a) Cargo vessel | (b) Passenger vessel | (C) Other requirements |
| | Radioactive material, empty packages. | do | UN 2908 | Empty | 173.421-1 173.427 | 173.421-1 173.427 | | | 1,2 | 1,2 | |
| | Radioactive material, instruments and articles. | do | UN 2911 | None | 173.421-1 173.422 | 173.421-1 173.422 | | | 1,2 | 1,2 | |
| | Radioactive material, limited quantity, n.o.s. | do | UN 2910 | None | 173.421 173.421-1 | 173.421 173.421-1 | | | 1,2 | 1,2 | |
| | Uranium hexafluoride, low specific activity. | do | UN 2979 | Radioactive and corrosive. | 173.421-2 | 173.420 173.425 | | | 1,2 | 1,2 | |

6. In § 172.203, paragraphs (d)(1)(iii) and (d)(1)(vi) would be revised and paragraphs (d)(1)(ix) and (d)(1)(x) would be added to read as follows:

**§ 172.203 Additional description requirements.**

* * * * *

(d) * * *

(1) * * *

(iii) The activity contained in each package of the shipment in terms of the appropriate SI units (e.g. Becquerel, Terrabecquerel, etc.) or in terms of the appropriate SI units and customary units (e.g. Curies, millicuries, etc.). Abbreviations are authorized. For the shipment of a package containing a highway route controlled quantity of radioactive materials see § 173.403 of this subchapter) the words "Highway route controlled quantity" must be entered in association with the basic description.

* * * * *

(vi) For a shipment of fissile radioactive materials:

(A) The words "Fissile Excepted" if the package is excepted pursuant to § 173.453 of this subchapter, or

(B) If not exempt, the words "Fissile Materials;" and

(C) For a fissile material, controlled shipment, the additional notation: "Warning—Fissile Material, Controlled Shipment. Do not Load More Than * * * Packages per Vehicle." (Asterisks to be replaced by appropriate number.) "In loading and Storage Areas, Keep at Least 6 Meters (20 Feet) from Other Packages Bearing Radioactive Labels."

(D) If a fissile material, controlled shipment is to be transported by water, the supplementary notation must also include the following statement: "For shipment by water, only one fissile material, controlled shipment is permitted in each hold."

* * * * *

(ix) For a shipment of low specific activity material or surface contaminated objects, the appropriate group notation of LSA-I, LSA-II, LSA-III, SCO-I, or SCO-II.

(x) For a shipment consigned as exclusive use, the statement "Exclusive Use Shipment".

* * * * *

7. Section 172.310 would be revised to read as follows:

**§ 172.310 Radioactive materials.**

In addition to any other markings required by this subpart, each package containing radioactive materials must be marked as follows:

(a) Each package of radioactive materials in excess of 50 kilograms (110 pounds) must have its gross weight plainly and durably marked on the outside of the package.

(b) Each package of radioactive materials which conforms to the requirements for Type A or Type B packaging (§ 173.403 of this subchapter) must be plainly and durably marked on the outside of the package in letters at least 13 mm (0.5 inch) high, with the words "TYPE A" or "TYPE B" as appropriate. A packaging which is not in compliance with these requirements may not be so marked.

(c) Each package of radioactive materials destined for export shipment must also be marked "USA" in conjunction with the specification marking, or other package certificate identification. (See §§ 173.471, 173.472, and 173.473 of this subchapter.)

(d) Each package of radioactive materials which conforms to the requirements for Type B, Type B(U) or Type B(M) packaging must be plainly and durably marked on the outside of the package with a radiation symbol that conforms to the requirements of paragraph 1.(c)(17) of Appendix B to Part 172.

**§ 172.400 [Amended]**

8. In § 172.400, paragraph (b)(10) would be removed and reserved.

9. In § 172.403, paragraphs (b), (c) and (g)(2) would be revised to read as follows:

**§ 172.403 Radioactive material.**

* * * * *

(b) The proper label to affix to a package of radioactive material is based on the radiation level at the surface of the package and the transport index (§ 173.403 of this subchapter). The proper category of label must be determined in accordance with paragraph (c) of this section. The label to be applied must be the highest category required for any of the two determining conditions for the package. Radioactive White-I is the lowest category and Radioactive Yellow-III is the highest. For example: a package with a transport index of 0.8 and a maximum surface radiation level of 0.6 milliSievert (60 millirems) per hour must bear a Radioactive Yellow-III label.

(c) Category of Label to be Applied to Radioactive Materials Packages:

| Transport index | Maximum radiation level at any point on external surface | Label category [1] |
|---|---|---|
| 0 [2] | Not more than 0.005 mSv/h (0.5 mrem/h). | WHITE-I. |

| Transport index | Maximum radiation level at any point on external surface | Label category [1] |
|---|---|---|
| More than 0 but not more than 1. | More than 0.005 mSv/h (0.5 mrem/h) but not more than 0.5 mSv/h (50 mrem/h). | YELLOW-II. |
| More than 1 but not more than 10. | More than 0.005 mSv/h (50 mrem/h) but not more than 2 mSv/h (200 mrem/h). | YELLOW-III. |
| More than 10.... | More than 2 mSv/h (200 mrem/h) but not more than 10 mSv/h (1,000 mrem/h). | YELLOW-III (Must be shipped under exclusive use provisions). |

[1] Any package containing a "highway route controlled quantity" (§ 173.403 of this subchapter) must be labeled as Radioactive Yellow-III.

[2] If the measured TI is not greater than 0.05, the value quoted may be zero.

* * * * *

(g) * * *

(2) "Activity". Activity units must be expressed in appropriate SI units (e.g., Becquerels (Bq), Terabecquerels (TBq), etc.) or in appropriate SI units (e.g., Becquerels (Bq), Terabecquerels (TBq), etc.) and appropriate customary units (Curies (Ci), milliCuries (mCi), microCuries (uCi), etc.). Abbreviations are authorized. For fissile material, the weight in grams or kilograms of the fissile radionuclide may be inserted instead of activity units.

* * * * *

10. In § 172.407, paragraph (k) would be added to read as follows:

**§ 172.407 Label specifications.**

* * * * *

(k) The trefoil symbol on the RADIOACTIVE WHITE-I, RADIOACTIVE YELLOW-II, and RADIOACTIVE YELLOW-III labels must meet the appropriate specifications in paragraph 1. (c)(17) of Appendix B to part 172.

**§ 172.504 [Amended]**

11. In Table 1 of § 172.504, the entry "RADIOACTIVE [4, 5] AND CORROSIVE.[6] " in the second column would be revised to read "RADIOACTIVE [4] AND CORROSIVE.[6] " and the fifth footnote would be revised to read as follows:

[5] For exclusive use shipments (see § 173.403) of low specific activity radioactive materials and surface contaminated objects transported in accordance with § 173.425(g).

12. In § 172.507, paragraph (a) would be revised to read as follows:

**§ 172.507 Special placarding provisions: Highway.**

(a) Each motor vehicle used to transport a package of highway route controlled quantity radioactive materials (see § 173.403 of this subchapter) must have the required RADIOACTIVE warning placard placed on a square background as described in § 172.527.

* * * * *

13. In appendix B to part 172, paragraph 1.(c)(17) would be revised to read as follows:

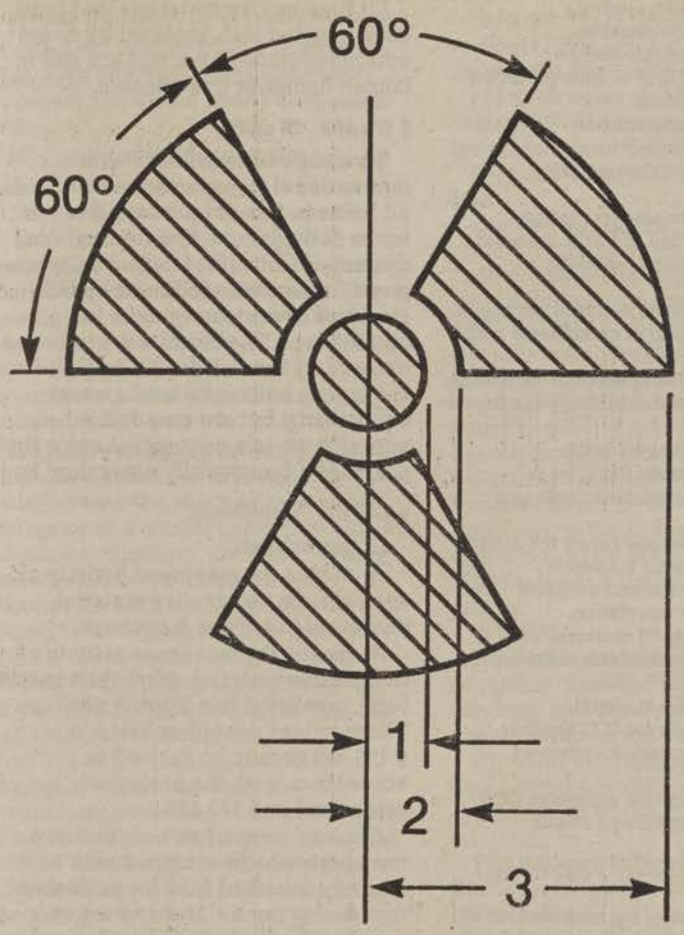
**Appendix B-Dimensional Specification for Placards**

1. * * *

(c) * * *

(17) *RADIOACTIVE placard.* The word "RADIOACTIVE" must be centered on the placard horizontal center line in letters 50.8 mm. (2 in.) with an 8.7 mm. (11/32-in.) stroke. The lower edge of the yellow triangle must be 28.6 mm. (1⅛ in.) above the placard horizontal center line. The lower edge of the symbol must be 31.7 mm. (1.25 in.) above the placard horizontal center line. The symbol must be made as shown with the following dimensions:

BILLING CODE 4910-60-M




1 = Radius of Circle—
Minimum Dimensions
4 mm (0.16 inch) for marking
5 mm (0.2 inch) for labels
12.5 mm (0.5 inch) for placards

2 = 2 Radii

3 = 5 Radii

BILLING CODE 4910-60-C

The lower white area must have a 3.2 mm. (⅛-inch) black solid line border extended from the edge of the yellow area to indicate the outer 12.7 mm. (½ in.) white placard border. The hazard class must be shown in numerals measuring at least 41.0 mm. (1.62 in.) in height. The placard color must be yellow, black, and white.

* * * * *

## PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

14. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

15. Subpart I of part 173 would be revised to read as follows:

### Subpart I—Radioactive Materials

173.401 Scope.
173.402 SI units.
173.403 Definitions.
173.404 U.S. Competent Authority.
173.405 General radiation protection principles.
173.410 General design requirements.
173.411 Additional design requirements for industrial packages.
173.412 Additional design requirements for Type A packages.
173.413 Requirements for Type B packages.
173.414 Authorized industrial packages.
173.415 Authorized Type A packages.
173.416 Authorized Type B packages.
173.417 Authorized fissile materials packages.
173.418 Authorized packages—pyrophoric radioactive materials.
173.419 Authorized packages—oxidizing radioactive materials.
173.420 Uranium hexafluoride (fissile, fissile excepted and non-fissile).
173.421 Excepted packages for limited quantities of radioactive materials.
173.421–1 Additional requirements for excepted packages containing radioactive materials.
173.421–2 Requirements for multiple hazard limited quantity radioactive materials.
173.422 Excepted packages for instruments and articles.
173.423 Table of activity limits—excepted quantities and articles.
173.424 Excepted packages for articles containing natural uranium or thorium.
173.425 Transport requirements for low specific activity (LSA) radioactive materials and surface contaminated objects (SCO).
173.427 Empty radioactive materials packaging.
173.431 Activity limits for Type A and Type B packages.
173.433 Requirements for determinations of $A_1$ and $A_2$ values for radionuclides.
173.434 Activity-mass relationships for uranium and natural thorium.
173.435 Table of $A_1$ and $A_2$ values for radionuclides.
173.441 Radiation level limitations.
173.442 Thermal limitations.
173.443 Contamination control.
173.444 Labeling requirements.
173.446 Placarding requirements.
173.447 Storage incident to transportation—general requirements.
173.448 General transportation requirements.
173.451 Fissile materials—general requirements.
173.453 Fissile materials—exceptions.
173.457 Transportation of fissile material, controlled shipments—specific requirements.
173.459 Mixing of fissile material packages.
173.461 Demonstration of compliance with tests.
173.462 Preparation of specimens for testing.
173.463 Packaging and shielding—testing for integrity.
173.465 Type A packaging tests.
173.466 Additional tests for Type A packagings designed for liquids and gases.
173.467 Tests for demonstrating the ability of Type B and fissile materials packagings to withstand accident conditions in transportation.
173.468 Test for LSA–III material.
173.469 Tests for special form radioactive materials.
173.470 Tests for LSA material.
173.471 Requirements for U.S. Nuclear Regulatory Commission approved packages.
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173.473 Requirements for foreign-made packages.
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### Subpart I—Radioactive Materials

#### § 173.401 Scope

(a) This subpart sets forth requirements for the packaging and transportation of radioactive materials by carriers and shippers subject to this subchapter. The requirements prescribed in this subpart are in addition to, not in lieu of, other requirements set forth in this subchapter and in 10 CFR Part 71 for the packaging and transportation of radioactive materials.

(b) This subpart does not apply to:

(1) Radioactive materials produced, used, transported, or stored within an establishment other than during the course of transportation.

(2) Radioactive materials contained in a medical device, such as a heart pacemaker, which is implanted in a human being or live animal.

(3) Radioactive materials that have been injected into, ingested by or are otherwise placed into, and are still in human beings or live animals.

#### § 173.402 SI units.

To ensure compatibility with international transportation standards, all limits in this Subpart are given in terms of dual units. The International System of Units (SI) (metric) units are given first and are followed by U.S. standard or customary units in parentheses. The SI units are intended to serve as the standard. The U.S. customary units may not be exact equivalents, but are rounded, where appropriate, to a convenient value that provides a functionally equivalent limit.

#### § 173.403 Definitions.

In this subpart:

$A_1$ means the maximum activity of special form radioactive material permitted in a Type A package.

$A_2$ means the maximum activity of radioactive material, other than special form, permitted in a Type A package. These values are either listed in § 173.435 or may be derived in accordance with the procedure prescribed in § 173.433.

*Closed transport vehicle* means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive materials. The enclosure may be either temporary or permanent, and in the case of packaged materials may be of the "see-through" type, and must limit access from top, sides, and ends.

*Containment system* means the assembly of components of the packaging intended to retain the radioactive contents during transportation. "Contamination" means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm$^2$ ($10^{-5}$ microcuries/cm$^2$) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm$^2$ ($10^{-6}$ microcuries/cm$^2$) for all other alpha emitters. Low toxicity alpha emitters are (1) natural uranium, depleted uranium, natural thorium uranium-235, uranium-138, thorium-232, thorium-228 and thorium-230, when contained in ores, or physical or chemical concentrates or (2) alpha emitters with a half-life of less than days.

*Conveyance* means:

(1) For transport by public highway or rail: any transport vehicle or large freight container;

(2) For transport by water: any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and

(3) For transport by aircraft: any aircraft.

*Design* means the description of a special form radioactive material, a package, or a packaging, that enables those items to be fully identified. The description may include specifications, engineering drawings, reports showing compliance with regulatory requirements, and other relevant documentation.

*Exclusive use* (also referred to in other regulations as "sole use" or "full load") means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions in writing for maintenance of exclusive use shipment controls and include them with the shipping paper information provided to the carrier by the consignor.

***Fissile material*** **means plutonium-238, plutonium-239, plutonium-241, uranium-233, uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium which has been irradiated in thermal reactors only are not included in this definition. Certain exclusions are provided in § 173.453.**

*Fissile material, controlled shipment* means any shipment that contains one or more packages that have been assigned nuclear criticality control transport indices greater than 10.

*Freight container* means a reusable container having a volume of 1.81 cubic meters (64 cubic feet) or more, designed and constructed to permit its being lifted with its contents intact and intended primarily for containment of packages in unit form during transportation. A "small freight container" is one which has either one outer dimension less than 1.5 meters (4.9 feet) or an internal volume of not more than 3.0 cubic meters (106 cubic feet). All other freight containers are designated as "large freight containers."

*Highway route controlled quantity* means a quantity within a single package which exceeds:

(1) 3,000 times the $A_1$ value of the radionuclides as specified in § 173.435 for special form radioactive material;

(2) 3,000 times the $A_2$ value of the radionuclides as specified in § 173.435 for normal form radioactive material; or

(3) 1,000 TBq (27,000 Ci), whichever is least.

*Limited quantity of radioactive material* means a quantity of radioactive material not exceeding the materials package limits specified in § 173.423 and conforming with requirements specified in § 173.421.

*Low specific activity material (LSA)* means radioactive material with limited specific activity that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material must not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(1) LSA-I

(i) Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

(ii) Solid unirradiated natural uranium or depleted uranium or natural thorium or their solid or liquid compounds or mixtures; or

(iii) Radioactive material, other than fissile material, for which the $A_2$ value is unlimited; or

(iv) Contaminated soil in a closed transport vehicle for which the estimated average specific activity does not exceed $10^{-6}A_2/g$.

(2) LSA-II

(i) Water with tritium concentration up to 0.8 TBq/l (20 Ci/l); or

(ii) Other material in which the radioactive material is distributed throughout and the estimated average specific activity does not exceed $10^{-4}A_2/g$ for solids and gases, and $10^{-5}A_2/g$ for liquids.

(3) LSA-III Solids (e.g., consolidated wastes, activated materials) in which:

(i) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

(ii) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insouble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching when placed in water for seven days as determined by the tests prescribed in § 173.470 would not exceed 0.1 $A_2$; and

(iii) The estimated averge specific activity of the solid does not exceed $2\times10^{-3}A_2/g$.

(iv) The solid will be of such a nature that if the entire contents of a package were subjected to the test specified in § 173.468 of this subchapter, the activity in the water would not exceed 0.1 $A_2$.

*Multilateral approval* means approval of the package or shipment by the relevant competent authority of the country of origin and of each country through or into which the shipment is to be transported. This definition does not mean to imply approval from any country over which radioactive materials are carried in aircraft, if there is no scheduled stop in that country.

*Natural thorium* means thorium with the naturally occurring distribution of thorium isotpes (essentially 100 percent by weight thorium-232).

*Non-fixed radioactive contamination* means radioactive contamination that can be readily removed from a surface by wiping with an absorbent material. Non-fixed (removable) radioactive contamination is not significant if it does not exeed the limits specified in § 173.443.

*Normal form radioactive material* means radioactive material which has not been demonstrated to qualify as "special form radioactive material."

*Package* means, for radioactive materials, the packaging together with its radioactive contents as presented for transport.

(1) *Excepted package* means a packaging together with its excepted radioactive materials as specified in §§ 173.421–173.423.

(2) *Industrial package* means a packaging together with its low specific activity (LSA) material or surface contaminated object (SCO) contents limited to $2A_1$ that meets the requirements of §§ 173.410 and 173.411. An industrial package is classified (see § 173.411) as either:

(i) *Industrial package Type 1 (IP–1);*

(ii) *Industrial package Type 2 (IP–2); or*

(iii) *Industrial package Type 3 (IP–3).*

(3) *Type A package* means a packaging together with its radioactive contents limited to $A_1$ or $A_2$, as appropriate that meets the requirements of §§ 173.410 and 173.412 and is designed to retain the integrity of containment and shielding required by this part under normal conditions of transport as demonstrated by the tests set forth in § 173.465 or § 173.466, as appropriate.

(4) *Type B package* means a Type B packaging together with its radioactive contents that is designed to retain the integrity of containment and shielding required by this part when subjected to the normal conditions of transport and

hypothetical accident test conditions set forth in 10 CFR part 71.

(i) *Type B(U) package* means a Type B packaging, together with its radioactive contents, that for international shipments requires unilateral approval only of the package design and of any stowage provisions that may be necessary for heat dissipation.

(ii) *Type B(M) package* means a Type B packaging, together with its radioactive contents, that for international shipments requires multilateral approval of the package design, and may require approval of the conditions of shipment. Type B(M) packages are those Type B package designs which have a maximum normal operating pressure of more than 700 kilopascals per square centimeter (100 punds per square inch) gauge or a relief device which would allow the release of radioactive material to the environment under the hypothetical accident conditions specified in 10 CFR part 71.

*Packaging* means, for radioactive materials, the assembly of components necessary to ensure compliance with the packaging requirements of this subpart. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, service equipment for filling, emptying, venting and pressure relief, and devices for cooling or absorbing mechanical shocks. The conveyance, tie-down system, and auxiliary equipment may sometimes be designated as part of the packaging.

*Radiation level* means the radiation dose-equivalent rate expressed in millisievert(s) per hour or mSv/h (millirem(s) per hour or mrem/h). Neutron flux densities may be converted into radiation levels according to Table 1:

TABLE 1.—NEUTRON FLUENCE RATES TO BE REGARDED AS EQUIVALENT TO A RADIATION LEVEL OF 0.01 MSV/H (1 MREM/H) [1]

| Energy of Neutron | Flux density equivalent to 0.01 mSv/h (1 mrem/h) (Neutrons per square centimeter per second) ($n/cm^2/s$) |
|---|---|
| Thermal | 268.0 |
| 5 keV | 228.0 |
| 20 keV | 112.0 |
| 100 keV | 32.0 |
| 500 keV | 12.0 |
| 1 MeV | 7.2 |
| 5 MeV | 7.2 |
| 10 MeV | 6.8 |

[1] Flux densities equivalent for energies between those listed above may be obtained by linear interpolation.

*Radioactive instrument and article* means any manufactured instrument and article such as an instrument, clock, electronic tube or apparatus, or similar instrument and article having radioactive material in gaseous or non-dispersible solid form as a component part.

*Radioactive contents* means the radioactive material, together with any contaminated liquids or gases, within the package.

*Radioactive material* means any material having a specific activity greater than 70 Bq (0.002 microcurie per gram) (see definition of "specific activity").

*Special form radioactive material* means radioactive material which satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

(3) It satisfies the test requirements of § 173.469. Special form encapsulations designed in accordance with the requirements of § 173.389(g) in effect on June 30, 1983, and constructed prior to July 1, 1985 and special form encapsulations designed in accordance with the requirements of § 173.403 in effect on June 30, 1989, and constructed prior to July 1, 1991, may continue to be used. Any other special form encapsulation must meet the requirements of this paragraph.

*Specific activity* of a radionuclide, means the activity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the activity per unit mass of the material.

*Surface Contaminated Object (SCO)* means a solid object which is not itself radioactive but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(1) SCO-I: A solid object on which:

(i) The non-fixed contamination on the accessible surface averaged over 300 $cm^2$ (or the area of the surface if less than 300 $cm^2$) does not exceed 4 $Bq/cm^2$ ($10^{-4}$ microcurie/$cm^2$) for beta and gamma and low toxicity alpha emitters, or 0.4 $Bq/cm^2$ ($10^{-5}$ microcurie/$cm^2$) for alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 $cm^2$ (or the area of the surface if less than 300 $cm^2$) does not exceed $4\times10^4$ $Bq/cm^2$ (1.0 microcurie/$cm^2$) for beta and gamma and low toxicity alpha emitters, or $4\times10^3$ $Bq/cm^2$-(0.1 microcurie/$cm^2$) for alpha emitters; and

(iii) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 $cm^2$ (or the area of the surface if less than 300 $cm^2$) does not exceed $4\times10^4$ $Bq/cm^2$ (1 microcurie/$cm^2$) for beta and gamma and low toxicity alpha emitters, or $4\times10^3$ $Bq/cm^2$ (0.1 microcurie/$cm^2$) for all other alpha emitters.

(2) SCO-II: A solid object on which the limits for SCO-I are exceeded and on which:

(i) The non-fixed contamination on the accessible surface averaged over 300 $cm^2$ (or the area of the surface if less than 300 $cm^2$) does not exceed 400 $Bq/cm^2$ ($10^{-2}$ microcurie/$cm^2$) for beta and gamma and low toxicity alpha emitters or 40 $Bq/cm^2$ ($10^{-3}$ microcurie/$cm^2$) for all other alpha emitters;

(ii) The fixed contamination on the surface averaged over 300 $cm^2$ (or the area of the surface if less than 300 $cm^2$) does not exceed $8\times10^5$ $Bq/cm^2$ (20 microcurie/$cm^2$) for beta and gamma and low toxicity alpha emitters, or $8\times10^{54}$ $Bq/cm^2$ (2 microcuries/$cm^2$) for all other alpha emitters; and

(iii) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 $cm^2$ (or the area of the surface if less than 300 $cm^2$) does not exceed $8\times10^5$ $Bq/cm^2$ (20 microcuries/$cm^2$) for beta and gamma and low toxicity alpha emitters, or $8\times10^4$ $Bq/cm^2$ (2 microcuries/$cm^2$) for all other alpha emitters.

*Transport index* means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:

(1) For nonfissile material packages, the number determined by multiplying the maximum radiation level in milliSievert(s) per hour at one meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 feet)); or

(2) For fissile material packages, the number determined by multiplying the maximum radiation level in milliSievert per hour at one meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 feet)) or, for criticality control purposes, the number obtained by dividing 50 by the allowable number of

packages which may be transported together, whichever is larger.

*Unilateral approval* means approval of the package solely by the competent authority of the country of origin.

*Unirradiated thorium* means thorium containing not more than $10^{-7}$ grams uranium-233 per gram of thorium-232.

*Unirradiated uranium* means uranium containing not more than $10^{-6}$ grams plutonium per gram of uranium-235 and a fission product activity of not more than 9 MBq (0.20 millicuries) of fission products per gram of uranium-235.

*Uranium—natural, depleted or enriched:*

(1) *Natural uranium* means uranium with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder essentially uranium-238).

(2) *Depleted uranium* means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

*(3) Enriched uranium* means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

**§ 173.404 U.S. competent authority.**

The U.S. Competent Authority responsible for administering the requirements of Sections II and VII of the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," and Subpart I is the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation (OHMT), 400 Seventh Street, SW., Washington, DC 20590.

**§ 173.405 General radiation protection principles.**

Persons involved in the offering and accepting of packages containing radioactive materials for transportation shall maintain a radiation protection program in accordance with this section.

(a) The radiation exposure of transport workers must be in accordance with the recommendations specified in the Environmental Protection Agency's "Radiation Protection Guidance to Federal Agencies for Occupational Exposure (January 1987)."

(b) Radiation exposures from the handling, storage and transport of radioactive material must be kept as low as is reasonably achievable (ALARA). The term "as low as is reasonably achievable" means as low as is reasonably achievable taking into account the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations.

(c) Transport workers must be given appropriate training concerning the radiation hazards involved and the precautions to be observed.

(d) The nature and extent of the measures to be employed in controlling radiation exposures must be related to the magnitude and likelihood of the exposures. As a minimum, for individual occupationally-exposed workers:

(1) If the dose received is not likely to exceed 5 millisievert (500 millirem) per year, neither special work patterns nor detailed monitoring or assessment of radiation doses are required;

(2) If the dose received is likely to be between 5 mSv (500 mrem) and 15 mSv (1500 mrem) per year, periodic assessments of radiation exposure levels must be conducted;

(3) If the dose received is likely to be between 15 mSv (1500 mrem) and 50 mSv (5000 mrem) per year, individual radiation exposure monitoring programs and special health supervision are required.

(e) The radiation exposures to members of the general public must not exceed radiation levels that, if an individual were continuously present in the area, could result in exposures to that individual of:

(1) 0.02 mSv (2 mrem) in any hour;

(2) 1.0 mSv (100 mrem) in any week; or

(3) 5.0 mSv (50 mrem) in any twelve-month period.

**§ 173.410 General design requirements.**

In addition to the requirements of § 173.24, each package used for the shipment of radioactive materials must be designed so that:

(a) The package can be easily handled and properly secured in or on a conveyance during transport;

(b) Each lifting attachment that is a structural part of the package must be designed with a minimum safety factor of three against yielding when used to lift the package in the intended manner, and it must be designed so that failure of any lifting device under excessive load would not impair the ability of the package to meet other requirements of this subpart. Any other structural part of the package which could be used to lift the package must be capable of being rendered inoperable for lifting the package during transport or must be designed with strength equivalent to that required for lifting attachments.

(c) The external surface, as far as practicable, will be free from protruding features and will be easily decontaminated;

(d) The outer layer of packaging will avoid, as far as practicable, pockets or crevices where water might collect;

(e) Each feature that is added to the package at the time of transport, and that is not a part of the package, will not reduce the safety of the package;

(f) The package will be capable of withstanding the effects of any acceleration, vibration or vibration resonance that may arise under normal conditions of transport without any deterioration in the effectiveness of the closing devices on the various receptacles or in the integrity of the package as a whole and without loosening or unintentionally releasing the nuts, bolts, or other securing devices even after repeated use;

(g) The materials of the packaging and any components or structure will be physically and chemically compatible with each other and with the package contents. The behavior of the packaging and the package contents under irradiation will be taken into account;

(h) All valves through which the package contents could escape will be protected against unauthorized operations; and

(i) The smallest external dimension of the package is not less than 10 centimeters (4 inches);

(j) For transport by air:

(1) The temperature of the accessible surfaces of the package will not exceed 50 °C (122 °F) at an ambient temperature of 38 °C (100 °F) with no account taken for insolation;

(2) The integrity of containment will not be impaired if the package is exposed to ambient temperatures ranging from −40 °C (−40 °F) to +55 °C (131 °F); and

(3) Packages containing liquid contents will be capable of withstanding without leakage an internal pressure that produces a pressure differential of not less than 95 kPa (13.8 lb/in$^2$).

**§ 173.411 Additional design requirements for industrial packages.**

(a) An industrial package Type 1 (IP–1) must meet the general design requirements prescribed in § 173.410.

(b) In addition to meeting the requirements for an IP–1, an industrial package Type 2 (IP–2) when subjected to the tests specified in § 173.465(c) and § 173.465(d) or evaluated against these tests by any of the methods authorized by any of the methods authorized by § 173.461(a), must prevent:

(1) Loss or dispersal of the radioactive contents; and

(2) Significant increase in the radiation levels recorded or calculated

at the external surfaces for the condition before the test.

(c) In addition to meeting the requirements for an IP-1, an industrial package Type 3 (IP-3) must meet the requirements specified in § 173.412(a) through § 173.412(i).

**§ 173.412 Additional design requirements for Type A packages.**

In addition to meeting the general design requirements prescribed in § 173.410, each Type A packaging must be designed so that:

(a) The outside of the packaging incorporates a feature, such as a seal, that is not readily breakable, and that, while intact, is evidence that the package has not been opened. In the case of packages shipped in exclusive use closed transport vehicles, the cargo compartment, instead of the individual packages, may be sealed;

(b) Containment and shielding is maintained during transportation and storage in a temperature range of −40 °C (−40 °F) to 70 °C (158 °F). Special attention will be given to liquid contents and to the potential degradation of the packaging materials within the temperature range.

(c) The packaging must include a containment system securely closed by a positive fastening device that cannot be opened unintentionally or by pressure that may arise within the package during normal transport. Special form radioactive material, as demonstrated in accordance with § 173.469 may be considered as a component of the containment system. If the containment system forms a separate unit of the package, it must be securely closed by a positive fastening device that is independent of any other part of the package;

(d) For each component of the containment system account is taken, where applicable, of radiolytic decomposition of materials and the generation of gas by chemical reaction and radiolysis;

(e) The containment system will retain its radioactive contents under the reduction of ambient pressure to 25 kPa (3.6 pounds per square inch);

(f) Each valve other than a pressure relief device, is provided with an enclosure to retain any leakage;

(g) Any radiation shield that encloses a component of the packaging specified as part of the containment system will prevent the unintentional escape of that component from the shield;

(h) Failure of any tie-down attachment on the packaging under both normal and accident conditions will not impair the ability of the package to meet other requirements of this subpart;

(i) When evaluated against the performance requirements of this section and the tests specified in § 173.465 or using any of the methods authorized by § 173.461(a), the packaging will prevent:

(1) Loss or dispersal of the radioactive contents; and

(2) Any significant increase in the radiation levels recorded or calculated at the external surfaces for the condition before the test;

(j) Each packaging designed for liquids will:

(1) Be designed to provide for ullage to accommodate variations in temperature of the contents, dynamic effects and filling dynamics;

(2) Meet the conditions prescribed in paragraph (i) of this section when subjected to the tests specified in § 173.466 or evaluated against these tests by any of the methods authorized by § 173.461(a); and

(3) Either—

(i) Have sufficient suitable absorbent material to absorb twice the volume of the liquid contents. The absorbent material shall be compatible with the package contents and suitably positioned to contact the liquid in the event of leakage; or

(ii) Have a containment system composed of primary inner and secondary outer containment components designed to assure retention of the liquid contents within the secondary outer components in the event that the primary inner components leak; and

(k) Each package designed for gases, other than tritium not exceeding 40 TBq (1000Ci) or noble gases not exceeding the $A_2$ value appropriate for the noble gas, will be able to prevent loss or dispersal of contents when the package is subjected to the tests prescribed in § 173.466 or evaluated against these tests by any of the methods authorized by § 173.461(a).

**§ 173.413 Requirements for Type B packages.**

Each Type B(U) or Type B(M) package must be designed and constructed to meet the applicable requirements in 10 CFR part 71.

**§ 173.414 Authorized industrial packages.**

The following packages are authorized for shipment of low specific activity (LSA) material and surface contaminated objects (SCO) not exceeding $2A_1$:

(a) Any package that meets the requirements of § 173.411 and is used as prescribed in Table 8 of § 173.425.

(b) Specification IM 101 or IM 102 portable tanks (§§ 178.270, 178.271, 178.272 of this subchapter) being used as IP-2 or IP-3 provided that they:

(1) Satisfy the requirements for IP-2 or IP-3, respectively, specified in § 173.411;

(2) Are capable of withstanding a test pressure of 265 kPa (37.1 pounds per square inch) gauge;

(3) Are designed so that any added shielding is capable of withstanding the static and dynamic stresses resulting from normal handling and normal conditions of transport; and

(4) Are designed so that loss of shielding will not result in a significant increase in the radiation levels recorded at the external surfaces.

(c) Freight containers being used as IP-2 or IP-3 provided that:

(1) They satisfy the requirements for IP-2 or IP-3, respectively, specified in § 173.411;

(2) They are designed to conform to the requirements of ISO 1496/1-1978, "Series 1 Freight Containers—Specifications and Testing—Part 1: General Cargo Containers";

(3) They are designed so that loss of shielding will not result in a significant increase in the radiation levels recorded at the external surfaces if they are subjected to the tests specified in ISO 1496/1-1978; and

(4) For international transportation, each freight container must have a safety approval plate in conformance with 49 CFR 451.21 through 451.25.

(d) Each shipper of an industrial package must maintain on file for at least one year after the latest shipment, and shall provide to DOT on request, a complete documentation of tests and an engineering evaluation or comparative data showing that the construction methods, packaging design, and materials of construction comply with that specification.

**§ 173.415 Authorized Type A packages.**

The following packages are authorized for shipment if they do not contain quantities exceeding $A_1$ or $A_2$ as appropriate:

(a) U.S. Department of Transportation (DOT) Specification 7A (§ 178.350 of this subchapter) Type A general packaging. Each shipper of a Specification 7A package must maintain on file for at least one year after the latest shipment, and shall provide to DOT on request, a complete documentation of tests and an engineering evaluation or comparative data showing that the construction methods, packaging design, and materials of construction comply with that specification. Use of Specification 7A packagings designed in accordance with the requirements of § 178.350 in

effect on June 30, 1983, is not authorized after July 1, 1992.

(b) Any other Type A packaging that also meets the applicable standards for fissile materials in 10 CFR Part 71 and is used in accordance with § 173.471.

(c) Any Type B, B(U) or B(M) packaging pursuant to § 173.416.

(d) Any foreign-made packaging that bears the marking "Type A" and was used for the import of radioactive materials. Such packagings may be subsequently used for domestic and export shipments of radioactive materials provided the shipper obtains the applicable documentation of tests and engineering evaluations and maintains the documentation on file in accordance with paragraph (a) of this section. These packagings must conform with requirements of the country of origin (as indicated by the packaging marking) and the IAEA regulations applicable to Type A packagings.

**§ 173.416 Authorized Type B packages.**

Each of the following packages is authorized for shipment of quantities exceeding $A_1$ or $A_2$, as appropriate:

(a) Any Type B, Type B(U) or Type B(M) packaging that meets the applicable requirements of 10 CFR Part 71 and that has been approved by the U.S. Nuclear Regulatory Commission may be shipped pursuant to § 173.471.

(b) Any Type B(U) or B(M) packaging that meets the applicable requirements of the regulations of the International Atomic Energy Agency (IAEA) in its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6" and for which the foreign competent authority certificate has been revalidated by DOT pursuant to § 173.473. This packaging is authorized only for export and import shipments.

(c) DOT Specification 6M (§ 178.104 of this subchapter) metal packaging, only for solid or gaseous radioactive materials that will not undergo pressure-generating decomposition at temperatures up to 121°C (250°F) and that do not generate more than 10 watts of radioactive decay heat.

(d) For contents in other than special form; DOT Specification 20WC (§ 178.194 of this subchapter), wooden protective jacket, when used with a single, snug-fitting inner DOT Specification 2R (§ 178.34 of this subchapter). For liquid contents, the inner packaging must conform to § 173.412 (i) and (j).

(e) For contents in special form only; DOT Specification 20WC (§ 178.194 of this subchapter), wooden protective jacket, with a single snug-fitting inner Type A packaging that has a metal outer wall and conforms to § 178.350 of this subchapter. Radioactive decay heat may not exceed 100 watts.

(f) For contents in special form only; DOT Specification 21WC (§ 178.195 of this subchapter), wooden protective overpack, with a single inner DOT Specification 2R (§178.34 of this subchapter). Contents must be loaded within the inner packaging in such a manner as to prevent loose movement during transportation. The inner packaging must be securely positioned and centered within the overpack so that there will be no significant displacement of the inner packaging if subjected to the 9 meter (30 feet) drop test described in 10 CFR part 71.

**§ 173.417 Authorized fissile materials packages.**

(a) Except as provided in § 173.453, fissile materials containing not more than $A_1$ or $A_2$ as appropriate, must be packaged in one of the following packagings:

(1) DOT Specification 6L (§ 178.103 of this subchapter), metal packaging, for materials prescribed in paragraph (b)(1) of this section.

(2) DOT Specification 6M (§ 178.104 of this subchapter), metal packaging, for materials prescribed in paragraph (b)(2) of this section.

(3) Any packaging listed in § 173.415, limited to the radioactive materials specified in 10 CFR Part 71, Subpart C.

(4) Any other Type A or Type B, Type B(U), or Type B(M) packaging for fissile radioactive materials that also meets the applicable standards for fissile materials in the regulations of 10 CFR Part 71.

(5) Any other Type A or Type B, Type B(U), or Type B(M) packaging that also meets the applicable requirements for fissile material packaging in Section V of the International Atomic Energy Agency "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," and for which the foreign competent authority certificate has been revalidated by the U.S. Competent Authority, in accordance with § 173.473. These packages are authorized only for export and import shipments.

(6) A DOT Specification 6J (§ 178.100 of this subchapter) or 17H (§ 178.118 of this subchapter) 55-gallon steel drum, subject to the following conditions:

(i) The quantity may not exceed 350 grams of uranium-235 in any non-pyrophoric form, enriched to any degree in the uranium-235 isotope.

(ii) Each drum must have a minimum 18 gauge body and bottom head and 16 gauge removable top head with one or more corrugations in the cover near the periphery.

(iii) Closure must conform to § 178.103–5(a) of this subchapter.

(iv) At least four equally spaced 12 millimeter (0.5 inch) diameter vent holes must be provided on the sides of the drum near the top, each covered with weatherproof tape; or equivalent device.

(v) Appropriate primary, inner containment of the contents and sufficient packaging material, such as plastic or metal jars or cans, must be provided such that Specification 7A (§ 178.350 of this subchapter) provisions are satisfied by the inner packaging.

(vi) Each inner container must be capable of venting if subjected to the thermal test described in 10 CFR Part 71.

(vii) Liquid contents must be packaged in accordance with § 173.412 (i) and (j) of this subpart.

(viii) The maximum weight of contents, including internal packaging, may not exceed 91 kilograms (200 pounds) with fissile material content limited as shown in Table 2:

TABLE 2.—FISSILE MATERIAL CONTENT AND TRANSPORT INDEX FOR SPECIFICATION 6J OR 17H PACKAGES

| Maximum quantity of U-235 per package (grams) | Minimum transport index per package | Maximum number of packages per transport vehicle |
|---|---|---|
| 350 | 1.8 | 72 |
| 300 | 1.0 | 129 |
| 250 | 0.5 | 256 |
| 200 | 0.3 | 500 |
| 150 | 0.1 | 500 |
| 100 | 0.1 | 500 |
| 50 | (1) | (2) |

[1] Transport index is limited by the external radiation levels.

[2] Maximum number is limited by the total transport index.

(7) Any metal cylinder that meets the performance requirements of § 173.415 and § 178.350 of this subchapter for Specification 7A Type A packaging may be used for the transport of residual "heels" of enriched solid uranium hexafluoride without a protective overpack in accordance with Table 3:

TABLE 3.—ALLOWABLE CONTENT OF URANIUM HEXAFLUORIDE ($UF_6$) "HEELS" IN A SPECIFICATION 7A CYLINDER

| Maximum cylinder diameter | | Cylinder volume | | Maximum Uranium-235 enrichment (weight percent) | Maximum "Heel" weight per cylinder | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | $UF_6$ | | Uranium-235 | |
| Centimeters | Inches | Liters | Cubic Feet | | kg | (lb) | kg | (lb) |
| 12.7 | 5 | 8.8 | 0.311 | 100.0 | 0.045 | 0.1 | 0.031 | 0.07 |
| 20.3 | 8 | 39.0 | 1.359 | 12.5 | 0.227 | 0.5 | .019 | 0.04 |
| 30.5 | 12 | 68.0 | 2.410 | 5.0 | 0.454 | 1.0 | .015 | 0.03 |
| 76.0 | 30 | 725.0 | 35.64 | 5.0 | 11.3 | 25.0 | .383 | 0.84 |
| 122.0 | 48 | 3,084.0 | [1] 108.9 | 4.5 | 22.7 | 50.0 | .690 | 1.52 |
| 122.0 | 48 | 4,041.0 | [2] 142.7 | 4.5 | 22.7 | 50.0 | .690 | 1.52 |

[1] 10 ton.
[2] 14 ton.

(8) DOT Specification 20PF-1, 20PF-2, or 20PF-3 (§ 178.120 of this subchapter), or Specification 21PF-1, 21PF-1A, 21PF-1B, or 21PF-2 (§ 178.121 of this subchapter) phenolic-foam insulated overpack with snug fitting inner metal cylinders, meeting all requirements of §§ 173.24, 173.410, and 173.412, and the following:

(i) Handling procedures and packaging criteria must be in accordance with DOE Report ORO-651 or ANSI N14.1.

(ii) DOT Specification 21PF-1 overpacks in use or under construction before April 1, 1989, must be modified to DOT Specification 21PF-1A before April 1, 1991. Use of unmodified DOT 21PF-1 overpacks is prohibited after March 31, 1991. All new construction to DOT Specifciation 21PF-1 beginning after March 31, 1989, must meet DOT Specification 21PF-1B.

(iii) Quantities of uranium hexafluoride are authorized as shown in Table 6, with each package assigned a minimum transport index as also shown.

(b) Fissile radioactive materials with radioactive content exceeding $A_1$ or $A_2$ must be packaged in one of the following packagings:

(1) DOT Specification 6L (§ 178.103 of this subchapter), metal packaging. These packages may contain only uranium-235, plutonium-239 or plutonium-241, as metal, oxide, or compounds that do not decompose at temperatures up to 149 °C (300 °F). Radioactive decay heat output may not exceed 5 watts. Radioactive materials in normal form must be packaged in one or more tightly sealed metal or polyethylene bottles within a DOT Specification 2R (§ 178.34 of this subchapter) containment vessel. Authorized contents are limited in accordance with Table 4:

TABLE 4.—AUTHORIZED CONTENTS IN KILOGRAMS (KG) AND CONDITIONS FOR SPECIFICATION 6L PACKAGES

| Uranium-235 | | Plutonium [1] | | Fissile transport index | Maximum number of packages per transport vehicle |
|---|---|---|---|---|---|
| H/X<−3[2] | 3 H/X<−10 | H/X<−10 | 10 H/X<−20 | | |
| 14 | [3] 3.6 | 2.5 | 2.4 | 1.3<br>1.8 | 80<br>50 |

[1] Plutonium solutions are not authorized.
[2] H/X is the ratio of hydrogen to fissile atoms in the inner containment with all sources of hydrogen in the containment considered.
[3] Volume not to exceed 3.6 liters.

(2) DOT Specification 6M (§ 178.104 of this subchapter), metal packaging. These packages may contain only solid radioactive materials that will not decompose at temperatures up to 121°C (250°F). Radioactive decay heat output may not exceed 10 watts. Radioactive materials in other than special form must be packaged in one or more tightly sealed metal cans or polyethylene bottles within a DOT Specification 2R (§ 178.34 of this subchapter) containment vessel.

(i) Packages are limited to the following amounts of fissile radioactive materials: 1.6 kilograms of uranium-235; 0.9 kilograms of plutonium (except that due to the 10-watt thermal decay heat limitation, the limit for plutonium-238 is 0.02 kilograms); and 0.5 kilograms of uranium-233. The maximum ratio of hydrogen to fissile material must not exceed three, including all of the sources of hydrogen within the DOT Specification 2R containment vessel.

(ii) Maximum quantities of fissile material and other restrictions are given in Table 5. The minimum transport index to be assigned and the allowable number of similar packages per conveyance and per transport vehicle are shown in Table 5. Where a maximum ratio of hydrogen to fissile material is specified in Table 5, only the hydrogen interspersed with the fissile material need be considered. For a uranium-233 shipment, the maximum inside diameter of the inner containment vessel must not exceed 12.1 centimeters (4.75 inches). Where necessary, a tight fitting steel insert must be used to reduce a larger diameter inner containment vessel specified in § 178.104–3(b) of this subchapter to the 12.1 centimeter (4.75 inch) limit.

TABLE 5.—AUTHORIZED CONTENTS FOR SPECIFICATION 6M PACKAGES [1]

| Uranium-233 [5] | | | Uranium-235 [4, 7] | | | Plutonium [2, 3, 4] | | | Minimum transport index | Maximum no. of pkgs. per transport vehicle |
|---|---|---|---|---|---|---|---|---|---|---|
| Metal or alloy | Compounds | | Metal or alloy | Compounds | | Metal or alloy | Compounds | | | |
| H/X=0 [8] | H/X=O | H/X<3 | H/X=O | H/X=O | H/X<3 | H/X=O | H/X=O | H/X<3 | | |
| 3.6 | 4.4 | 2.9 | 7.2 | 7.6 | 5.3 | 3.1 | 4.1 | 3.4 | 0.1 | 1,250 |
| [6] 4.2 | 5.2 | 3.5 | 8.7 | 9.6 | 6.4 | 3.4 | 4.5 | 4.1 | 0.2 | 625 |
| [6] 5.2 | 6.8 | 4.5 | 11.2 | 13.9 | 8.3 | 4.2 | ..... | 4.5 | 0.5 | 250 |
| ..... | ..... | ..... | 13.5 | 16.0 | 10.1 | 4.5 | ..... | ..... | 1.0 | 125 |
| ..... | ..... | ..... | ..... | 26.0 | 16.1 | ..... | ..... | ..... | 5.0 | 25 |
| ..... | ..... | ..... | ..... | 32.0 | 19.5 | ..... | ..... | ..... | 10.0 | 12 |

[1] Quantity in kilograms.
[2] Minimum percentage of plutonium-240 is 5 weight percent.
[3] 4.5 kilogram limitation of plutonium due to watt decay hat limitation.
[4] For a mixture of uranium-235 and plutonium an equal amount of uranium-235 may be substituted by any portion of plutonium authorized.
[5] Maximum inside diameter of Specification 2R containment vessel not to exceed 12.1 centimeters (4.75 inch) (see par. (b)(2)(ii) of this section).
[6] Granulated or powedered metal with any particle less than 6.4 millimeter (0.25 inch) in the smallest dimension is not authorized.
[7] Maximum permitted uranium-235 enrichment is 93.5 percent.
[8] H/X is the ratio of hydrogen to fissile atoms in the inner containment.

(3) Type B, or Type B(U) or B(M) packaging that meets the standards for packaging of fissile materials in 10 CFR part 71, and is approved by the U.S. Nuclear Regulatory Commission and used in accordance with § 173.471.

(4) Type B(U) or B(M) packaging that meets the applicable requirements for fissile radioactive materials in Section V of the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6" and for which the foreign competent authority certificate has been revalidated by the U.S. Competent Authority in accordance with § 173.473. These packagings are authorized only for import and export shipments.

(5) DOT Specifications 20PF-1 and 20PF-2 (§ 178.120 of this subchapter) phenolic-foam insulated overpack with snug fitting inner metal cylinders, meeting all requirements of §§ 173.24, 173.410, and 173.412, and the following:

(i) Handling procedures and packaging criteria must be in accordance with DOE Report ORO-651 or ANSI N14.1.

(ii) Quantities of uranium hexafluoride are authorized as shown in Table 6, with each package assigned a minimum transport index as also shown:

TABLE 6.—AUTHORIZED QUANTITIES OF URANIUM HEXAFLUORIDE ($UF_6$)

| Protective overpact specification number | Maximum inner cylinder diameter | | Maximum weight of $UF_6$ contents | | Maximum $^{235}U$ enrichment (Weight/percent) | Minimum transport index |
|---|---|---|---|---|---|---|
| | Centimeters | Inches | Kilograms | Pounds | | |
| 20PF-1 | 12.7 | 5 | 25 | 55 | 100.0 | 0.1 |
| 20PF-2 | 20.3 | 8 | 116 | 225 | 12.5 | 0.4 |
| 20PF-3 | 30.5 | 12 | 209 | 460 | 5.0 | 1.1 |
| 21PF-1 [1, 4] | 76.0 | [3] 30 | 2,250 | 4,950 | 5.0 | 5.0 |
| | 76.0 | [3] 30 | 2,282 | 5,020 | 5.0 | 5.0 |
| 21PF-2 [1] | 76.0 | [3] 30 | 2,282 | 5,020 | 5.0 | 5.0 |
| | 76.0 | [3] 30 | 2,250 | 4,950 | 5.0 | 5.0 |

[1] For 76 cm (30 in) cylinders, the maximum H/U atomic ratio is 0.088.
[2] Model 30A inner cylinder (Reference ORO-651).
[3] Model 30B inner cylinder (Reference ORO-651).
[4] 21PF-1 series includes the 21PF-1, 21PF-1A, and 21PF-1B. Allowable quantities are identical for all three overpacks. See the limitations on usage in paragraph (b)(5) of this section.

**§ 173.418 Authorized packages—pyrophoric radioactive materials.**

(a) Packages containing pyrophoric radioactive materials, as referenced in § 172.101 of this subchapter, may be transported in quantities not exceeding $A_2$ per package only in DOT Specification 7A packages provided that they are constructed of materials that will not react with, nor be decomposed by, the contents. Contents of the package must be:

(1) Packed as solid, nonfissile form unless excepted by § 172.453;

(2) Sealed in corrosion resistant receptacles with positive closures; friction or slip-fit covers or stoppers are not authorized;

(3) Freed of water and contaminants that would increase the reactivity of the material; and

(4) Inerted to prevent self-ignition during transport by either:

(i) Mixing with large volumes of inerting materials, such as graphite, dry sand, or other suitable inerting material, or blended into a matrix of hardened concrete; or

(ii) Filling the innermost receptacle with an appropriate inert gas or liquid.

**§ 173.419 Authorized packages—oxidizing radioactive materials.**

(a) Packages containing oxidizing radioactive materials, as referenced in § 172.101 of this subchapter, may be transported in quantities not exceeding $A_2$ per package only in a DOT Specification 7A package provided that:

(1) The contents are:

(i) Packed in inside packagings of glass, metal or compatible plastic; and

(ii) Cushioned with a material that will not react with the contents;

(2) The outside packaging is made of wood, metal, or plastic; (b) The package must be capable of meeting the

applicable test requirements of § 173.465 without leakage of contents; and

(c) For shipment by air, the maximum quantity in any package may not exceed 11.3 kilograms (25 pounds).

**§ 173.420 Uranium hexafluoride (fissile, fissile excepted and non-fissile).**

(a) In addition to any other applicable requirements of this subchapter, uranium hexafluoride, fissile or low specific activity, must be offered for transportation as follows:

(1) Before initial filling and during periodic inspection and test, packagings must be cleaned in accordance with American National Standard N14.1.

(2) Packagings must be designed, fabricated, inspected, tested and marked in accordance with—

(i) American National Standard N14.1 (1987, 1982 or 1971 edition) in effect at the time the packaging was manufactured;

(ii) Specifications for Class DOT-106A multi-unit tank car tanks (§§ 179.300 and 179.301 of this subchapter); or

(iii) Section VIII, Division I of the ASME Code, provided the packaging—

(A) Was manufactured on or before June 30, 1987;

(B) Conforms to the edition of the ASME code in effect at the time the packaging was manufactured;

(C) Is used within its original design limitations; and

(D) Has shell and head thicknesses that have not decreased below the minimum value specified in the following table:

| Packaging model | Minimum thickness millimeters (inches) |
|---|---|
| 1S, 2S | 1.58 (0.062) |
| 5A, 5B, 8A | 3.17 (0.125) |
| 12A, 12B | 4.76 (0.187) |
| 30B | 7.93 (0.312) |
| 48A, F, X, and Y | 12.70 (0.500) |
| 48T, O, OM, OM Allied, Hx, H, and G | 6.35 (0.250) |

(3) Uranium hexafluoride must be in solid form.

(4) The volume of solid uranium hexafluoride, except solid depleted uranium hexafluoride, at 20 °C (68 °F.) must not exceed 61% of the certified volumetric capacity of the packaging. The volume of solid depleted uranium hexafluoride at 20 °C (68 °F.) must not exceed 62% of the certified volumetric capacity of the packaging.

(5) The pressure in the package at 20 °C (68 °F.) must be less than 101.3 kPa (14.8 psia).

(b) Packagings of uranium hexafluoride must be periodically inspected, tested, marked and otherwise conform with the American National Standard N14.1-1987.

(c) Each repair to a packaging for uranium hexafluoride must be performed in accordance with American National Standard N14.1-1987.

**§ 173.421 Excepted packages for limited quantities of radioactive materials.**

Packages that are used to transport radioactive materials whose activity per package does not exceed the limits specified in § 173.423 are excepted from the specification packaging, shipping paper and certification, marking, and labeling requirements of this subchapter and requirements of this subpart if:

(a) The package meets the general design requirements of § 173.410;

(b) The radiation level at any point on the external surface of the package does not exceed 0.005 mSv/hour (0.5 mrem/hour);

(c) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 173.443(a);

(d) The outside of the inner packaging or, if there is no inner packaging, the outside of the packaging itself bears the marking "Radioactive";

(e) Except as provided in § 173.424, the package does not contain more than 15 grams of uranium-235; and

(f) The material is otherwise prepared for shipment as specified in accordance with § 173.421-1.

**§ 173.421-1 Additional requirements for excepted packages containing radioactive materials.**

(a) Excepted packages prepared for shipment under the provisions of § 173.421, § 173.422, § 173.424, or § 173.427 must be certified as being acceptable for transportation by having a notice enclosed in or on the package, included with the packing list, or otherwise forwarded with the package. This notice must include the name of the consignor or consignee and the statement "This package conforms to the conditions and limitations specified in 49 CFR § 173.421 for radioactive material, excepted package-limited quantity of material, UN2910; 49 CFR § 173.422 for radioactive material, excepted package—instruments or articles, UN2910; 49 CFR § 173.424 for radioactive material, excepted package—articles manufactured from natural or depleted uranium or natural thorium, UN2910; or 49 CFR § 173.427 for radioactive material, excepted package—empty packaging, UN2910," as appropriate.

(b) An excepted package prepared for shipment under the provisions of § 173.421, § 173.422, § 173.424, § 173.427 or § 173.421-2 is not subject to the requirements of this subchapter, except for:

(1) Sections 171.15, 171.16, 174.750, 176.710 and 177.861 of this subchapter, pertaining to the reporting of incidents and decontamination, when transported by a mode other than air; or

(2) Sections 171.15, 171.16, 175.45, and 175.700(b) of this subchapter pertaining to the reporting of incidents and decontamination when transported by aircraft. After May 2, 1991, it is also necessary to comply with §§ 173.448(f) and 175.700(c) of this subchapter when transported by aircraft.

**§ 173.421-2 Requirements for multiple hazard limited quantity radioactive materials.**

(a) Except as provided in paragraph (b) of this section or in § 173.4 of this subchapter, when a limited quantity radioactive material meets the definition of another hazard class, it must be:

(1) Classed for the additional hazard;

(2) Packaged to conform with requirements specified in § 173.421 (a) through (e) or § 173.422 (a) through (g), as appropriate; and

(3) Offered for transportation in accordance with requirements applicable to the hazard for which it is classed.

(b) When a limited quantity radioactive material meets the definition of an ORM-A, B, or C, or is a combustible liquid in a packaging having a rated capacity of 110 gallons or less, it must be:

(1) Classed radioactive material if:

(i) The material is not a hazardous waste or hazardous substance; and

(ii) The material is offered for transportation in a mode to which requirements of this subchapter pertaining to the specific material and hazard class do not apply;

(2) Classed combustible liquid or ORM-A, B, or C, as appropriate, if:

(i) The material is a hazardous waste or hazardous substance; or

(ii) The material is offered for transportation in a mode to which requirements of this subchapter pertaining to the specific material and hazard class do apply;

(3) Packaged to conform with requirements specified in § 173.421 (a) through (e) or § 173.422 (a) through (g), as appropriate; and

(4) Offered for transportation in accordance with requirements applicable to the hazard for which it is classed.

(c) A limited quantity radioactive material which is classed other than

radioactive material under provisions of paragraphs (a) or (b) of this section is excepted from requirements of § 173.421–1(a), § 172.203(d), and § 172.204(c)(4) of this subchapter if the entry "Limited quantity radioactive material" appears on the shipping paper in association with the basic description.

(d) After May 2, 1991, a limited quantity radioactive material classed other than radioactive material may not be offered for transportation aboard a passenger-carrying aircraft unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

**§ 173.422 Excepted packages for radioactive instruments and articles.**

Packages that contain radioactive instruments and articles are excepted from the specification packaging, shipping paper and certification, marking and labeling requirements of this subchapter and requirements of this subpart, if:

(a) The package meets the general design requirements of § 173.410;

(b) The activity of the instrument or article does not exceed the relevant limit listed in Table 7 in § 173.423;

(c) The total activity per package does not exceed the relevant limit listed in Table 7 in § 173.423;

(d) The radiation level at 10 cm (4 in) from any point on the external surface of any unpackaged instrument or article does not exceed 0.1 mSv/hour (10 mrem/hour);

(e) The radiation level at any point on the external surface of a package bearing the article or instrument does not exceed 0.005 mSv/hour (0.5 mrem/hour), or, for exclusive use domestic shipments, 0.02 mSv (2 mrem/hour);

(f) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 173.443(a);

(g) Except as provided in § 173.424, the package does not contain more than 15 grams of uranium-235; and

(h) Each instrument or article (excepted radioluminescent time-pieces or devices) bears the marking "Radioactive".

(i) The package is otherwise prepared for shipment as specified in § 173.421–1.

**§ 173.423 Table of activity limits—excepted quantities and articles.**

The limits applicable to instruments, articles, and limited quantities subject to exceptions under §§ 173.421 and 173.422 are shown in Table 7:

TABLE 7.—ACTIVITY LIMITS FOR LIMITED QUANTITIES, INSTRUMENTS, AND ARTICLES

| Nature of contents | Instrument and articles | | Materials package limits [1] |
|---|---|---|---|
| | Limits for each instrument or article [1] | Package limits [1] | |
| Solids: | | | |
| Special form | $10^{-2} A_1$ | $A_1$ | $10^{-3} A_1$ |
| Other form | $10^{-2} A_2$ | $A_2$ | $10^{-3} A_2$ |
| Liquids | $10^{-3} A_2$ | $10^{-1} A_2$ | $10^{-4} A_2$ |
| Gases: | | | |
| Tritium | $2 \times 10^{-2} A_2$ | $2 \times 10^{-1} A_2$ | $2 \times 10^{-3} A_2$ |
| Special form | $10^{-3} A_1$ | $10^{-2} A_1$ | $10^{-3} A_1$ |
| Other form | $10^{-3} A_2$ | $10^{-2} A_2$ | $10^{-3} A_2$ |

[1] For mixtures of radionuclides see § 173.443(b).

**§ 173.424 Excepted packages for articles containing natural uranium or thorium.**

Packagings that contain manufactured articles in which the sole radioactive material content is natural or unirradiated depleted uranium, or natural thorium are excepted from the specification packaging, shipping paper and certification, and marking and labeling requirements of this subchapter and requirements of this subpart if:

(a) The package meets the general design requirements of § 173.410;

(b) The outer surface of the uranium or thorium is enclosed in an inactive sheath made of metal or other durable protective material;

(c) The conditions specified in § 173.421 (b), (c), and (d) are met; and

(d) The article is otherwise prepared for shipment as specified in § 173.421–1.

**§ 173.425 Transport requirements for low specific activity (LSA) radioactive materials and surface contaminated objects (SCO).**

In addition to other applicable requirements specified in this subchapter, low specific activity (LSA) materials and surface contaminated objects (SCO) must be transported in accordance with the following conditions:

(a) The quantity of LSA material or SCO in a single package or object or collection of objects must not exceed 2 $A_2$;

(b) LSA material and SCO that are or contain fissile material must meet the applicable requirements of § 173.451;

(c) Packages must meet the contamination control limits specified in § 173.443;

(d) External radiation levels must comply with § 173.441; and

(e) Except as specified in paragraph (g) of this section, LSA material and SCO must be packaged, as a minimum, in accordance with the package integrity levels specified in Table 8.

(f) For packaged LSA material and SCO consigned as exclusive use:

(1) Shipments must be loaded by consignor and unloaded by consignee from the conveyance or freight container in which originally loaded.

(2) There must be no loose radioactive material in the conveyance.

(3) Shipment must be braced so as to prevent shifting of lading under conditions normally incident to transportation.

(4) Specific instructions for maintenance of exclusive use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

(g) Unpackaged (bulk) shipments of LSA–I and SCO–I materials must be transported only in exclusive use closed transport vehicles and must comply with the following conditions:

(1) Bulk liquids must be transported in the following:

(i) Specification 103CW, 111A60W7 (§§ 179.200, 179.201, 179.202 of this subchapter) tank cars. Bottom openings in tanks are prohibited.

(ii) Specification MC 310, MC 311, MC 312, or MC 331 (§ 178.343 or § 178.337 of this subchapter) cargo tanks. The requirements of § 173.412(j) do not apply to these cargo tanks. Bottom fittings and

valves are not authorized. Trailer-on-flat-car service is not authorized.

(2) Shipments must be loaded by the consignor, and unloaded by the consignee from the conveyance or freight container in which originally loaded.

(3) Except for shipments of unconcentrated uranium or thorium ores, the transport vehicle must be placarded with the placards prescribed in Subpart F of Part 172 of this subchapter, as appropriate.

(4) There must be no leakage of radioactive materials from the vehicle.

(5) Specific instructions for maintenance of exclusive use shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

(6) Transportation by aircraft is prohibited.

(h) The quantity of LSA and SCO material in any single conveyance must not exceed the limits specified in Table 9.

(i) Except for transportation by aircraft, LSA and SCO that conform with the provisions specified in 10 CFR 20.306 are excepted from all requirements of this subchapter pertaining to radioactive materials when offered for transportation for disposal or recovery. A material which meets the definition of another hazard class is subject to the provisions of this subchapter relating to that hazard class.

TABLE 8.—INDUSTRIAL PACKAGE INTEGRITY REQUIREMENTS FOR LSA MATERIAL AND SCO

| Contents | Industrial package type [1] | |
|---|---|---|
| | Exclusive use shipment | Other than exclusive use shipment |
| LSA-I [2]: | | |
| Solid | IP-1 | IP-1 |
| Liquid | IP-1 | IP-2 |
| LSA-II: | | |
| Solid | IP-2 | IP-2 |
| Liquid and gas | IP-2 | IP-3 |
| LSA-III | IP-2 | IP-3 |
| SCO-I [2] | IP-1 | IP-1 |
| SCO-II | IP-2 | IP-2 |

[1] See § 173.403

[2] Under the conditions specified in paragraph (g) of this Section, LSA-I material and SCO-I may be transported unpackaged.

TABLE 9.—CONVEYANCE ACTIVITY LIMITS FOR LSA MATERIAL AND SCO

| Nature of material | Activity limit for conveyances [a] |
|---|---|
| LSA-I | No limit. |
| LSA-II and LSA-III: Non-flammable solids. | No limit. |
| LSA-II and LSA-III: Flammable solids, and all liquids and gases. | 100 $A_2$ |
| SCO | 100 $A_2$ |

[a] The concentration limit for tritium in liquid form, specified in § 173.435, does not apply.

**§ 173.427 Empty radioactive materials packaging.**

A packaging which previously contained radioactive materials and has been emptied of contents as far as practical, is excepted from the shipping paper and certification, marking and labeling requirements of this subchapter, and from requirements of this subpart, provided that:

(a) The packaging complies with the requirements of § 173.421 (b), (c), and (e) of this subpart;

(b) The packaging is in unimpaired condition and is securely closed so that there will be no leakage of radioactive material under conditions normally incident to transportation;

(c) Internal contamination does not exceed 100 times the limits in § 173.443(a);

(d) Any labels previously applied in conformance with subpart E of part 172 of this subchapter are removed, obliterated or covered and the "Empty" label prescribed in § 172.450 is affixed to the packaging; and

(e) The packaging is prepared for shipment as specified in § 173.421-1.

**§ 173.431 Activity limits for Type A and Type B packages.**

(a) A Type A package shall not contain a quantity of radioactive materials greater than $A_1$ for special form radioactive material or $A_2$ for normal form radioactive material as listed in § 173.435, or, for radioactive materials not listed in § 173.435, as determined in accordance with § 173.433.

(b) The limits on activity contained in a Type B, Type B(U), or Type B(M) package are those prescribed in §§ 173.416 and 173.417 or in the applicable approval certificate under § 173.471 or § 173.473.

**§ 173.433 Requirements for determination of $A_1$ and $A_2$ values for radionuclides.**

(a) Values of $A_1$ and $A_2$ for individual radionuclides that are the bases for many activity limits elsewhere in this subchapter are given in the table in § 173.435.

(b) For individual radionuclides whose identities are known, but which are not listed in the table in § 173.435, the determination of the values of $A_1$ and $A_2$ requires approval from the U.S. Competent Authority except that the values of $A_1$ and $A_2$ in Table 10 may be used without obtaining approval from the U.S. Competent Authority.

(c) In calculating $A_1$ and $A_2$ for a radionuclide not listed in the table in § 173.435, a single radioactive decay chain in which the radionuclides are present in their naturally-occurring proportions and in which no daughter nuclide has a half life either longer than 10 days or longer than that of the parent nuclide will be considered as a single radionuclide, and the activity to be taken into account and the $A_1$ or $A_2$ value to be applied will be those corresponding to the parent nuclide of that chain. Otherwise, the parent and daughter nuclides will be considered as a mixture of different nuclides.

(d) For mixtures of radionuclides whose identities and respective activities are known, the following conditions will apply:

(1) For special form radioactive material:

$$\sum_i \frac{B(i)}{A_1(i)} \text{ less than or equal to } 1$$

(2) For other forms of radioactive materials:

(i) Either

$$\sum_i \frac{B(i)}{A_2(i)} \text{ less than or equal to } 1$$

where B(i) is the activity of radionuclide i and $A_1$ and $A_2$ values for radionuclide i, respectively; or

(ii)

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity of nuclide i in the mixture and $A_2(i)$ is the appropriate $A_2$ value for nuclide i.

(e) When the identity of each nuclide is known but the individual activities of some of the radionuclides are not known, the radionuclides may be

grouped and the lowest $A_1$ or $A_2$ value, as appropriate, for the radionuclides in each group may be used in applying the formulas in paragraph (d) of this section. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest $A_1$ or $A_2$ values for the alpha emitters or beta/gamma emitters, respectively.

TABLE 10.—GENERAL VALUES FOR $A_1$ and $A_2$

| Contents | $A_1$ | | $A_2$ | |
|---|---|---|---|---|
| | (TBq) | (Ci) | (TBq) | (Ci) |
| Only beta or gamma emitting nuclides are known to be present | 0.2 | 5 | 0.02 | 0.5 |
| Alpha emitting nuclides are known to be present or no relevant data are available | 0.10 | 2.70 | $2\times10^{-5}$ | $5.41\times10^{-4}$ |

**§ 173.434 Activity-Mass Relationships for Uranium and Natural Thorium.**

| Thorium and uranium enrichment [1] (Wt. percent $^{235}$U present | Specific activity | | | |
|---|---|---|---|---|
| | TBq/gram | Grams/TBq | Ci/gram | Grams/Ci |
| 0.45 (depleted) | $1.9\times10^{-8}$ | $5.4\times10^{-7}$ | $5.0\times10^{-7}$ | $2.0\times10^{-6}$ |
| 0.72 (natural) | $2.6\times10^{-8}$ | $3.8\times10^{-7}$ | $7.1\times10^{-7}$ | $1.4\times10^{-6}$ |
| 1.0 | $2.8\times10^{-8}$ | $3.6\times10^{-7}$ | $7.6\times10^{-7}$ | $1.3\times10^{-6}$ |
| 1.5 | $3.7\times10^{-8}$ | $2.7\times10^{-7}$ | $1.0\times10^{-6}$ | $1.0\times10^{-6}$ |
| 5.0 | $1.0\times10^{-7}$ | $1.0\times10^{-7}$ | $2.7\times10^{-6}$ | $3.7\times10^{-5}$ |
| 10.0 | $1.8\times10^{-7}$ | $5.6\times10^{-6}$ | $4.8\times10^{-6}$ | $2.1\times10^{-5}$ |
| 20.0 | $3.7\times10^{-7}$ | $2.7\times10^{-6}$ | $1.0\times10^{-5}$ | $1.0\times10^{-5}$ |
| 35.0 | $7.4\times10^{-7}$ | $1.4\times10^{-6}$ | $2.0\times10^{-5}$ | $5.0\times10^{-4}$ |
| 50.0 | $9.3\times10^{-7}$ | $1.1\times10^{-6}$ | $2.5\times10^{-5}$ | $4.0\times10^{-4}$ |
| 90.0 | $2.1\times10^{-6}$ | $4.7\times10^{-5}$ | $5.8\times10^{-5}$ | $1.7\times10^{-4}$ |
| 93.0 | $2.6\times10^{-6}$ | $3.9\times10^{-5}$ | $7.0\times10^{-5}$ | $1.4\times10^{-4}$ |
| 95.0 | $3.4\times10^{-6}$ | $3.0\times10^{-5}$ | $9.1\times10^{-5}$ | $1.1\times10^{-4}$ |
| Natural Thorium | $8.1\times10^{-9}$ | $1.2\times10^{-8}$ | $2.2\times10^{-7}$ | $4.6\times10^{-6}$ |

[1] The figures for uranium include representative values for the activity of uranium-234 which is concentrated during the enrichment process. The activity for thorium includes the equilibrium concentration of thorium-228.

**§ 173.435 Table for $A_1$ and $A_2$ Values for Radionuclides.**

| Symbol of radionuclide | Element and atomic number | $A_1$ (TBq) | $A_1$ (Ci) | $A_2$ (TBq) | $A_2$ (Ci) | Specific activity | |
|---|---|---|---|---|---|---|---|
| | | | | | | (TBq/g) | (Ci/g) |
| $^{225}$Ac [1] | Actinium (89) | 0.6 | 16.2 | $1\times10^{-3}$ | 0.270 | $2.1\times10^{3}$ | $5.8\times10^{4}$ |
| $^{227}$Ac | | 40 | 1080 | $2\times10^{-5}$ | $5.4\times10^{-4}$ | 2.7 | $7.2\times10^{1}$ |
| $^{228}$Ac | | 0.6 | 16.2 | 0.4 | 10.8 | $8.3\times10^{4}$ | $2.2\times10^{6}$ |
| $^{105}$Ag | Silver (47) | 2 | 54 | 2 | 54 | $1.1\times10^{3}$ | $3.0\times10^{4}$ |
| $^{108m}$Ag | | 0.6 | 16.2 | 0.6 | 16.2 | $9.7\times10^{-1}$ | $2.6\times10^{1}$ |
| $^{110m}$Ag | | 0.4 | 10.8 | 0.4 | 10.8 | $1.8\times10^{2}$ | $4.8\times10^{3}$ |
| $^{111}$Ag | | 0.6 | 16.2 | 0.5 | 13.5 | $5.8\times10^{3}$ | $1.6\times10^{5}$ |
| $^{26}$Al | Aluminum (13) | 0.4 | 10.8 | 0.4 | 10.8 | $7.0\times10^{-4}$ | $1.9\times10^{-2}$ |
| $^{241}$Am | Americium (95) | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $1.3\times10^{-1}$ | 3.4 |
| $^{242m}$Am | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $3.6\times10^{-1}$ | 9.7 |
| $^{243}$Am | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $7.4\times10^{-3}$ | $2.0\times10^{-1}$ |
| $^{37}$Ar | Argon (18) | 40 | 1080 | 40 | 1080 | $3.7\times10^{3}$ | $1.0\times10^{5}$ |
| $^{39}$Ar | | 20 | 541 | 20 | 540 | 1.3 | $3.4\times10^{1}$ |
| $^{41}$Ar | | 0.6 | 16.2 | 0.6 | 16.2 | $1.6\times10^{6}$ | $4.2\times10^{7}$ |
| $^{42}$Ar [1] | | 0.2 | 5.4 | 0.2 | 5.4 | 9.6 | $2.6\times10^{2}$ |
| $^{72}$As | Arsenic (33) | 0.2 | 5.4 | 0.2 | 5.4 | $6.2\times10^{4}$ | $1.7\times10^{6}$ |
| $^{73}$As | | 40 | 1080 | 40 | 1080 | $8.2\times10^{2}$ | $2.2\times10^{4}$ |
| $^{74}$As | | 1 | 27 | 0.5 | 13.5 | $3.7\times10^{3}$ | $9.9\times10^{4}$ |
| $^{76}$As | | 0.2 | 5.4 | 0.2 | 5.4 | $5.8\times10^{4}$ | $1.6\times10^{6}$ |
| $^{77}$As | | 20 | 540 | 0.5 | 13.5 | $3.9\times10^{4}$ | $1.0\times10^{6}$ |
| $^{211}$At | Astatine (85) | 30 | 810 | 2 | 54 | $7.6\times10^{4}$ | $2.1\times10^{6}$ |
| $^{193}$Au | Gold (79) | 6 | 162 | 6 | 162 | $3.4\times10^{4}$ | $9.2\times10^{5}$ |
| $^{194}$Au | | 1 | 27 | 1 | 27.0 | $1.5\times10^{4}$ | $4.1\times10^{5}$ |
| $^{195}$Au | | 10 | 270 | 10 | 270 | $1.4\times10^{2}$ | $3.7\times10^{3}$ |
| $^{196}$Au | | 2 | 54 | 2 | 54 | $4.0\times10^{3}$ | $1.1\times10^{5}$ |
| $^{198}$Au | | 3 | 81 | 0.5 | 13.5 | $9.0\times10^{3}$ | $2.4\times10^{5}$ |
| $^{199}$Au | | 10 | 270 | 0.9 | 24.3 | $7.7\times10^{3}$ | $2.1\times10^{5}$ |
| $^{131}$Ba | Barium (56) | 2 | 54 | 2 | 54.0 | $3.1\times10^{3}$ | $8.4\times10^{4}$ |
| $^{133m}$Ba | | 10 | 270 | 0.9 | 24.3 | $2.2\times10^{4}$ | $6.1\times10^{5}$ |
| $^{133}$Ba | | 3 | 81 | 3 | 81 | $9.4\times10^{1}$ | $2.6\times10^{3}$ |
| $^{140}$Ba [1] | | 0.4 | 10.8 | 0.4 | 10.8 | $2.7\times10^{3}$ | $7.3\times10^{4}$ |
| $^{7}$Be | Beryllium (4) | 20 | 540 | 20 | 540 | $1.3\times10^{4}$ | $3.5\times10^{5}$ |
| $^{10}$Be | | 20 | 540 | 0.5 | 13.5 | $8.4\times10^{-3}$ | $2.2\times10^{-2}$ |
| $^{205}$Bi | Bismuth (83) | 0.6 | 16.2 | 0.6 | 16.2 | $1.5\times10^{3}$ | $4.2\times10^{4}$ |
| $^{206}$Bi | | 0.3 | 8.1 | 0.3 | 8.1 | $3.8\times10^{3}$ | $1.0\times10^{5}$ |

| Symbol of radionuclide | Element and atomic number | $A_1$ (TBq) | $A_1$ (Ci) | $A_2$ (TBq) | $A_2$ (Ci) | Specific activity | |
|---|---|---|---|---|---|---|---|
| | | | | | | (TBq/g) | (Ci/g) |
| $^{207}Bi$ | | 0.7 | 18.9 | 0.7 | 18.9 | 1.9 | $5.2\times10^{1}$ |
| $^{210m}Bi$ [1] | | 0.3 | 8.1 | $3\times10^{-2}$ | 0.81 | $2.1\times10^{-5}$ | $5.7\times10^{-4}$ |
| $^{210}Bi$ | | 0.6 | 16.2 | 0.5 | 13.5 | $4.6\times10^{3}$ | $1.2\times10^{5}$ |
| $^{212}Bi$ [1] | | 0.3 | 8.1 | 0.3 | 8.1 | $5.4\times10^{5}$ | $1.5\times10^{7}$ |
| $^{247}Bk$ | Berkelium (97) | 2 | 54.0 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $3.8\times10^{-2}$ | 1.0 |
| $^{249}Bk$ | | 40 | 1080 | $8\times10^{-2}$ | 2.16 | $6.1\times10^{1}$ | $1.6\times10^{3}$ |
| $^{76}Br$ | Bromine (35) | 0.3 | 8.1 | 0.3 | 8.1 | $9.4\times10^{4}$ | $2.5\times10^{6}$ |
| $^{77}Br$ | | 3 | 81.0 | 3 | 81 | $2.6\times10^{4}$ | $7.1\times10^{5}$ |
| $^{82}Br$ | | 0.4 | 108 | 0.4 | 10.8 | $4.0\times10^{4}$ | $1.1\times10^{6}$ |
| $^{11}C$ | Carbon (6) | 1 | 270 | 0.5 | 13.5 | $3.1\times10^{7}$ | $8.4\times10^{8}$ |
| $^{14}C$ | | 40 | 1080 | 2 | 54.0 | $1.7\times10^{-1}$ | 4.5 |
| $^{41}Ca$ | Calcium (20) | 40 | 1080 | 40 | 1080 | $3.1\times10^{-3}$ | $8.5\times10^{-3}$ |
| $^{45}Ca$ | | 40 | 1080 | 0.9 | 24.3 | $6.6\times10^{2}$ | $1.8\times10^{4}$ |
| $^{47}Ca$ | | 0.9 | 24.3 | 0.5 | 13.5 | $2.3\times10^{4}$ | $6.1\times10^{5}$ |
| $^{109}Cd$ | Cadmium (48) | 40 | 1080 | 1 | 27.0 | $9.6\times10^{1}$ | $2.6\times10^{3}$ |
| $^{113m}Cd$ | | 20 | 540 | $9\times10^{-2}$ | 2.43 | $8.3\times10^{0}$ | $2.2\times10^{2}$ |
| $^{115m}Cd$ | | 0.3 | 8.1 | 0.3 | 8.1 | $9.4\times10^{2}$ | $2.6\times10^{4}$ |
| $^{115}Cd$ | | 4 | 108 | 0.5 | 13.5 | $1.9\times10^{4}$ | $5.1\times10^{5}$ |
| $^{139}Ce$ | Cerium (58) | 6 | 162 | 6 | 162 | $2.5\times10^{2}$ | $6.8\times10^{3}$ |
| $^{141}Ce$ | | 10 | 270 | 0.5 | 13.5 | $1.1\times10^{3}$ | $2.8\times10^{4}$ |
| $^{143}Ce$ | | 0.6 | 16.2 | 0.5 | 13.5 | $2.5\times10^{4}$ | $6.6\times10^{5}$ |
| $^{144}Ce$ [1] | | 0.2 | 5.4 | 0.2 | 5.4 | $1.2\times10^{2}$ | $3.2\times10^{3}$ |
| $^{248}Cf$ | Californium (98) | 30 | 81 | $3\times10^{-3}$ | $8.1\times10^{-2}$ | $5.8\times10^{1}$ | $1.6\times10^{3}$ |
| $^{249}Cf$ | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $1.5\times10^{-1}$ | 4.1 |
| $^{250}Cf$ | | 5 | 135 | $5\times10^{-4}$ | $1.35\times10^{-2}$ | 4.0 | $1.1\times10^{2}$ |
| $^{251}Cf$ | | 2 | 54.0 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $5.8\times10^{-2}$ | 1.6 |
| $^{252}Cf$ | | 0.1 | 2.70 | $1\times10^{-3}$ | $2.70\times10^{-2}$ | $2.0\times10^{-1}$ | $5.4\times10^{2}$ |
| $^{253}Cf$ | | 40 | 1080 | $6\times10^{-2}$ | 1.62 | $1.1\times10^{3}$ | $2.9\times10^{4}$ |
| $^{254}Cf$ | | $3\times10^{-3}$ | $8.1\times10^{-2}$ | $6\times10^{-4}$ | $1.62\times10^{-2}$ | $3.1\times10^{2}$ | $8.5\times10^{3}$ |
| $^{36}Cl$ | Chlorine (17) | 20 | 540 | 0.5 | 13.5 | $1.2\times10^{1}$ | $3.3\times10^{2}$ |
| $^{38}Cl$ | | 0.2 | 5.4 | 0.2 | 5.4 | $4.9\times10^{6}$ | $1.3\times10^{8}$ |
| $^{240}Cm$ | Curium (96) | 40 | 1080 | $2\times10^{-2}$ | 0.54 | $7.5\times10^{2}$ | $2.0\times10^{4}$ |
| $^{241}Cm$ | | 2 | 54 | 0.9 | 24.3 | $6.1\times10^{2}$ | $1.7\times10^{4}$ |
| $^{242}Cm$ | | 40 | 1080 | $1\times10^{-2}$ | 0.270 | $1.2\times10^{2}$ | $3.3\times10^{3}$ |
| $^{243}Cm$ | | 3 | 81 | $3\times10^{-4}$ | $8.1\times10^{-3}$ | 1.9 | $5.2\times10^{1}$ |
| $^{244}Cm$ | | 4 | 108 | $4\times10^{-4}$ | $1.08\times10^{-2}$ | 3.0 | $8.1\times10^{1}$ |
| $^{245}Cm$ | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $6.4\times10^{-3}$ | $1.7\times10^{-1}$ |
| $^{246}Cm$ | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $1.1\times10^{-2}$ | $3.1\times10^{-1}$ |
| $^{247}Cm$ | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $3.4\times10^{-6}$ | $9.3\times10^{-5}$ |
| $^{248}Cm$ | | $4\times10^{-3}$ | 1.08 | $5\times10^{-5}$ | $1.35\times10^{-3}$ | $1.6\times10^{-4}$ | $4.2\times10^{-3}$ |
| $^{55}Co$ | Cobalt (27) | 0.5 | 13.5 | 0.5 | 13.5 | $1.1\times10^{5}$ | $3.1\times10^{6}$ |
| $^{56}Co$ | | 0.3 | 8.1 | 0.3 | 8.1 | $1.1\times10^{3}$ | $3.0\times10^{4}$ |
| $^{57}Co$ | | 8 | 216 | 8 | 216 | $3.1\times10^{2}$ | $8.4\times10^{3}$ |
| $^{58m}Co$ | Cobalt (27) | 40 | 1080 | 40 | 1080 | $2.2\times10^{5}$ | $5.9\times10^{6}$ |
| $^{58}Co$ | | 1 | 27.0 | 1 | 27.0 | $1.2\times10^{3}$ | $3.2\times10^{4}$ |
| $^{60}Co$ | | 0.4 | 10.8 | 0.4 | 10.8 | $4.2\times10^{1}$ | $1.1\times10^{3}$ |
| $^{51}Cr$ | Chromium (24) | 30 | 81 | 30 | 81 | $3.4\times10^{3}$ | $9.2\times10^{4}$ |
| $^{129}Cs$ | Cesium (55) | 4 | 108 | 4 | 108 | $2.8\times10^{4}$ | $7.6\times10^{5}$ |
| $^{131}Cs$ | | 40 | 1080 | 40 | 1080 | $3.8\times10^{3}$ | $1.0\times10^{5}$ |
| $^{132}Cs$ | | 1 | 27.0 | 1 | 27.0 | $5.7\times10^{3}$ | $1.5\times10^{5}$ |
| $^{134}$ [134m]Cs | | 40 | 1080 | 9 | 243 | $3.0\times10^{5}$ | $8.0\times10^{3}$ |
| $^{134}Cs$ | | 0.6 | 16.2 | 0.5 | 13.5 | $4.8\times10^{1}$ | $1.3\times10^{3}$ |
| $^{135}Cs$ | | 40 | 1080 | 0.9 | 24.3 | $4.3\times10^{-5}$ | $1.2\times10^{-3}$ |
| $^{136}Cs$ | | 0.5 | 13.5 | 0.5 | 13.5 | $2.7\times10^{3}$ | $7.3\times10^{4}$ |
| $^{137}Cs$ ([1]) | | 2 | 54.0 | 0.5 | 13.5 | 3.2 | $8.7\times10^{1}$ |
| $^{64}Cu$ | Copper (29) | 5 | 135 | 0.9 | 24.3 | $1.4\times10^{5}$ | $3.9\times10^{6}$ |
| $^{67}Cu$ | | 9 | 243 | 0.9 | 24.3 | $2.8\times10^{4}$ | $7.6\times10^{5}$ |
| $^{159}Dy$ | Dysprosium (66) | 20 | 540 | 20 | 540 | $2.1\times10^{2}$ | $5.7\times10^{3}$ |
| $^{165}Dy$ | | 0.6 | 16.2 | 0.5 | 13.5 | $3.0\times10^{5}$ | $8.2\times10^{6}$ |
| $^{166}Dy$ ([1]) | | 0.3 | 8.1 | 0.3 | 8.1 | $8.6\times10^{3}$ | $2.3\times10^{5}$ |
| $^{169}$ [5]$Er$ | Erbium (68) | 40 | 1080 | 0.9 | 24.3 | $3.1\times10^{3}$ | $8.3\times10^{4}$ |
| $^{171}Er$ | | 0.6 | 16.2 | 0.5 | 13.5 | $9.0\times10^{4}$ | $2.4\times10^{6}$ |
| $^{147}Eu$ | Europium (63) | 2 | 54 | 2 | 54 | $1.4\times10^{3}$ | $3.7\times10^{4}$ |
| $^{154}Eu$ | | 0.5 | 13.5 | 0.5 | 13.5 | $6.0\times10^{2}$ | $1.6\times10^{4}$ |
| $^{149}Eu$ | | 20 | 540 | 20 | 540 | $3.5\times10^{2}$ | $9.4\times10^{3}$ |
| $^{150}Eu$ | | 0.7 | 18.9 | 0.7 | 18.9 | $6.1\times10^{4}$ | $1.7\times10^{6}$ |
| $^{152}$ [152m]$Eu$ | | 0.6 | 16.2 | 0.5 | 13.5 | $8.2\times10^{4}$ | $2.2\times10^{6}$ |
| $^{152}Eu$ | | 0.9 | 24.3 | 0.9 | 24.3 | 6.5 | $1.8\times10^{2}$ |
| $^{154}Eu$ | | 0.8 | 21.6 | 0.5 | 13.5 | 9.8 | $2.6\times10^{2}$ |
| $^{155}Eu$ | | 20 | 540 | 2 | 54 | $1.8\times10^{1}$ | $4.9\times10^{2}$ |
| $^{156}Eu$ | | 0.6 | 16.2 | 0.5 | 13.5 | $2.0\times10^{3}$ | $5.5\times10^{4}$ |
| $^{18}F$ | Fluorine (9) | 1 | 27.0 | 0.5 | 13.5 | $3.5\times10^{6}$ | $9.5\times10^{7}$ |
| $^{52}Fe$ ([1]) | Iron (26) | 0.2 | 5.4 | 0.2 | 5.40 | $2.7\times10^{5}$ | $7.3\times10^{6}$ |
| $^{55}Fe$ | | 40 | 1080 | 40 | 1080 | $8.8\times10^{1}$ | $2.4\times10^{3}$ |
| $^{59}Fe$ | | 0.8 | 21.6 | 0.8 | 21.6 | $1.8\times10^{3}$ | $3.0\times10^{4}$ |
| $^{60}Fe$ | | 40 | 1080 | 0.2 | 5.4 | $7.4\times10^{-4}$ | $2.0\times10^{-2}$ |
| $^{67}Ga$ | Gallium (31) | 6 | 162 | 6 | 162 | $2.2\times10^{4}$ | $6.0\times10^{5}$ |
| $^{68}Ga$ | | 0.3 | 8.1 | 0.3 | 8.1 | $1.5\times10^{6}$ | $4.0\times10^{7}$ |
| $^{72}Ga$ | | 0.4 | 10.8 | 0.4 | 10.8 | $1.1\times10^{5}$ | $3.1\times10^{6}$ |
| $^{146}Gd$ ([1]) | Gadolinium (64) | 0.4 | 10.8 | 0.4 | 10.8 | $6.9\times10^{2}$ | $1.9\times10^{4}$ |

| Symbol of radionuclide | Element and atomic number | $A_1$ (TBq) | $A_1$ (Ci) | $A_2$ (TBq) | $A_2$ (Ci) | Specific activity | |
|---|---|---|---|---|---|---|---|
| | | | | | | (TBq/g) | (Ci/g) |
| $^{146}$Gd | | 3 | 81 | $3\times10^{-4}$ | $8.1\times10^{-3}$ | 6.7 | $2.9\times10^{1}$ |
| $^{153}$Gd | | 10 | 270 | 5 | 135 | $1.3\times10^{2}$ | $3.5\times10^{3}$ |
| $^{159}$Gd | | 4 | 108 | 0.5 | 13.5 | $3.9\times10^{4}$ | $1.1\times10^{6}$ |
| $^{68}$Ge(1) | Germanium (32) | 0.3 | 8.1 | 0.3 | 8.1 | $2.6\times10^{2}$ | $7.1\times10^{3}$ |
| $^{71}$Ge | | 40 | 1080 | 40 | 1080 | $5.8\times10^{3}$ | $1.6\times10^{5}$ |
| $^{77}$Ge | | 0.3 | 8.1 | 0.3 | 8.1 | $1.3\times10^{5}$ | $3.6\times10^{5}$ |
| $^{3}$H | Hydrogen (1) | (3) | | | | | |
| $^{172}$Hf(1) | Hafnium (72) | 0.5 | 13.5 | 0.3 | 8.1 | $4.1\times10^{1}$ | $1.1\times10^{3}$ |
| $^{175}$Hf | | 3 | 81 | 3 | 81 | $3.9\times10^{2}$ | $1.1\times10^{4}$ |
| $^{181}$Hf | | 2 | 54 | 0.9 | 24.3 | $6.2\times10^{2}$ | $1.7\times10^{4}$ |
| $^{182}$Hf | | 4 | 108 | $3\times10^{-2}$ | 0.81 | $8.1\times10^{-6}$ | $2.2\times10^{-4}$ |
| $^{194}$KHg(1) | Mercury (80) | 1 | 27.0 | 1 | 27.0 | $1.3\times10^{-1}$ | 3.5 |
| $^{195m}$Hg | | 5 | 135 | 5 | 135 | $1.5\times10^{4}$ | $4.0\times10^{5}$ |
| $^{197m}$Hg | | 10 | 270 | 0.9 | 24.3 | $2.5\times10^{4}$ | $6.7\times10^{5}$ |
| $^{197}$Hg | | 10 | 270 | 10 | 270 | $9.2\times10^{3}$ | $2.5\times10^{5}$ |
| $^{203}$Hg | | 4 | 108 | 0.9 | 24.3 | $5.1\times10^{2}$ | $1.4\times10^{4}$ |
| $^{163}$Ho | Holmium (67) | 40 | 1080 | 40 | 1080 | 2.7 | $7.3\times10^{1}$ |
| $^{166m}$Ho | | 0.6 | 16.2 | 0.3 | 8.1 | 6.6×10 | 1.8 |
| $^{166}$Ho | | 0.3 | 8.1 | 0.3 | 8.1 | $2.6\times10^{4}$ | $7.0\times10^{5}$ |
| $^{123}$I | Iodine (53) | 6 | 162 | 6 | 162 | $7.1\times10^{4}$ | $1.9\times10^{6}$ |
| $^{124}$I | | 0.9 | 24.3 | 0.9 | 24.3 | $9.3\times10^{2}$ | $2.5\times10^{5}$ |
| $^{125}$I | | 20 | 540 | 2 | 54 | $6.4\times10^{2}$ | $1.7\times10^{4}$ |
| $^{126}$I | | 2 | 54 | 0.9 | 24.3 | $2.9\times10^{2}$ | $8.0\times10^{4}$ |
| $^{129}$I | | (2) | (2) | (2) | (2) | $6.5\times10^{-6}$ | $1.8\times10^{4}$ |
| $^{131}$I | | 3 | 81 | 0.5 | 13.5 | $4.6\times10^{3}$ | $1.2\times10^{5}$ |
| $^{132}$I | | 0.4 | 10.8 | 0.4 | 10.8 | $3.8\times10^{5}$ | $1.0\times10^{7}$ |
| $^{133}$I | | 0.6 | 16.2 | 0.5 | 13.5 | $4.2\times10^{4}$ | $1.1\times10^{6}$ |
| $^{134}$I | | 0.3 | 8.1 | 0.3 | 8.1 | $9.9\times10^{5}$ | $2.7\times10^{7}$ |
| $^{135}$I | | 0.6 | 16.2 | 0.5 | 13.5 | $1.3\times10^{5}$ | $3.5\times10^{6}$ |
| $^{111}$In | Indium (49) | 2 | 54 | 2 | 54 | $1.5\times10^{4}$ | $4.2\times10^{5}$ |
| $^{113m}$In | | 4 | 108 | 4 | 108 | $6.2\times10^{5}$ | $1.7\times10^{7}$ |
| $^{114m}$In(1) | | 0.3 | 8.1 | 0.3 | 8.1 | $8.6\times10^{2}$ | $2.3\times10^{4}$ |
| $^{116m}$In | | 6 | 162 | 0.9 | 24.3 | $2.2\times10^{5}$ | $6.1\times10^{6}$ |
| $^{189}$Ir | Iridium (77) | 10 | 270 | 10 | 270 | $1.9\times10^{3}$ | $5.2\times10^{4}$ |
| $^{190}$Ir | | 0.7 | 18.9 | 0.7 | 18.9 | $2.3\times10^{3}$ | $6.2\times10^{4}$ |
| $^{192}$Ir | | 1 | 27.0 | 0.5 | 13.5 | $3.4\times10^{2}$ | $9.2\times10^{3}$ |
| $^{193m}$Ir | | 10 | 270 | 10 | 270 | $2.4\times10^{3}$ | $6.4\times10^{4}$ |
| $^{194}$Ir | | 0.2 | 5.4 | 0.2 | 5.4 | $3.1\times10^{4}$ | $8.4\times10^{5}$ |
| $^{40}$K | Potassium (19) | 0.6 | 16.2 | 0.6 | 16.2 | $2.4\times10^{-7}$ | $6.4\times10^{-6}$ |
| $^{42}$K | | 0.2 | 5.4 | 0.2 | 5.4 | $2.2\times10^{5}$ | $6.0\times10^{6}$ |
| $^{43}$K | | 1.0 | 27.0 | 0.5 | 13.5 | $1.2\times10^{5}$ | $3.3\times10^{6}$ |
| $^{81}$Kr | Krypton (36) | 40 | 1080 | 40 | 1080 | $7.8\times10^{-4}$ | $2.1\times10^{-2}$ |
| $^{85m}$Kr | | 6 | 162 | 6 | 162 | $3.0\times10^{5}$ | $8.2\times10^{6}$ |
| $^{85}$Kr | | 20 | 540 | 10 | 270 | $1.5\times10^{1}$ | $3.9\times10^{2}$ |
| $^{87}$Kr | | 0.2 | 5.4 | 0.2 | 5.4 | $1.0\times10^{6}$ | $2.8\times10^{7}$ |
| $^{137}$La | Lanthanum (57) | 40 | 1080 | 2 | 54 | $1.6\times10^{-3}$ | $4.4\times10^{-2}$ |
| $^{140}$La | | 0.4 | 10.8 | 0.4 | 10.8 | $2.1\times10^{4}$ | $5.6\times10^{5}$ |
| LSA | Low Specific Activity Material Definition (See § 173.403). | | | | | | |
| $^{172}$Lu | Lutetium (71) | 0.5 | 13.5 | 0.5 | 13.5 | $4.2\times10^{3}$ | $1.1\times10^{6}$ |
| $^{173}$Lu | | 8 | 216 | 8 | 216 | $5.6\times10^{1}$ | $1.5\times10^{3}$ |
| $^{174m}$Lu | | 20 | 540 | 8 | 216 | $2.0\times10^{2}$ | $5.3\times10^{3}$ |
| $^{174}$Lu | | 8 | 216 | 4 | 108 | $2.3\times10^{1}$ | $6.2\times10^{2}$ |
| $^{177}$Lu | | 30 | 810 | 0.9 | 24.3 | $4.1\times10^{3}$ | $1.1\times10^{5}$ |
| MFP | Mixed Fission Products (use formula for mixture or Table 9). | | | | | | |
| $^{28}$Mg 1 | Magnesium (12) | 0.2 | 5.4 | 0.2 | 5.4 | $2.0\times10^{5}$ | $5.4\times10^{6}$ |
| $^{52}$Mn | Manganese (25) | 0.3 | 8.1 | 0.3 | 8.1 | $1.6\times10^{4}$ | $4.4\times10^{5}$ |
| $^{53}$Mn | | (3) | (3) | (3) | (3) | $6.8\times10^{-5}$ | $1.8\times10^{-3}$ |
| $^{54}$Mn | | 1 | 27.0 | 1 | 27.0 | $2.9\times10^{2}$ | $7.7\times10^{3}$ |
| $^{56}$Mn | | 0.2 | 5.4 | 0.2 | 5.4 | $8.0\times10^{5}$ | $2.2\times10^{7}$ |
| $^{93}$Mo | Molybdenum (42) | 40 | 1080 | 7 | 189 | $4.1\times10^{-2}$ | 1.1 |
| $^{99}$Mo | | 0.6 | 16.2 | 0.5 | 13.5 | $1.8\times10^{4}$ | $4.8\times10^{5}$ |
| $^{13}$N | Nitrogen (7) | 0.6 | 16.2 | 0.5 | 13.5 | $5.4\times10^{7}$ | $1.5\times10^{9}$ |
| $^{22}$Na | Sodium (1) | 0.5 | 13.5 | 0.5 | 13.5 | $2.3\times10^{2}$ | $6.3\times10^{3}$ |
| $^{24}$Na | | 0.2 | 5.4 | 0.2 | 5.4 | $3.2\times10^{5}$ | $8.7\times10^{6}$ |
| $^{92m}$Nb | Niobium (41) | 0.7 | 18.9 | 0.7 | 18.9 | $5.2\times10^{3}$ | $1.4\times10^{5}$ |
| $^{93m}$Nb | | 40 | 1080 | 6 | 162 | 8.8 | $2.4\times10^{2}$ |
| $^{94}$Nb | | 0.6 | 16.2 | 0.6 | 16.2 | $6.9\times10^{-2}$ | $1.9\times10^{-1}$ |
| $^{95}$Nb | | 1 | 27.0 | 1 | 27.0 | $1.5\times10^{3}$ | $3.9\times10^{4}$ |
| $^{97}$Nb | | 0.6 | 16.2 | 0.5 | 13.5 | $9.9\times10^{5}$ | $2.7\times10^{7}$ |
| $^{147}$Nd | Neodymium (60) | 4 | 108 | 0.5 | 13.5 | $3.0\times10^{3}$ | $8.1\times10^{4}$ |
| $^{149}$Nd | | 0.6 | 16.2 | 0.5 | 13.5 | $4.5\times10^{5}$ | $1.2\times10^{7}$ |
| $^{59}$Ni | Nickel (28) | 40 | 1080 | 40 | 1080 | $3.0\times10^{-2}$ | $8.0\times10^{-2}$ |
| $^{63}$Ni | | 40 | 1080 | 30 | 810 | 2.1 | $5.7\times10^{1}$ |
| $^{65}$Ni | | 0.3 | 8.1 | 0.3 | 8.1 | $7.0\times10^{5}$ | $1.9\times10^{7}$ |
| $^{235}$Np | Neptunium (93) | 40 | 1080 | 40 | 1080 | $5.2\times10^{1}$ | $1.4\times10^{3}$ |
| $^{236}$Np | | 7 | 189 | $1\times10^{-3}$ | $2.07\times10^{-2}$ | $4.7\times10^{-4}$ | $1.3\times10^{-2}$ |

| Symbol of radionuclide | Element and atomic number | $A_1$ (TBq) | $A_1$ (Ci) | $A_2$ (TBq) | $A_2$ (Ci) | Specific activity (TBq/g) | Specific activity (Ci/g) |
|---|---|---|---|---|---|---|---|
| $^{237}$Np | | 2 | 54 | $2\times10^{-4}$ | 13.5 | $2.6\times10^{-5}$ | $7.1\times10^{-4}$ |
| $^{239}$Np | | 6 | 162 | 0.5 | 13.5 | $8.6\times10^{3}$ | $2.3\times10^{5}$ |
| $^{185}$Os | Osmium (76) | 1 | 27.0 | 1 | 27.0 | $2/9\times10^{2}$ | $Z7.5\times10^{2}$ |
| $^{191m}$Os | | 40 | 1080 | 40 | 1080 | $4.6\times10^{4}$ | $1.3\times10^{6}$ |
| $^{191}$Os | | 10 | 270 | 0.9 | 24.3 | $1.6\times10^{3}$ | $4.4\times10^{4}$ |
| $^{193}$Os | | 0.6 | 16.2 | 0.5 | 13.5 | $2.0\times10^{4}$ | $5.3\times10^{5}$ |
| $^{194}$Os [1] | | 0.2 | 5.4 | 0.2 | 5.4 | $1.1\times10^{1}$ | $3.1\times10^{2}$ |
| $^{32}$P | Phosphorus (15) | 0.3 | 8.1 | 0.3 | 8.1 | $1.1\times10^{4}$ | $2.9\times10^{5}$ |
| $^{33}$P | | 40 | 1080 | 0.9 | 24.3 | $5.8\times10^{3}$ | $1.6\times10^{5}$ |
| $^{230}$Pa | Protactinium (91) | 2 | 54 | 0.1 | 2.70 | $1.2\times10^{3}$ | $3.3\times10^{4}$ |
| $^{231}$Pa | | 0.6 | 16.2 | $6\times10-^{5}$ | $1.62\times10^{-3}$ | $1.7\times10^{-3}$ | $4.7\times10^{-3}$ |
| $^{233}$Pa | | 5 | 135 | 0.9 | 24.3 | $7.7\times10^{2}$ | $2.1\times10^{4}$ |
| $^{201}$Pb | Lead (82) | 1 | 27.0 | 1 | 27.0 | $6.2\times10^{4}$ | $1.7\times10^{6}$ |
| $^{202}$Pb | | 40 | 1080 | 2 | 54 | $1.2\times10^{-4}$ | $3.4\times10^{-3}$ |
| $^{203}$Pb | | 3 | 81 | 3 | 81 | $1.1\times10^{4}$ | $3.0\times10^{5}$ |
| $^{205}$Pb | | (2) | (2) | (2) | (2) | $4.5\times10^{-6}$ | $1.2\times10^{-4}$ |
| $^{210}$Pb [1] | | 0.6 | 16.2 | $9\times10-3$ | 0.243 | 2.8 | $7.6\times10^{1}$ |
| $^{212}$Pb [1] | | 0.3 | 8.1 | 0.3 | 8.1 | $5.1\times10^{4}$ | $1.4\times10^{6}$ |
| $^{103}$Pd | Palladium (46) | 40 | 1080 | 40 | 1080 | $2.8\times10^{3}$ | $7.5\times10^{4}$ |
| $^{107}$Pd | | (2) | (2) | (2) | (2) | $1.9\times10^{-5}$ | $5.1\times10^{-4}$ |
| $^{109}$Pd | | 0.6 | 16.2 | 0.5 | 13.5 | $7.9\times10^{4}$ | $2.1\times10^{6}$ |
| $^{143}$Pm | Promethium (61) | 3 | 81 | 3 | 81 | $1.3\times10^{2}$ | $3.4\times10^{3}$ |
| $^{144}$Pm | | 0.6 | 16.2 | 0.6 | 16.2 | $9.2\times10^{1}$ | $2.5\times10^{3}$ |
| $^{145}$Pm | | 30 | 810 | 7 | 189 | 5.2 | $1.4\times10^{2}$ |
| $^{147}$Pm | | 40 | 1080 | 0.9 | 24.3 | $3.4\times10^{1}$ | $9.3\times10^{2}$ |
| $^{148m}$Pm | | 0.5 | 13.5 | 0.5 | 13.5 | $7.9\times10^{2}$ | $2.1\times10^{4}$ |
| $^{149}$Pm | | 0.6 | 16.2 | 0.5 | 13.5 | $1.5\times10^{4}$ | $4.0\times10^{5}$ |
| $^{151}$Pm | | 3 | 81 | 0.5 | 13.5 | $2.7\times10^{4}$ | $7.3\times10^{5}$ |
| $^{208}$Po | Polonium (84) | 40 | 1080 | $2\times10-G510^{-2}$ | 0.54 | $2.2\times10^{1}$ | $5.9\times10^{2}$ |
| $^{209}$KPo | | 40 | 1080 | $2\times10^{-2}$ | 0.54 | $6.2\times10^{-1}$ | $1.7\times10^{1}$ |
| $^{210}$Po | | 40 | 1080 | $2\times10^{-2}$ | 0.54 | $1.7\times10^{2}$ | $4.5\times10^{3}$ |
| $^{142}$Pr | Praseodymium (59) | 0.2 | 5.4 | 0.2 | 5.4 | $4.3\times10^{4}$ | $1.2\times10^{6}$ |
| $^{143}$Pr | | 4 | 108 | 0.5 | 13.5 | $2.5\times10^{3}$ | $6.7\times10^{4}$ |
| $^{188}$Pt [1] | Platinum (78) | 0.6 | 16.2 | 0.6 | 16.2 | $2.5\times10^{3}$ | $6.8\times10^{4}$ |
| $^{191}$Pt | | 3 | 81 | 3 | 81 | $8.7\times10^{3}$ | $2.4\times10^{5}$ |
| $^{190m}$Pt | | 40 | 1080 | 9 | 243 | $5.8\times10^{3}$ | $1.6\times10^{5}$ |
| $^{193}$Pt | | 40 | 1080 | 40 | 1080 | 1.4 | $3.7\times10^{1}$ |
| $^{196m}$Pt | | 10 | 270 | 2 | 54 | $6.2\times10^{3}$ | $1.7\times10^{5}$ |
| $^{197m}$Pt | | 10 | 270 | 0.9 | 24.3 | $3.7\times10^{5}$ | $1.0\times10^{7}$ |
| $^{197}$Pt | | 20 | 540 | 0.5 | 13.5 | $3.2\times10^{4}$ | $8.7\times10^{5}$ |
| $^{236}$Pu | Plutonium (94) | 7 | 189 | $7\times10^{-4}$ | $1.89\times10^{-3}$ | $2.0\times10^{1}$ | $5.3\times10^{2}$ |
| $^{237}$Pu | | 20 | 540 | 20 | 540 | $4.5\times10^{2}$ | $1.2\times10^{4}$ |
| $^{238}$Pu | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $6.3\times10^{-1}$ | $1.7\times10^{1}$ |
| $^{239}$Pu | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $2.3\times10^{-3}$ | $6.2\times10^{-2}$ |
| $^{240}$Pu | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $8.4\times10^{-3}$ | $2.3\times10^{-1}$ |
| $^{241}$Pu | | 40 | 1080 | $1\times10^{-2}$ | 0.270 | $3.8\times10^{9}$ | $1.0\times10^{2}$ |
| $^{242}$Pu | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $1.5\times10^{-4}$ | $3.9\times10^{-3}$ |
| $^{244}$Pu [1] | | 0.3 | 8.1 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $6.7\times10^{-7}$ | $1.9\times10^{-5}$ |
| $^{223}$Ra [1] | Radium (88) | 0.6 | 16.2 | $3\times10^{-2}$ | 0.81 | $1.9\times10^{3}$ | $5.1\times10^{4}$ |
| $^{224}$Ra [1] | | 0.3 | 8.1 | $6\times10^{-2}$ | 1.62 | $5.9\times10^{3}$ | $1.6\times10^{5}$ |
| $^{225}$Ra [1] | | 0.6 | 16.2 | $2\times10^{-2}$ | 0.54 | $1.4\times10^{3}$ | $3.9\times10^{4}$ |
| $^{226}$Ra [1] | | 0.3 | 8.1 | $2\times10^{-2}$ | 0.54 | $3.7\times10^{-2}$ | 1.0 |
| $^{228}$Ra [1] | | 0.6 | 16.2 | $4\times10^{-2}$ | 1.08 | $1.0\times10^{1}$ | $2.7\times10^{2}$ |
| $^{81}$Rb | Rubidium (37) | 2 | 54 | 0.9 | 24.3 | $3.1\times10^{5}$ | $8.4\times10^{6}$ |
| $^{83}$Rb | | 2 | 54 | 2 | 54 | $6.8\times10^{2}$ | $1.8\times10^{4}$ |
| $^{84}$Rb | | 1 | 27.0 | 0.9 | 24.3 | $1.8\times10^{3}$ | $4.7\times10^{4}$ |
| $^{86}$Rb | | 0.3 | 8.1 | 0.3 | 8.1 | $3.0\times10^{3}$ | $8.1\times10^{4}$ |
| $^{87}$Rb | | (2) | (2) | (2) | (2) | $3.2\times10^{3}$ | $8.6\times10^{-5}$ |
| Rb (natural) | | (2) | (2) | (2) | (2) | $6.7\times10^{6}$ | $1.8\times10^{5}$ |
| $^{183}$Re | Rhenium (75) | 5 | 135 | 5 | 135 | $3.8\times10^{2}$ | $1.0\times10^{4}$ |
| $^{184m}$Re | | 3 | 81 | 3 | 81 | $1.6\times10^{2}$ | $4.3\times10^{3}$ |
| $^{184}$Re | | 1 | 27.0 | 1 | 27.0 | $6.9\times10^{2}$ | $1.9\times10^{4}$ |
| $^{186}$Re | | 4 | 108 | 0.5 | 13.5 | $6.9\times10^{3}$ | $1.9\times10^{5}$ |
| $^{187}$Re | | (2) | (2) | (2) | (2) | $1.4\times10^{-9}$ | $3.8\times10^{-8}$ |
| $^{188}$Re | | 0.2 | 5.4 | 0.2 | 5.4 | $3.6\times10^{4}$ | $9.8\times10^{5}$ |
| $^{189}$Re | | 4 | 108 | 0.5 | 13.5 | $2.5\times10^{4}$ | $6.8\times10^{5}$ |
| Re (natural) | | (2) | (2) | (2) | (2) | | |
| $^{99}$Rh | Rhodium (45) | 2 | 54 | 2 | 54 | $3.1\times10^{3}$ | $8.2\times10^{4}$ |
| $^{101}$Rh | | 4 | 108 | 4 | 108 | $4.1\times10^{1}$ | $1.1\times10^{3}$ |
| $^{102m}$Rh | | 2 | 54 | 0.9 | 24.3 | $2.3\times10^{2}$ | $6.2\times10^{3}$ |
| $^{102}$Rh | | 0.5 | 13.5 | 0.5 | 13.5 | $4.5\times10^{1}$ | $1.2\times10^{3}$ |
| $^{103m}$Rh | | 40 | 1080 | 40 | 1080 | $1.2\times10^{6}$ | $3.3\times10^{7}$ |
| $^{105}$Rh | | 10 | 270 | 0.9 | 24.3 | $3.1\times10^{4}$ | $8.4\times10^{5}$ |
| $^{222}$Rn [1] | Radon (86) | 0.2 | 5.4 | $4\times10^{-3}$ | 0.108 | $5.7\times10^{3}$ | $1.5\times10^{5}$ |
| $^{97}$Ru | Ruthenium (44) | 4 | 108 | 4 | 108 | $1.7\times10^{4}$ | $4.6\times10^{5}$ |
| $^{103}$Ru | | 2 | 54 | 0.9 | 24.3 | $1.2\times10^{3}$ | $3.2\times10^{4}$ |
| $^{105}$Ru | | 0.6 | 16.2 | 0.5 | 13.5 | $2.5\times10^{5}$ | $6.7\times10^{6}$ |
| $^{106}$Ru | | 0.2 | 5.4 | 0.2 | 5.4 | $1.2\times10^{2}$ | $3.3\times10^{3}$ |
| $^{35}$S | Sulfur (16) | 40 | 1080 | 2 | 54 | $1.6\times10^{3}$ | $4.3\times10^{4}$ |
| $^{123}$Sb | Antimony (51) | 0.3 | 8.1 | 0.3 | 8.1 | $1.5\times10^{4}$ | $4.0\times10^{5}$ |

| Symbol of radionuclide | Element and atomic number | $A_1$ (TBq) | $A_1$ (Ci) | $A_2$ (TBq) | $A_2$ (Ci) | Specific activity | |
|---|---|---|---|---|---|---|---|
| | | | | | | (TBq/g) | (Ci/g) |
| $^{124}Sb$ | | 0.6 | 16.2 | 0.5 | 13.5 | $6.5\times10^{2}$ | $1.7\times10^{4}$ |
| $^{125}Sb$ | | 2 | 54 | 0.9 | 24.3 | $3.9\times10^{1}$ | $1.0\times10^{3}$ |
| $^{126}Sb$ | | 0.4 | 10.8 | 0.4 | 10.8 | $3.1\times10^{3}$ | $8.4\times10^{4}$ |
| $^{44}Sc$ | Scandium (21) | 0.5 | 13.5 | 0.5 | 13.5 | $6.7\times10^{5}$ | $1.8\times10^{7}$ |
| $^{46}Sc$ | | 0.5 | 13.5 | 0.5 | 13.5 | $1.3\times10^{3}$ | $3.4\times10^{4}$ |
| $^{47}Sc$ | | 9 | 243 | 0.9 | 24.3 | $3.1\times10^{4}$ | $8.3\times10^{5}$ |
| $^{48}Sc$ | | 0.3 | 8.1 | 0.3 | 8.1 | $5.5\times10^{4}$ | $1.5\times10^{6}$ |
| SCO | Surface Contaminated Object Definition (See § 173.403). | | | | | | |
| $^{75}Se$ | Selenium (34) | 3 | 81 | 3 | 81 | $5.4\times10^{2}$ | $1.5\times10^{4}$ |
| $^{79}Se$ | | 40 | 1080 | 2 | 54 | $2.6\times10^{-3}$ | $7.0\times10^{-2}$ |
| $^{31}Si$ | Silicon (14) | 0.6 | 16.2 | 0.5 | 13.5 | $1.4\times10^{6}$ | $3.9\times10^{7}$ |
| $^{32}Si$ | | 40 | 1080 | 0.2 | 5.4 | 3.9 | $1.1\times10^{2}$ |
| $^{145}Sm$ | Samarium (62) | 20 | 540 | 20 | 540 | $9.8\times10^{1}$ | $2.6\times10^{3}$ |
| $^{147}Sm$ | | (2) | (2) | (2) | (2) | $8.5\times10^{-10}$ | $2.3\times10^{-8}$ |
| $^{151}Sm$ | | 40 | 1080 | 4 | 108 | $9.7\times10^{-1}$ | $2.6\times10^{1}$ |
| $^{153}Sm$ | | 4 | 108 | 0.5 | 13.5 | $1.6\times10^{4}$ | $4.4\times10^{5}$ |
| $^{113}Sn$(1) | Tin (50) | 4 | 108 | 4 | 108 | $3.7\times10^{2}$ | $1.0\times10^{4}$ |
| $^{117m}Sn$ | | 6 | 162 | 2 | 54 | $3.0\times10^{3}$ | $8.2\times10^{4}$ |
| $^{119m}Sn$ | | 40 | 1080 | 40 | 108 | $1.4\times10^{2}$ | $3.7\times10^{3}$ |
| $^{121m}Sn$ | | 40 | 1080 | 0.9 | 24.3 | $2.0\times10^{0}$ | $5.4\times10^{1}$ |
| $^{123}Sn$ | | 0.6 | 16.2 | 0.5 | 13.5 | $3.0\times10^{2}$ | $8.2\times10^{3}$ |
| $^{126}Sn$ | | 0.2 | 5.4 | 0.2 | 5.4 | $4.0\times10^{3}$ | $1.1\times10^{5}$ |
| $^{126}Sn$(1) | | 0.3 | 8.1 | 0.3 | 8.1 | $1.1\times10^{1}$ | $2.8\times10^{2}$ |
| $^{82}Sr$(1) | Strontium (38) | 0.2 | 5.4 | 0.2 | 5.4 | $2.3\times10^{3}$ | $6.2\times10^{4}$ |
| $^{85m}Sr$ | | 5 | 135 | 5 | 135 | $1.2\times10^{6}$ | $3.3\times10^{7}$ |
| $^{85}Sr$ | | 2 | 54 | 2 | 54 | $8.8\times10^{2}$ | $2.4\times10^{4}$ |
| $^{87m}Sr$ | | 3 | 81 | 3 | 81 | $4.8\times10^{5}$ | $1.3\times10^{7}$ |
| $^{89}Sr$ | | 0.6 | 16.2 | 0.5 | 13.5 | $1.1\times10^{3}$ | $2.9\times10^{4}$ |
| $^{90}Sr$(1) | | 0.2 | 5.4 | 0.1 | 2.7 | $5.1\times10^{0}$ | $1.4\times10^{2}$ |
| $^{91}Sr$ | | 0.3 | 8.1 | 0.3 | 8.1 | $1.3\times10^{5}$ | $3.6\times10^{6}$ |
| $^{92}Sr$(1) | | 0.2 | 5.4 | 0.2 | 5.4 | $4.7\times10^{5}$ | $1.3\times10^{7}$ |
| T(all forms) | Tritium (1) | 40 | 1080 | 40 | 1080 | $3.6\times10^{2}$ | $9.7\times10^{3}$ |
| $^{178}Ta$ | Tantalum (73) | 1 | 27.0 | 1 | 27 | $4.2\times10^{6}$ | $1.1\times10^{8}$ |
| $^{179}Ta$ | | 30 | 810 | 30 | 810 | $4.1\times10^{1}$ | $1.1\times10^{3}$ |
| $^{182}Ta$ | | 0.8 | 21.6 | 0.5 | 13.5 | $2.3\times10^{2}$ | $6.2\times10^{3}$ |
| $^{157}Tb$ | Terbium (65) | 40 | 1080 | 10 | 270 | $5.6\times10^{-1}$ | $1.5\times10^{1}$ |
| $^{158}Tb$ | | 1 | 27.0 | 0.7 | 18.9 | $5.6\times10^{-1}$ | 1.5 |
| $^{160}Tb$ | | 0.9 | 24.3 | 0.5 | 13.5 | $4.2\times10^{2}$ | $1.1\times10^{4}$ |
| $^{95m}Tc$ | Technetium (43) | 2 | 54 | 2 | 54 | $8.3\times10^{2}$ | $2.3\times10^{4}$ |
| $^{96m}Tc$(1) | | 0.4 | 10.8 | 0.4 | 10.8 | $1.4\times10^{6}$ | $3.8\times10^{7}$ |
| $^{96}Tc$ | | 0.4 | 10.8 | 0.4 | 10.8 | $1.2\times10^{4}$ | $3.2\times10^{5}$ |
| $^{97m}Tc$ | | 40 | 1080 | 40 | 1080 | $5.6\times10^{3}$ | $1.5\times10^{4}$ |
| $^{97}Tc$ | | (2) | (2) | (2) | (2) | $5.2\times10^{-5}$ | $1.4\times10^{3}$ |
| $^{98}Tc$ | | 0.7 | 18.9 | 0.7 | 18.9 | $3.2\times10^{-5}$ | $8.7\times10^{-4}$ |
| $^{99m}Tc$ | | 8 | 216 | 8 | 216 | $1.9\times10^{5}$ | $5.3\times10^{6}$ |
| $^{99}Tc$ | | 40 | 1080 | 0.9 | 24.3 | $6.3\times10^{-4}$ | $1.7\times10^{-3}$ |
| $^{116}Te$(1) | Tellurium (52) | 0.2 | 5.4 | 0.2 | 5.4 | $6.8\times10^{2}$ | $1.8\times10^{5}$ |
| $^{121m}Te$ | | 5 | 135 | 5 | 135 | $2.6\times10^{2}$ | $7.0\times10^{3}$ |
| $^{121}Te$ | | 2 | 54 | 2 | 54 | $2.4\times10^{3}$ | $6.4\times10^{4}$ |
| $^{123m}Te$ | | 7 | 189 | 7 | 189 | $3.3\times10^{2}$ | $8.9\times10^{3}$ |
| $^{125m}Te$ | | 30 | 810 | 9 | 243 | $6.7\times10^{2}$ | $1.8\times10^{4}$ |
| $^{127m}Te$ | | 20 | 540 | 0.5 | 13.5 | $3.5\times10^{2}$ | $9.4\times10^{3}$ |
| $^{127}Te$(1) | | 20 | 540 | 0.5 | 13.5 | $9.8\times10^{4}$ | $2.6\times10^{6}$ |
| $^{129m}Te$(1) | | 0.6 | 16.2 | 0.5 | 13.5 | $1.1\times10^{3}$ | $3.0\times10^{4}$ |
| $^{129}Te$ | | 0.6 | 16.2 | 0.5 | 13.5 | $7.7\times10^{5}$ | $2.1\times10^{7}$ |
| $^{131m}Te$ | | 0.7 | 18.9 | 0.5 | 13.5 | $3.0\times10^{4}$ | $8.0\times10^{5}$ |
| $^{132}Te$(1) | | 0.4 | 10.8 | 0.4 | 10.8 | $1.1\times10^{4}$ | $3.0\times10^{5}$ |
| $^{227}Th$ | Thorium (90) | 9 | 243 | $1\times10^{-3}$ | 0.270 | $1.1\times10^{3}$ | $3.0\times10^{4}$ |
| $^{228}Th$(1) | | 0.3 | 8.1 | $4\times10^{-4}$ | $1.08\times10^{-2}$ | $3.0\times10^{1}$ | $8.2\times10^{2}$ |
| $^{229}Th$ | | 0.3 | 8.1 | $3\times10^{-5}$ | $8.1\times10^{-4}$ | $7.9\times10^{-3}$ | $2.1\times10^{-1}$ |
| $^{230}Th$ | | 2 | 54 | $2\times10^{-4}$ | $5.4\times10^{-3}$ | $7.6\times10^{-4}$ | $2.1\times10^{-2}$ |
| $^{231}Th$ | | 40 | 1080 | 0.9 | 24.3 | $2.0\times10^{4}$ | $5.3\times10^{5}$ |
| $^{232}Th$ | | (2) | (2) | (2) | (2) | $4.0\times10^{-9}$ | $1.1\times10^{-7}$ |
| $^{234}Th$(1) | | 0.2 | 5.4 | 0.2 | 5.4 | $8.6\times10^{2}$ | $2.3\times10^{4}$ |
| Th (natural) | | (2) | (2) | (2) | (2) | $8.1\times10^{5}$ | $2.2\times10^{7}$ |
| $^{44}Ti$(1) | Titanium (22) | 0.5 | 13.5 | 0.2 | 5.4 | 6.3 | $1.7\times10^{2}$ |
| $^{200}Tl$ | Thallium (81) | 0.8 | 21.6 | 0.8 | 21.6 | $2.2\times10^{4}$ | $6.0\times10^{5}$ |
| $^{201}Tl$ | | 10 | 270 | 10 | 270 | $7.9\times10^{3}$ | $2.1\times10^{5}$ |
| $^{202}Tl$ | | 2 | 54 | 2 | 54 | $2.0\times10^{3}$ | $5.3\times10^{4}$ |
| $^{204}Tl$ | | 4 | 108 | 0.5 | 13.5 | $1.7\times10^{1}$ | $4.6\times10^{2}$ |
| $^{167}Tm$ | Thulium (69) | 7 | 189 | 7 | 189 | $3.1\times10^{3}$ | $8.5\times10^{4}$ |
| $^{168}Tm$ | | 0.8 | 21.6 | 0.8 | 21.6 | $3.1\times10^{2}$ | $8.3\times10^{3}$ |
| $^{170}Tm$ | | 4 | 108 | 0.5 | 13.5 | $2.2\times10^{2}$ | $6.0\times10^{3}$ |
| $^{171}Tm$ | | 40 | 1080 | 10 | 270 | $4.0\times10^{1}$ | $1.1\times10^{3}$ |
| $^{230}U$ | Uranium (92) | 40 | 1080 | $1\times10^{-3}$ | 0.270 | $1.0\times10^{3}$ | $2.8\times10^{4}$ |
| $^{232}U$ | | 3 | 81 | $3\times10^{-4}$ | $8.1\times10^{-3}$ | $8.3\times10^{-1}$ | $2.2\times10^{1}$ |
| $^{233}U$ | | 10 | 270 | $1\times10^{-2}$ | $2.7\times10^{-2}$ | $3.6\times10^{-4}$ | $9.7\times10^{-3}$ |
| $^{234}U$ | | 10 | 270 | $1\times10^{-3}$ | $2.70\times10^{-2}$ | $2.3\times10^{-4}$ | $6.2\times10^{-3}$ |

| Symbol of radionuclide | Element and atomic number | $A_1$ (TBq) | $A_1$ (Ci) | $A_2$ (TBq) | $A_2$ (Ci) | Specific activity (TBq/g) | Specific activity (Ci/g) |
|---|---|---|---|---|---|---|---|
| $^{235}U$ | | (4) | (4) | (4) | (4) | $8.0\times10^{-2}$ | $2.2\times10^{-6}$ |
| $^{236}U$ | | 10 | 270 | $1\times10^{-3}$ | $2.7\times10^{-3}$ | $2.4\times10^{-6}$ | $6.5\times10^{-5}$ |
| $^{238}U$ | | (2) | (2) | (2) | (2) | $1.2\times10^{-8}$ | $3.4\times10^{-7}$ |
| U(natural) | | (4) | (4) | (4) | (4) | $2.6\times10^{-8}$ | $7.1\times10^{-7}$ |
| U(enriched 5 percent or less) | | (2) | (2) | (2) | (2) | (5) | (5) |
| U(enriched more than 5 percent) | | 10 | 270 | $1\times10^{-3}$ | $2.70\times10^{-2}$ | (5) | (5) |
| U(depleted) | | (2) | (2) | (2) | (2) | (5) | (5) |
| $^{48}V$ | Vanadium (23) | 0.3 | 8.1 | 0.3 | 8.1 | $6.3\times10^{3}$ | $1.7\times10^{5}$ |
| $^{49}V$ | | 40 | 1080 | 40 | 1080 | $3.0\times10^{3}$ | $8.1\times10^{5}$ |
| $^{178}W$(1) | Tungsten (74) | 1 | 27.0 | 1 | 27.0 | $1.3\times10^{3}$ | $3.4\times10^{4}$ |
| $^{181}W$ | | 30 | 810 | 30 | 810 | $2.2\times10^{2}$ | $6.0\times10^{3}$ |
| $^{185}W$ | | 40 | 1080 | 0.9 | 24.3 | $3.5\times10^{2}$ | $9.4\times10^{3}$ |
| $^{187}W$ | | 2 | 54 | 0.5 | 13.5 | $2.6\times10^{4}$ | $7.0\times10^{5}$ |
| $^{188}W$(1) | | 0.2 | 5.4 | 0.2 | 5.4 | $3.7\times10^{3}$ | $1.0\times10^{5}$ |
| $^{122}Xe$(1) | Xenon (54) | 0.2 | 5.4 | 0.2 | 5.4 | $4.8\times10^{4}$ | $1.3\times10^{6}$ |
| $^{123}Xe$ | | 0.2 | 5.4 | 0.2 | 5.4 | $4.4\times10^{5}$ | $1.2\times10^{7}$ |
| $^{127}Xe$ | | 4 | 108 | 4 | 108 | $1.0\times10^{3}$ | $2.8\times10^{4}$ |
| $^{131m}Xe$ | | 40 | 1080 | 40 | 1080 | $3.1\times10^{3}$ | $8.4\times10^{4}$ |
| $^{133}Xe$ | | 20 | 540 | 20 | 540 | $6.9\times10^{3}$ | $1.9\times10^{5}$ |
| $^{135}Xe$ | | 4 | 108 | 4 | 108 | $9.5\times10^{4}$ | $2.6\times10^{6}$ |
| $^{87}Y$ | Yttrium (39) | 2 | 54 | 2 | 54 | $1.7\times10^{4}$ | $4.5\times10^{5}$ |
| $^{88}Y$ | | 0.4 | 10.8 | 0.4 | 10.8 | $5.2\times10^{3}$ | $1.4\times10^{4}$ |
| $^{90}Y$ | | 0.2 | 5.4 | 0.2 | 5.4 | $2.0\times10^{4}$ | $5.4\times10^{5}$ |
| $^{91m}Y$ | | 2 | 54 | 2 | 54 | $1.5\times10^{6}$ | $4.2\times10^{7}$ |
| $^{91}Y$ | | 0.3 | 8.1 | 0.3 | 8.1 | $9.1\times10^{3}$ | $2.5\times10^{4}$ |
| $^{92}Y$ | | 0.2 | 5.4 | 0.2 | 5.4 | $3.6\times10^{5}$ | $9.6\times10^{6}$ |
| $^{93}Y$ | | 0.2 | 5.4 | 0.2 | 5.4 | $1.2\times10^{5}$ | $3.3\times10^{6}$ |
| $^{169}Yb$ | Ytterbium (70) | 3 | 81 | 3 | 81 | $8.9\times10^{3}$ | $2.4\times10^{5}$ |
| $^{175}Yb$ | | 30 | 810 | 0.9 | 24.3 | $6.6\times10^{3}$ | $1.8\times10^{5}$ |
| $^{65}Zn$ | Zinc (30) | 2 | 54 | 2 | 54 | $3.0\times10^{3}$ | $8.2\times10^{5}$ |
| $^{69m}Zn$(1) | | 2 | 54 | 0.5 | 13.5 | $1.2\times10^{5}$ | $3.3\times10^{6}$ |
| $^{69}Zn$ | | 4 | 108 | 0.5 | 13.5 | $1.8\times10^{6}$ | $4.9\times10^{7}$ |
| $^{88}Zr$ | Zirconium (40) | 3 | 81 | 3 | 81 | $6.6\times10^{3}$ | $1.8\times10^{4}$ |
| $^{93}Zr$ | | 40 | 1080 | 0.2 | 5.4 | $9.3\times10^{-5}$ | $2.5\times10^{-3}$ |
| $^{95}Zr$ | | 1 | 27.0 | 0.9 | 24.3 | $7.9\times10^{3}$ | $2.1\times10^{4}$ |
| $^{97}r$ | | 0.3 | 8.1 | 0.3 | 8.1 | $7.0\times10^{4}$ | $1.9\times10^{6}$ |

[1] $A_1$ and/or $A_2$ value limited by daughter product decay.
[2] Unlimited.
[3] See T=Tritium.
[4] $A_1$ and $A_2$ are unlimited for radiation control purposes only. For nuclear critically safety this material is subject to the control placed on fissile material.
[5] See § 173.434.

**§ 173.441 Radiation level limitations.**

(a) Except as provided in paragraph (b) of this section, each package of radioactive materials offered for transportation must be designed and prepared for shipment so that under conditions normally incident to transportation the radiation level does not exceed 2 mSv/hour (200 mrem/hour) at any point on the external surface of the package, and the transport index does not exceed 10.

(b) A package which exceeds the radiation level limits specified in paragraph (a) of this section must be transported by exclusive use shipment only, and the radiation levels for such shipment must not exceed the following during transportation:

(1) 2 mSv/h (200 mrem/h) on the external surface of the package unless the following conditions are met, in which case the limit is 10 mSv/h (1000 mrem/h):

(i) The shipment is made in a closed transport vehicle;

(ii) The package is secured within the vehicle so that its position remains fixed during transportation; and

(iii) There are no loading or unloading operations between the beginning and end of the transportation;

(2) 2 mSv/h (200 mrem/h) at any point on the outer surfaces of the vehicle, including the top and underside of the vehicle; or in the case of a flat-bed style vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load or enclosure if used, and on the lower external surface of the vehicle; and

(3) 0.1 mSv/h (10 mrem/h) at any point 2 meters (6.6 feet) from the outer lateral surfaces of the vehicle (excluding the top and underside of the vehicle); or in the case of a flat-bed style vehicle, at any point 2 meters (6.6 feet) from the vertical planes projected by the outer edges of the vehicle (excluding the top and underside of the vehicle); and

(4) 0.02 mSv/h (2 mrem/h) in any normally occupied space, except that this provision does not apply to private carriers if exposed personnel under their control wear radiation dosimetry devices in conformance with § 173.405(d)(3) of this subpart.

(c) For shipments made under the provisions of paragraph (b) of this section, the shipper shall provide specific written instructions for maintenance of the exclusive use shipment controls to the carrier. The instructions must be included with the shipping paper information.

(d) Packages exceeding the radiation level or transport index prescribed in paragraph (a) of this section must not be transported by aircraft.

(e) The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will unnecessarily delay delivery or unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

**§ 173.442 Thermal limitations.**

A package of radioactive material must be designed, constructed, and loaded so that:

(a) The heat generated within the package by the radioactive contents will not, during conditions normally incident

to transport, affect the integrity of the package; and

(b) The temperature of the accessible external surfaces of the loaded package will not, assuming still air in the shade at an ambient temperature of 38 °C (100 °F), exceed either:

(1) 50 °C (122 °F) in other than an exclusive use shipment; or

(2) 85 °C (185 °F) in an exclusive use shipment.

**§ 173.443 Contamination control.**

(a) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for transport must be kept as low as reasonably achievable. The level of non-fixed radioactive contamination may not exceed the limits set forth in Table 11 and must be determined by either:

(1) Wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the non-fixed contamination levels. The amount of radioactivity measured on any single wiping material when averaged over the surface wiped may not exceed the limits set forth in Table 11 at any time during transport.

(2) Using other methods of assessment of equal or greater efficiency, in which case the efficiency of the method used must be taken into account and the non-fixed contamination on the external surfaces of the package must not exceed ten times the limits set forth in Table 11.

(b) Except as provided in paragraph (d) of this section, in the case of packages transported as exclusive use shipments by rail or public highway only, the removable (non-fixed) radioactive contamination on any package at any time during transport must not exceed ten times the levels prescribed in paragraph (a) of this section. The levels at the beginning of transport must not exceed the levels prescribed in paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, each transport vehicle used for transporting radioactive materials as an exclusive use shipment that utilizes the provisions of paragraph (b) of this section must be surveyed with appropriate radiation detection instruments after each use. A vehicle must not be returned to service until the radiation dose rate at each accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less, and there is no significant removable (non-fixed) radioactive surface contamination as specified in paragraph (a) of this section.

(d) Paragraphs (b) and (c) of this section do not apply to any closed transport vehicle used solely for the transportation by public highway rail of radioactive material packages with contamination levels that do not exceed 10 times the levels prescribed in paragraph (a) of this section if:

(1) A survey of the interior surfaces of the empty vehicle shows that the radiation dose rate at any point does not exceed 0.1 mSv per hour (10 mrem per hour) at the surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from the surface;

(2) Each vehicle is stenciled with the words "For Radioactive Materials Use Only" in letters at least 76 millimeters (3 inches) high in a conspicuous place on both sides of the exterior of the vehicle; and

(3) Each vehicle is kept closed except for loading or unloading.

TABLE 11.—NON-FIXED EXTERNAL RADIOACTIVE CONTAMINATION-WIPE LIMITS

| Contaminant | Maximum permissible limits | | |
|---|---|---|---|
| | Bq/cm² | uCi/cm² | dpm/cm² |
| Beta and gama emitters and low toxicity alpha emitters | 0.4 | $10^{-5}$ | 22 |
| All other alpha emitting radionuclides | 0.04 | $10^{-6}$ | 2.2 |

**§ 173.444 Labeling requirements.**

Each package of radioactive materials, unless excepted by § 173.421, § 173.422, § 173.424, or § 173.427, must be labeled as prescribed in Subpart E of part 172 of this subchapter.

**§ 173.446 Placarding requirements.**

Placarding requirements are prescribed in subpart F of part 172 of this subchapter.

**§ 173.447 Storage incident to transportation—general requirements.**

The following requirements apply to temporary storage during the course of transportation but not to Nuclear Regulatory Commission or Agreement State-licensed facilities or U.S. Government-owned or contracted facilities.

(a) The number of packages bearing Radioactive Yellow II or Radioactive Yellow III labels stored in any one storage area, such as a transit area, terminal building, storeroom, waterfront pier or assembly yard, must be limited so that the sum of the transport indexes in any individual group of packages does not exceed 50. Groups of these packages must be stored so as to maintain a spacing of at least 6 meters (20 feet) from other groups of packages containing radioactive materials.

(b) Mixing of different kinds of radioactive materials packages that include fissile materials packages is authorized only in accordance with § 173.459 of this subchapter.

**§ 173.448 General transportation requirements.**

(a) Each shipment of radioactive materials must be secured to prevent shifting during normal transportation conditions.

(b) Except as provided in §§ 174.81, 176.83 and 177.848 of this subchapter, or as otherwise required by the competent authority in the applicable certificate, a package of radioactive materials may be carried among packaged general cargo without special stowage provisions, if:

(1) The heat output in watts does not exceed 0.1 times the minimum package dimension in centimeters; or

(2) The average surface heat flux of the package does not exceed 15 watts per square meter and the immediately surrounding cargo is not in sacks or bags or otherwise in a form that would seriously impede air circulation for heat removal.

(c) Packages bearing labels prescribed in § 172.403 of this subchapter may not be carried in compartments occupied by passengers, except in those compartments exclusively reserved for couriers accompanying those packages.

(d) Mixing of different kinds of packages that include fissile packages, is authorized only in accordance with § 173.459.

(e) No person may offer for transportation aboard a passenger-carrying aircraft any single package with a transport index greater than 3.0 or an overpack with a transport index greater than 3.0.

(f) No person may offer for transportation aboard a passenger-carrying aircraft any radioactive material unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

(g) If an overpack is used to consolidate individual packages of radioactive materials, the packages must comply with the packaging, marking, and labeling requirements of this subchapter, and the following:

(1) The overpack must be labeled as prescribed in § 172.403 of this subchapter except as follows:

(i) The "contents" entry on the label may state "mixed" unless each inside package contains the same radionuclide(s).

(ii) The "activity" entry on the label must be determined by adding together the number of Becquerels (curies) of the radioactive materials packages contained therein.

(iii) For a non-rigid overpack, the required label together with required package markings must be affixed to the overpack by means of a securely attached, durable tag. The transport index must be determined by adding together the transport indexes of the radioactive materials packages contained therein.

(iv) For a rigid overpack, the transport index must be determined by:

(A) Adding together the transport indexes of the radioactive materials packages contained in the overpack; or

(B) Except for fissile radioactive materials, direct measurements as prescribed in § 173.403 for transport index, taken by the person initially offering the packages contained within the overpack for shipment.

(2) The overpack must be marked as prescribed in subpart D of part 172 of this subchapter and § 173.25(a).

(3) The transport index of the overpack must not exceed 3.0 for passenger-carrying aircraft shipments, or 10.0 for cargo-aircraft only shipments.

**§ 173.451 Fissile materials—general requirements.**

(a) Except as provided in § 173.453, each package containing fissile radioactive materials must comply with §§ 173.457 and 173.459.

**§ 173.453 Fissile materials—exceptions.**

The requirements of §§ 173.451 through 173.459 do not apply to:

(a) A package containing 15 grams or less of fissile radionuclides. If the material is transported in bulk, the quantity limitation applies to the conveyance;

(b) A package containing homogeneous solutions or mixtures where:

(1) The minimum ratio of the number of hydrogen atoms to the number of atoms of fissile radionuclides (H/X) is 5200;

(2) The maximum concentration of fissile radionuclides is 5 grams per liter; and

(3) The maximum mass of fissile radionuclides in the package is 500 grams, except that for a mixture in which the total mass of plutonium and uranium-233 does not exceed 1% of the mass of uranium-235, the limit is 800 grams. If the material is transported in bulk, the quantity limitations apply to the conveyance;

(c) A package containing uranium enriched in uranium-235 to a maximum of 1% by mass, and mixed with a total plutonium and uranium-233 content of up to 1% of the mass of uranium-235, if the fissile radionuclides are distributed homogeneously throughout the package contents, and do not form a lattice arrangement within the package;

(d) A package containing not more than 5 grams of fissile radionuclides in any 10 liter volume, provided that the material is contained in packages that will maintain the limitation on fissile radionuclide distribution during normal conditions of transport;

(e) A package containing one kilogram or less of plutonium of which 20% or less by mass may consist of plutonium-239, plutonium-241, or any combination of those radionuclides;

(f) A package containing liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2% by mass, with total plutonium and uranium-233 content not exceeding 0.1% of the mass of uranium-235 with a nitrogen-to-uranium atomic ratio (N/U) of 2.

**§ 173.457 Transportation of fissile material, controlled shipments—specific requirements.**

Shipments of fissile material packages that have been assigned to TI of greater than 10 for criticality control purposes in accordance with 10 CFR § 71.59 must meet the requirements of this section and § 173.441(b) of this subpart.

(a) For fissile material, controlled shipments the shipper or carrier, as appropriate, shall incorporate transportation controls which:

(1) Provide nuclear criticality safety;

(2) Protect against loading, storing, or transporting that shipment with any other fissile material; and

(3) Include in the shipping papers the description required by § 172.203(d) of this subchapter.

(b) Fissile material, controlled shipments must be transported:

(1) In conveyance assigned to the exclusive use of the shipper with a specific restriction for the exclusive use to be provided in the appropriate arrangements between shipper and carrier and with instructions to that effect issued with the shipping papers;

(2) Except for shipments by aircraft, in a conveyance with an escort having the capability, equipment, authority, and instructions to provide administrative controls necessary to assure compliance with this section;

(3) In a conveyance containing no other packages of any radioactive material required to bear one of the labels prescribed in § 172.403 of this subchapter. Specific arrangements must be made between the shipper and the carrier, with instructions to that effect issued with the shipping papers; or

(4) Except as provided in § 176.704(e) of this subchapter, the shipment is not transported by vessel.

**§ 173.459 Mixing of fissile material packages.**

(a) Mixing of fissile material packages with other types of radioactive materials is authorized only if the transport index of any single package does not exceed 10 and the total transport index in any conveyance or storage location does not exceed 50.

(b) Fissile packages may be shipped with an external radiation level greater than 0.1 mSv/hr (10 mrem per hour) at 1 meter (3.3 feet), and combined with other packages of the same or different designs in a fissile material, controlled shipment, under the conditions prescribed in § 173.457, if:

(1) Each package in the shipment has been assigned a transport index for criticality control purposes in accordance with the 10 CFR § 71.59;

(2) The nuclear criticality control transport index does not exceed 10 for any single package;

(3) The total nuclear criticality control transport index does not exceed 100 for all packages in the shipment; and

(4) Except as provided in § 176.704(e) of this subchapter, the shipment is not transported by vessel.

(c) A fissile material, controlled shipment of packages may be combined with other packages of the same or different design when each package has been assigned a nuclear criticality control transport index in accordance with 10 CFR 71.59, and may be combined with other fissile packages into a fissile material, controlled shipment under the conditions prescribed in § 173.457, if:

(1) The nuclear criticality control transport index which has been assigned in the package approval does not exceed 50 for any single package;

(2) The total nuclear criticality control transport index for all packages in the shipment does not exceed 100;

(3) Except as provided in § 176.704(e) of this subchapter, the shipment is not transported by vessel.

**§ 173.461 Demonstration of compliance with tests.**

(a) Compliance with the test requirements in §§ 173.463 through 173.469 must be shown by any of the methods prescribed in this paragraph, or by a combination of these methods

appropriate for the particular feature being evaluated:

(1) Performance of tests with specimens representing LSA–III, special form radioactive material (solid radioactive material or capsules), or with prototypes or samples of the packaging in which case the contents of the specimen or packaging for the test must simulate as closely as practicable the expected range of physical properties of the radioactive contents and the specimen or packaging to be tested must be prepared as normally presented for transport. The use of non-radioactive substitute contents is encouraged provided that the results of the testing take into account the radioactive characteristics of the contents for which the package is being tested;

(2) Reference to a previous, satisfactory demonstration of compliance of a sufficiently similar nature;

(3) Performance of tests with models of appropriate scale incorporating those features that are significant with respect to the item under investigation, when engineering experience has shown results of those tests to be suitable for design purposes. When a scale model is used, the need for adjusting certain test parameters, such as the penetrator diameter or the compressive load, must be taken into account; or

(4) Calculations or reasoned argument, when the calculation procedures and parameters are generally agreed to be reliable and conservative.

(b) With respect to the initial conditions for the tests under §§ 173.463 through 173.469, except for the water immersion tests, compliance must be based upon the assumption that the package is in equilibrium at an ambient temperature of 38 °C (100 °F).

**§ 173.462 Preparation of specimens for testing.**

(a) Each specimen (i.e., sample, prototype or scale model) must be examined before testing to identify and record faults or damage, including:

(1) Divergence from the specifications or drawings;

(2) Defects in construction;

(3) Corrosion or other deterioration; and

(4) Distortion of features.

(b) Any deviation found under paragraph (a) of this section from the specified design must be corrected or appropriately taken into account in the subsequent evaluation.

(c) The containment system of the packaging must be clearly specified.

(d) The external features of the specimen must be clearly identified so that reference may be made to any part of it.

**§ 173.463 Packaging and shielding—testing for integrity.**

After each of the applicable tests specified in §§ 173.465 and 173.466, the integrity of the packaging, or of the packaging and its shielding, whichever is applicable, must be retained to the extent required by § 173.412(i) for the packaging being tested.

**§ 173.465 Type A packaging tests.**

(a) The packaging with contents must be capable of withstanding the water spray, free drop, compression and penetration tests prescribed in this section. One prototype may be used for all tests if the requirements of paragraph (b) of this section are met.

(b) *Water spray test.* The water spray test must precede each test or test sequence prescribed in this section. The water spray test must simulate exposure to rainfall of approximately 5 centimeters (2 inches) per hour for at least one hour. The time interval between the end of the water spray test and the beginning of the next test must be such that the water has soaked in to the maximum extent without appreciable drying of the exterior of the specimen. In the absence of evidence to the contrary, this interval may be assumed to be two hours if the water spray is applied from four different directions simultaneously. However, no time interval may elapse if the water spray is applied from each of the four directions consecutively.

(c) *Free drop test.* The specimen must drop onto the target so as to suffer maximum damage to the safety features being tested, and:

(1) The height of the drop measured from the lowest point of the specimen to the upper surface of the target must not be less than the distance specified in Table 12, for the applicable package mass. The target must be as specified in § 173.465(c)(5).

TABLE 12.—FREE DROP DISTANCE FOR TESTING PACKAGES TO NORMAL CONDITIONS OF TRANSPORT

| Packaging mass | Free drop distance | |
|---|---|---|
| Kilograms (Pounds) | Meters | (Feet) |
| Mass 5000 (11,000) | 1.2 | (4) |
| 5000 (11,000) Mass 10,000 (22,000) | 0.9 | (3) |
| 10,000 (22,000) Mass 15,000 (33,000) | 0.6 | (2) |
| 15,000 (33,000) Mass | 0.3 | (1) |

(2) For packages containing fissile material, the free drop test specified in subparagraph (1) of this paragraph must be preceded by a free drop from height of 0.3 meter (1 foot) on each corner or in the case of cylindrical packages, onto each of the quarters of each rim.

(3) For fiberboard or wood rectangular packages with a mass of 50 kilograms (110 pounds) or less, a separate specimen shall be subjected to a free drop onto each corner from a height of 0.3 meter (1 foot).

(4) For cylindrical fiberboard packages with a mass of 100 kilograms (220 pounds) or less, a separate specimen must be subjected to a free drop onto each of the quarters of each rim from a height of 0.3 meter (1 foot).

(5) The target for the free drop test must be a flat, horizontal surface of such mass and rigidity that any increase in its resistance to displacement or deformation upon impact by the specimen would not significantly increase the damage to the specimen.

(d) *Stacking test.* (1) The specimen must be subjected for a period of at least 24 hours to a compressive load equivalent to the greater of the following:

(1) Five times the mass of the actual package; or

(ii) The equivalent of 13 kilopascals (1.9 pounds per square inch) multiplied by the vertically projected area of the package.

(2) The compressive load must be applied uniformly to two opposite sides of the specimen, one of which must be the base on which the package would normally rest:

(e) *Penetration test.* For the penetration test the specimen must be placed on a rigid, flat, horizontal surface that will not move significantly while the test is being performed.

(1) A bar of 3.2 centimeters (1.3 inches) in diameter with a hemispherical end and a mass of 6 kilograms (13.2 pounds) must be dropped and directed to fall with its longitudinal axis vertical, onto the center of the weakest part of the specimen, so that, if it penetrates far enough, it will hit the containment system. The bar must not be significantly deformed by the test; and

(2) The height of the drop of the bar measured from its lower end to the intended point of impact on the upper surface of the specimen must be 1 meter (3.3 feet) or greater.

**§ 173.466 Additional tests for Type A packagings designed for liquids and gases.**

(a) In addition to the tests prescribed in § 173.465, Type A packagings designed for liquids and gases must be

capable of withstanding the following tests:

(1) *Free drop test.* The packaging specimen must drop onto the target so as to suffer the maximum damage to its containment. The height of the drop measured from the lowest part of the packaging specimen to the upper surface of the target must be 9 meters (30 feet) or greater. The target must be as specified in § 173.465(c)(5).

(2) *Penetration test.* The specimen must be subjected to the test specified in § 173.465(e) except that the height of the drop must be 1.7 meters (5.5 feet).

**§ 173.467 Tests for demonstrating the ability of Type B and fissile materials packagings to withstand accident conditions in transportation.**

Each Type B packaging or packaging for fissile material must meet the test requirements prescribed in 10 CFR part 71 for ability to withstand accident conditions in transportation.

**§ 173.468 Test for LSA-III material.**

(a) LSA-III radioactive material must meet the test requirement of paragraph (b) of this section. Each solid specimen to be tested must be representative of the actual solid LSA-III material that will be transported. Any differences between the material to be transported and the test material must be taken into account in determining whether the test requirements have been met.

(b) *Test method.* (1) The specimen representing no less than the entire contents of the package must be immersed for 7 days in water at ambient temperature;

(2) The volume of water to be used in the test must be sufficient to ensure that at the end of the test period the free volume of the unabsorbed and unreacted water remaining will be at least 10 percent of the volume of the specimen itself;

(3) The water must have an initial pH of 6–8 and a maximum conductivity of 10 micromho/cm at 20 °C (68 °F); and

(4) The total activity of the free volume of water must be measured following the 7 day immersion test and must not exceed 0.1 $A_2$.

**§ 173.469 Tests for special form radioactive materials.**

(a) Special form radioactive materials must meet the test requirements of paragraph (b) of this section. Each solid radioactive material or capsule specimen to be tested must be manufactured or fabricated so that it is representative of the actual solid material or capsule that will be transported with the proposed radioactive content duplicated closely as practicable. Any differences between the material to be transported and the test material such as the use of non-radioactive contents must be taken into account in determining whether the test requirements have been met. In addition:

(1) A different specimen may be used for each of the tests;

(2) The specimen must not break or shatter when subjected to the impact, percussion, or bending tests;

(3) The specimen must not melt or disperse when subjected to the heat test;

(4) After each test, leaktightness or indispersibility of the specimen must be determined by a method no less sensitive than the leaching assessment prescribed in paragraph (c) of this section. For a capsule resistant to corrosion by water, and which has an internal void volume greater than 0.1 milliliter, an alternative to the leaching assessment is a demonstration of leaktightness of $10^{-4}$ torr-l/s ($1.3\times10^{-4}$ atm-cm$^3$/s) based on air at 25 °C (77 °F) and one atmosphere differential pressure for solid radioactive content, or $10^{-6}$ torr-l/s ($1.3\times10^{-6}$ atm-cm$^3$/s) for liquid or gaseous radioactive content; and

(5) A specimen that comprises or simulates radioactive material contained in a sealed capsule need not be subjected to the leaktightness procedure specified in this section provided it is alternatively subjected to any of the tests prescribed in ISO/TR4826-1979(E), "Sealed radioactive sources Leak test methods."

(b) *Test methods*—(1) *Impact Test.* The specimen must fall onto the target from a height of 9 meters (30 feet) or greater. The target must be as specified in § 173.465(c)(5);

(2) *Percussion Test.* (i) The specimen must be placed on a sheet of lead that is supported by a smooth solid surface, and struck by the flat face of a steel billet so as to produce an impact equivalent to that resulting from a free drop of 1.4 kilograms (3 pounds) through 1 meter (3.3 feet);

(ii) The flat face of the billet must be 25 millimeters (1 inch) in diameter with the edges rounded off to a radius of 3 millimeters±0.3 millimeters (.12 inch±0.012 inch);

(iii) The lead must be hardness number 3.5 to 4.5 on the Vickers scale and thickness 25 millimeters (1 inch) or greater, and must cover an area greater than that covered by the specimen;

(iv) A fresh surface of lead must be used for each impact; and

(v) The billet must strike the specimen so as to cause maximum damage.

(3) *Bending test.* (i) This test applies only to long, slender sources with a length of 10 centimeters (4 inches) or greater and a length to width ratio of 10 or greater;

(ii) The specimen must be rigidly clamped in a horizontal position so that one half of its length protrudes from the face of the clamp;

(iii) The orientation of the specimen must be such that the specimen will suffer maximum damage when its free end is struck by the flat face of a steel billet;

(iv) The billet must strike the specimen so as to produce an impact equivalent to that resulting from a free vertical drop of 1.4 kilograms (3 pounds) through 1 meter (3.3 feet); and

(v) The flat face of the billet must be 25 millimeters (1 inch) in diameter with the edges rounded off to a radius of 3 millimeters±0.3 millimeters (.12 inch±0.012 inch).

(4) *Heat test.* The specimen must be heated in air to a temperature of not less than 800 °C (1472 °F), held at the temperature for a period of 10 minutes, and then allowed to cool.

(c) *Leaching assessment methods.* (1) For indispersible solid material—

(i) The specimen must be immersed for seven days in water at ambient temperature. The water must have a pH of 6–8 and a maximum conductivity of 10 micromho per centimeter at 20° (68 °F);

(ii) The water with specimen must then be heated to a temperature of 50°C±5° (122 °F±9°) and maintained at this temperature for four hours;

(iii) The activity of the water must then be determined;

(iv) The specimen must then be stored for at least seven days in still air of relative humidity not less than 90 percent at 30 °C (86 °F);

(v) The specimen must then be immersed in water under the same conditions as in paragraph (c)(1)(i) of this section, and the water with specimen must be heated to 50 °C±5° (122 °F±9°) and maintained at that temperature for four hours;

(vi) The activity of the water must then be determined. The activities determined in paragraph (c)(1)(iii) and this paragraph, § 173.469(c)(1)(vi), must not exceed 2 kilobecquerels (0.05 microcurie).

(2) For encapsulated material—

(i) The specimen must be immersed in water at ambient temperature. The water must have a pH of 6–8 and a maximum conductivity of 10 micromho per centimeter.

(ii) The water and specimen must be heated to a temperature of 50 °C±5° (122 °F±9°) and maintained at this temperature for four hours;

(iii) The activity of the water must then be determined;

(iv) The specimen must then be stored for at least seven days in still air at a temperature of 30 °C (86 °F) or greater;

(v) The process in (i), (ii), and (iii) must be repeated; and

(vi) The activity determined in paragraph (c)(2)(iii) must not exceed 2 kilobecquerels (0.05 microcurie).

(d) A specimen that comprises or simulates radioactive material contained in a sealed capsule need not be subjected to—

(1) The impact test and the percussion test of this section provided that the specimen is alternatively subjected to the Class 4 impact test prescribed in ISO 2919–1980(e), "Sealed Radioactive Sources Classification;" and

(2) The heat test of this section, provided the specimen is alternatively subjected to the Class 6 temperature test specified in the International Organization for Standardization document ISO 2919–1980(e), "Sealed Radioactive Sources Classification."

**§ 173.471 Requirements for U.S. Nuclear Regulatory Commission approved packages.**

In addition to the applicable requirements of the U.S. Nuclear Regulatory Commission (USNRC) and other requirements of this subchapter, any shipper of a Type B, Type B(U), Type B(M), or fissile material package that has been approved by the USNRC in accordance with 10 CFR part 71 shall also comply with the following requirements:

(a) The shipper shall be registered with the USNRC as a party to the packaging approval, and make the shipment in compliance with the terms of the packaging approval;

(b) The outside of each package must be durably and legibly marked with the package identification marking indicated in the USNRC packaging approval;

(c) Each shipping paper related to the shipment of the package must bear the package identification marking indicated in the USNRC packaging approval;

(d) Before the first export shipment of the package, the shipper shall obtain a U.S. Competent Authority Certificate for that package design or if one has already been issued, the shipper shall register with the U.S. Competent Authority as a user of the certificate. Upon registration the shipper will be furnished with a copy of the certificate. The shipper shall then submit a copy of the U.S. Competent Authority Certificate applying to that package design to the national competent authority of each country into or through which the package will be transported, unless a copy has already been furnished;

(e) Each request for a U.S. Competent Authority Certificate as required by the IAEA regulations must be submitted in writing to the address set forth in § 173.404 of this subpart. The request must be in triplicate and include copies of the applicable USNRC packaging approval, USNRC Quality Assurance Program approval and a reproducible 22 cm x 30 cm (8.5" x 11") drawing showing the make-up of the package. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date; and

(f) Import and export shipments may be made in accordance with § 171.12 of this subchapter.

**§ 173.472 Requirements for exporting DOT Specification Type B and fissile packages.**

(a) Any shipper who exports a DOT Specification Type B or fissile material package authorized by § 173.416 or § 173.417 shall comply with paragraphs (b) through (f) of this section.

(b) The shipper shall register with the U.S. Competent Authority as a user of the appropriate U.S. Competent Authority Certificate and the shipment must be made in accordance with the certificate;

(c) The outside of each package must be durably and legibly marked with the package identification marking indicated in the U.S. Competent Authority Certificate;

(d) Each shipping paper related to the shipment of the package must bear the package identification marking indicated in the U.S. Competent Authority Certificate;

(e) Before the first export shipment of the package, the shipper shall obtain a U.S. Competent Authority Certificate for that package design or if one has already been issued, the shipper shall register with the U.S. Competent Authority as a user of the certificate. Upon registration the shipper will be furnished with a copy of the certificate. The shipper shall then submit a copy of the U.S. Competent Authority Certificate applying to that package design to the national competent authority of each country into or through which the package will be transported, unless a copy has already been furnished;

(f) Each request for a U.S. Competent Authority Certificate as required by the IAEA regulations must be submitted in writing to the address set forth in § 173.404 of this subpart. The request must be submitted in triplicate and must include a description of the quality assurance program required by §§ 173.474 and 173.475 and a reproducible 22 cm x 30 cm (8.5" x 11") drawing showing the make-up of the package. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date; and

(g) Import and export shipments may be made in accordance with § 171.12 of this subchapter.

**§ 173.473 Requirements for foreign-made packages.**

In addition to other applicable requirements of this subchapter, each shipper of a foreign-made Type B, Type B(U), Type B(M), or fissile material package for which a competent authority certificate is required by the IAEA "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," shall also comply with the following requirements.

(a) Prior to the first shipment of such a package of radioactive materials into or from the U.S., the shipper shall:

(1) Have the foreign competent authority certificate revalidated by the U.S. Competent Authority, unless this has been done previously. Each request for revalidation must be submitted in writing to the address set forth in § 173.404 of this subpart. The request must be in triplicate, contain all the information required by Section VII of the IAEA regulations, and include a copy in English of the foreign competent authority certificate. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date;

(2) Register in writing with the U.S. Competent Authority as a user of the package covered by the foreign competent authority certificate and its U.S. revalidation. If the shipper is requesting the revalidation, registration is automatic; and

(3) Supply to the carrier, upon request, the applicable competent authority certificates. However, the competent authority certificates are not required to accompany the packages to which they apply.

(b) The outside of each package must be durably and legibly marked with the same competent authority identification marking indicated on the competent authority certificate and revalidation;

(c) Each shipping paper for a shipment of radioactive materials must bear a notation of the package identification

marking indicated on the competent authority certificate or revalidation;

(d) All requirements of the foreign competent authority certificate and the U.S. Competent Authority revalidation must be fulfilled; and

(e) Import and export shipments may be made in accordance with § 171.12 of this subchapter.

**§ 173.474 Quality control for construction of packaging.**

(a) Prior to the first use of any packaging for the shipment of radioactive material, the shipper shall determine that:

(1) The packaging meets the quality of design and construction requirements as specified in this subchapter; and

(2) The effectiveness of the shielding, containment, and, when required, the heat transfer characteristics of the package, are within the limits specified for the package design.

**§ 173.475 Quality control requirements prior to each shipment of radioactive materials.**

Before each shipment of any radioactive materials package, the shipper shall ensure by examination or appropriate tests, that:

(a) The packaging is proper for the contents to be shipped;

(b) The packaging is in unimpaired physical condition, except for superficial marks;

(c) Each closure device of the packaging, including any required gasket, is properly installed, secured, and free of defects;

(d) For fissile material, each moderator and neutron absorber, if required, is present and in proper condition;

(e) Each special instruction for filling, closing, and preparation of the packaging for shipment has been followed

(f) Each closure, valve, or other opening of the containment system through which the radioactive content might escape is properly closed and sealed;

(g) Each packaging containing liquid in excess of an $A_2$ quantity and intended for air shipment has been tested to show that it will not leak under an ambient atmospheric pressure of not more than 25 kPa, absolute (3.6 psia). The test must be conducted on the entire containment system, or on any receptacle or vessel within the containment system, to determine compliance with this requirement;

(h) The internal pressure of the containment system will not exceed the design pressure during transportation; and

(i) External radiation and contamination levels are within the allowable limits specified in this subchapter.

**§ 173.476 Approval of special form radioactive materials.**

(a) Each shipper of special form radioactive materials shall maintain on file for at least one year after the latest shipment, and provide to the RSPA on request, a complete safety analysis, including documentation of any tests, demonstrating that the special form material meets the requirements of § 173.469. An IAEA Certificate of Competent Authority issued for the special form material may be used to satisfy this requirement.

(b) Prior to the first export shipment of a special form radioactive material from the United States, each shipper shall obtain a Competent Authority Certificate for the specific material. For special form material manufactured outside the United States, and IAEA Certificate of Competent Authority from the country of origin may be used to meet this requirement.

(c) Each request for a U.S. Competent Authority Certificate as required by the IAEA regulations must be submitted in writing to the address set forth in § 173.404 of this subpart. Each request is considered in the order in which it is received. To allow sufficient time for consideration, requests must be received at least 90 days before the requested effective date. Each petition for a U.S. Competent Authority Certificate must be in triplicate and must include the following information:

(1) A detailed description of the material or if a capsule, a detailed description of the contents. Particular reference must be made to both physical and chemical states;

(2) If appropriate, a detailed statement of the capsule design and dimensions, including complete engineering drawings and schedules of material, and methods of construction;

(3) A statement of the tests that have been made and their results; or evidence based on calculative methods to show that the material is able to pass the tests; or other evidence that the special form radioactive material complies with § 173.469; and

(4) Evidence of a quality assurance program.

(d) Paragraphs (a) and (b) of this section do not apply in those cases where $A_1$ equals $A_2$ and the material is not required to be described on the shipping papers as "Radioactive Material, Special Form, n.o.s."

**§ 173.477 Approval for export shipments.**

(a) Each export shipment of a package for which an IAEA certificate of competent authority has been issued or revalidated in accordance with § 173.471, § 173.472, or § 173.473 must have multilateral approval if the shipment includes:

(1) A vented Type B(M) package;

(2) A Type B(M) packaging containing radioactive materials with an activity greater than $3\times10^3A_1$, or $3\times10^3A_2$, as appropriate, or 1000 TBq (27,000 curies), whichever is less;

(3) A shipment of packages containing fissile materials if the sum of the transport indices of the individual packages exceeds 50; or

(4) Transportation by special arrangement.

(b) Each application for shipment approval not under special arrangement must contain:

(1) The period of time for which the approval is sought;

(2) A description of the contents, the expected modes of transportation, the type of conveyance to be used, and the proposed route; and

(3) An explanation of how the special precautions and special administrative and operational controls referred to in the package design certificates are to be put into effect.

(c) Each application for shipment approval under special arrangement must contain:

(1) A statement of the reasons why the shipment cannot be made in accordance with the applicable requirements; and

(2) A statement of any special precautions or special administrative or operational controls that will be used during the transport to ensure that the overall safety is at least equivalent to that provided by the applicable requirements.

(d) The packaging and shipment approvals may be combined into a single approval issued in accordance with § 173.471, § 173.472 or § 173.473.

(e) Approval by competent authorities is not required for packagings designed for materials covered by §§ 173.421 through 173.427 or for Type A packagings designed for non-fissile radioactive materials.

**§ 173.478 Notification to competent authorities for export shipments.**

(a) Before the first export shipment of any packaging containing fissile materials packages exceeding 15 grams or radioactive materials exceeding $A_1$ or $A_2$, the shipper shall ensure that copies of each applicable competent authority certificate issued in accordance with

§ 173.471, § 173.472, or § 173.473 have been submitted to the competent authority of each country through which or into which it is to be transported. The shipper is not required to await an acknowledgment from the competent authority prior to shipping the radioactive material, nor is the competent authority required to acknowledge receipt of the certificate.

(b) For each of the shipments described in this paragraph, the shipper shall notify the competent authority of each country through which or into which the shipment is to be transported. This notification must be received by each competent authority at least 7 days before the shipment starts for the following:

(1) Type B(U) packagings containing radioactive materials with an activity greater than $3\times10^3A_1$, $3\times10^3A_2$, as appropriate, or 1000 TBq (27,000 Curies), whichever is the least;

(2) Type B(M) packages; or

(3) Transportation by special arrangements.

(c) The shipper notification must include:

(1) Sufficient information to enable the packaging to be identified, including all applicable certificate numbers and identification marks;

(2) Information as to the date of shipment, the expected date of arrival, and the proposed routing.

(3) The name of the radioactive material or nuclide;

(4) A description of the physical and chemical form of the radioactive material; and

(5) The maximum activity of the radioactive material, except that for fissile material, the mass of fissile material may be used instead of activity.

(d) The shipper is not required to send a separate notification if the required information has been included in the application for shipment approval.

## PART 174—CARRIAGE BY RAIL

16. The authority citation for part 174 would change to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e), 1.53, App. A to part 1.

17. Sections 174.700 and 174.715 would be revised to read as follows:

### § 174.700 Special handling requirements for radioactive materials.

(a) Each rail shipment of low specific activity materials or surface contaminated objects as defined in § 173.403 of this subchapter must be loaded so as to avoid spillage and scattering of loose material. Loading restrictions are prescribed in § 173.425 of this subchapter.

(b) The number of packages of radioactive materials that may be transported by rail or stored at any single location is limited to that number which does not make a total transport index number (as defined in § 173.403 of this subchapter, and determined by adding together the transport index numbers on the labels of the individual packages) of more than 50. This provision does not apply to exclusive use shipments as described in §§ 173.403, 173.425, 173.441, and 173.457.

(c) Each package of radioactive material bearing RADIOACTIVE YELLOW–II or RADIOACTIVE YELLOW–III labels may not be placed closer than 0.9 meter (3 feet) to an area (or dividing partition between areas) which may be continuously occupied by any passenger, rail employee, or shipment of one or more animals, nor closer than 4.5 meters (15 feet) to any package containing undeveloped film (if so marked). If more than one package of radioactive materials is present, the distance must be computed from the table below on the basis of the total transport index number (determined by adding together the transport index numbers on the labels of the individual packages) of packages in the rail car or storage area:

| Total transport index | Minimum separation distance to nearest undeveloped film | | Minimum distance to area of persons, or minimum distance from dividing partition of a combination car | |
|---|---|---|---|---|
| | (m) | (ft) | (m) | (ft) |
| None | 0 | 0 | 0 | 0 |
| 0.1 to 10.0 | 4.5 | 15 | 0.9 | 3 |
| 10.1 to 20.0 | 6.7 | 22 | 1.2 | 4 |
| 20.1 to 30.0 | 7.7 | 29 | 1.5 | 5 |
| 30.1 to 40.0 | 10 | 33 | 1.8 | 6 |
| 40.1 to 50.0 | 10.9 | 36 | 2.1 | 7 |

Note: The distance in the table must be measured from the nearest point on the nearest packages of radioactive materials.

(d) Each fissile material, controlled shipment must be transported in accordance with one of the methods prescribed in § 173.457 of this subchapter. The transport controls must be adequate to assure that no fissile material, controlled shipment is transported in the same transport vehicle with any other fissile radioactive material shipment. In loading and storage areas each fissile material, controlled shipment must be segregated by a distance of at least 6 meters (20 feet) from other packages required to bear one of the "radioactive" labels described in Part 172 of this subchapter.

(e) A person may not remain unnecessarily in, on or near a transport vehicle containing radioactive materials.

(f) In the case of packages shipped under the exclusive use provisions of § 173.441(b) for packages with external radiation levels in excess of 2 mSv per hour (200 mrem per hour) at the package surface—

(1) The transport vehicle must meet the requirements for a closed transport vehicle (§ 173.403 of this subchapter);

(2) Each package must be secured so that its position within the transport vehicle remains fixed under conditions normally incident to transportation; and

(3) The radiation level shall not exceed 0.02 mSv per hour (2 mrem per hour) in any normally occupied position in the transport vehicle or adjacent rail car.

### § 174.715 Cleanliness of transport vehicles after use.

(a) Each transport vehicle used for transporting radioactive materials as exclusive use, as defined in § 173.403 of this subchapter, must be surveyed with appropriate radiation detection instruments after each use. A transport vehicle may not be returned to service until the radiation dose rate at any accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less, and there is no significant removable radioactive surface contamination, as defined in § 173.443 of this subchapter.

(b) This section does not apply to any transport vehicle used solely for transporting radioactive materials if a survey of the interior surface shows that

the radiation dose rate does not exceed 0.1 mSv per hour (10 mrem per hour) at the interior surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from any interior surface. The transport vehicle must be stenciled with the words "FOR RADIOACTIVE MATERIALS USE ONLY" in lettering at least 0.076 meter (3 inches) high in a conspicuous place on both sides of the exterior of the transport vehicle, and it must be kept closed at all times other than during loading and unloading.

18. In § 174.750, paragraph (a) would be revised to read as follows:

**§ 174.750 Incidents involving leakage.**

(a) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this subchapter, the carrier shall also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Transport vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at every accessible surface is less than 0.005 mSv per hour (0.5 mrem per hour) and there is no significant removable radioactive surface contamination (see § 173.443 of this subchapter).

* * * * *

## PART 175—CARRIAGE BY AIRCRAFT

19. The authority citation for part 175 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1807, 1808; 49 App. U.S.C. 1472(h)(1); 49 CFR part 1.

20. In § 175.700, paragraph (b) would be revised to read as follows:

**§ 175.700 Special limitations and requirements for radioactive materials.**

* * * * *

(b) In addition to the reporting requirements of § 175.45, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Aircraft in which radioactive materials have been spilled may not again be placed in service or routinely occupied until the radiation dose rate at every accessible surface is less than 0.005 mSv per hour (0.5 mrem per hour) and there is no significant removable radioactive surface contamination as determined in accordance with § 173.443 of this subchapter. When contamination is present or suspected, the package and/or materials it has touched must be segregated as far as practicable from personnel contact until appropriate radiological advice or assistance is obtained. The Regional Office of the U.S. Department of Energy or appropriate State or local radiological authorities can provide advice or assistance, and should be notified in cases of obvious leakage, or if it appears likely that the inside container may have been damaged. For personnel safety, the carrier must take care to avoid possible inhalation, ingestion, or contact by any person with radioactive materials that may have leaked or spilled from its package. Any loose radioactive materials and associated packaging materials must be left in a segregated area pending disposal instructions from responsible radiological authorities.

* * * * *

21. In § 175.702, paragraphs (a) and (b)(2)(i), (b)(2)(ii) and (b)(2)(iii) would be revised to read as follows:

**§ 175.702 Requirements for carriage of packages containing radioactive materials in a cargo aircraft only.**

(a) As used in this section, the term "group of packages" means packages that are separated from each other in an aircraft by a distance of 6 meters (20 feet) or less.

(b) * * *

(2) * * *

(i) The separation distance between the surfaces of the radioactive materials packages and the surfaces bounding the space occupied by any person or animal is at least 9 meters (30 feet);

(ii) The transport index for any group of packages does not exceed 50.0; and

(iii) Each group of packages is separated from every other group in the aircraft by not less than 6 meters (20 feet), measured from the outer surface of each group; and

* * * * *

22. In § 175.703, the introductory text of paragraph (c) and paragraph (d) would be revised to read as follows:

**§ 175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.**

* * * * *

(c) No person may carry in an aircraft any package containing fissile radioactive materials (as defined in § 173.455(a)(3) of this subchapter), except—

* * * * *

(d) No person may offer or accept for transportation, or transport, by air—

(1) Vented Type B(M) packages, packages which require external cooling by an ancillary cooling system or packages subject to operational controls during transport; or

(2) Liquid pyrophoric radioactive materials.

* * * * *

## PART 176—CARRIAGE BY VESSEL

23. The authority citation for part 176 would be revised to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, App. A to part 1.

24. In § 176.700, paragraph (a) would be removed and reserved and paragraph (c) would be revised to read as follows:

**§ 176.700 General stowage requirements.**

(a) [reserved]

* * * * *

(c) Each fissile material, controlled shipment must be stowed in a separate hold, compartment, or defined deck area and be separated by a distance of at least six meters (20 feet) from all other Radioactive Yellow II or Yellow III labeled packages.

* * * * *

25. Section 176.704 would be revised to read as follows:

**§ 176.704 Requirements relating to transport indexes.**

(a) The sum of the transport indexes for all packages of radioactive materials on board a vessel may not exceed the limits specified in Table III.

(b) The limitations specified in Table III do not apply to consignments of LSA-I materials if the packages are marked "RADIOACTIVE LSA-I" and no fissile radioactive materials are included in the shipment.

(c) For packages in freight containers, the radiation level must not exceed 2 mSv per hour (200 mrem per hour) at any point on the surface and 0.1 mSv per hour (10 mrem per hour) at two meters (6.6 feet) from the outside surface of the freight container.

(d) Each group of fissile packages must be separated from other radioactive material by a distance of at least six meters (20 feet) at all times.

(e) The limitations specified in paragraphs (a) through (d) of this section do not apply when the entire vessel is reserved or chartered for use by a single shipper under exclusive use conditions if:

(1) The number of fissile packages of radioactive materials aboard the vessel does not exceed the amount authorized in § 173.451 through § 173.459 of this subchapter; and

(2) The entire shipment operation is approved by the Director, Office of Hazardous Materials Transportation in advance.

TABLE III.—TI LIMITS FOR FREIGHT CONTAINERS AND CONVEYANCES

| Type of freight container or conveyance | Limit on total sum of transport indexes in a single freight container or aboard a conveyance | | | |
|---|---|---|---|---|
| | Not under exclusive use | | Under exclusive use | |
| | Non-fissile material | Fissile material | Non-fissile material | Fissile material [a] |
| Freight container—Small | 50 | 50 | N/A | N/A |
| Freight container—Large | 50 | 50 | No limit | 100 [b] |
| Seagoing vessel [c] | | | | |
| 1. Hold, compartment or defined deck area: | | | | |
| Packages, overpacks, small freight containers | 50 | 50 | No limit | 100 [b] |
| Large freight containers | 200 [d] | 50 | No limit | 100 [b] |
| 2. Total vessel: | | | | |
| Packages, etc. | 200 [d] | 200 [d] | No limit [e] | 200 [e] |
| Large freight containers | No limit [d] | No limit [d] | No limit | No limit [d] |

[a] Provided that transport is direct from the consignor to the consignee without any intermediate in-transit storage, where the total TI exceeds 50.
[b] In cases in which the total TI is greater than 50, the consignment must be so handled and stowed so that it is always separated from any other package, overpack, portable tank or freight container carrying radioactive material by at least 6 meters (20 feet).
[c] For seagoing vessels the requirements given in 1 and 2 must both be fulfilled.
[d] Provided that the packages, overpacks, portable tanks or freight containers, as applicable, are stowed so that the total sum of TI's in any individual group does not exceed 50, and that each group is handled and stowed so that the groups are separated from each other by at least 6 meters (20 feet).
[e] Packages or overpacks carried in or on a transport vehicle which are offered for transport under the provisions of § 173.441(b), may be transported by vessel provided that they are not removed from the vehicle at anytime while on board the vessel.

26. In § 176.708, TABLE III would be redesignated as TABLE IV and paragraph (a) would be revised to read as follows:

**§ 176.708 Segregation distance table.**

(a) Table IV applies to the stowage of packages of radioactive materials on board a vessel with regard to transport index numbers which are shown on the labels of individual packages.

(b) Radioactive Yellow II or Yellow III labeled packages may not be stowed any closer to living accommodations, regularly occupied working spaces, spaces that may be continually occupied by any person (except those spaces exclusively reserved for couriers specifically authorized to accompany such packages), or undeveloped film than the distances specified to Table IV.

(c) Where only one consignment of a radioactive substance is to be loaded on board a vessel under exclusive use conditions, the appropriate segregation distance may be established by demonstrating that the direct measurement of the radiation level at regularly occupied working spaces and living quarters is less than 7.5 microSieverts per hour (0.75 mrem per hour).

(d) More than one consignment may be loaded on board a vessel with the appropriate segregation distance established by demonstrating that direct measurement of the radiation level at regularly occupied working spaces and living quarters is less than 7.5 microSieverts per hour (0.75 mrem per hour), provided that:

(1) The vessel has been chartered for the exclusive use of a competent person specialized in the carriage of radioactive material; and

(2) Stowage arrangements have been predetermined for the entire voyage, including any radioactive substances to be loaded at ports of call enroute.

(e) The radiation level shall be measured by a responsible person skilled in the use of monitoring instruments.

* * * * *

27. Section 176.715 is revised to read as follows:

**§ 176.715 Contamination control.**

Each hold, compartment, or deck area used for the transportation of low specific activity radioactive materials under exclusive use conditions shall be surveyed with appropriate radiation detection instruments after each use. Such holds, compartments, and deck areas may not be used again until the radiation dose rate at every accessible surface is less than 5 microSieverts per hour (0.5 mrem per hour), and the removable (non-fixed) radioactive surface contamination is not greater than the limits prescribed in § 173.443 of this subchapter.

## PART 177—CARRIAGE BY PUBLIC HIGHWAY

28. The authority citation for part 177 would continue to read as follows:

**Authority:** 49 App. U.S.C. 1803, 1804, 1805, 49 CFR part 1.

**§ 177.825 Amended**

29. In paragraphs (b), (c) and (d) of § 177.825, the reference to "§ 173.403(1)" would be revised to read "§ 173.403".

30. Section 177.842 would be revised to read as follows:

**§ 177.842 Radioactive material.**

(a) The number of packages of radioactive materials in any transport vehicle or storage location must be limited so that the total transport index number does not exceed 50. The total transport index of group of packages and overpacks is determined by adding together the transport index number on the labels on the individual packages and overpacks in the group. This provision does not apply to exclusive use shipments described in §§ 173.441(b), 173.457, and 173.425 of this subchapter. (b) Packages of radioactive material bearing "radioactive yellow-II" or "radioactive yellow-III" labels must not be placed in a transport vehicle, storage location or in any other place closer than the distances shown in the following table to any area which may be continuously occupied by any passenger, employee, or animal, nor closer than the distances shown in the table to any package containing undeveloped film (if so marked), and must conform to the following conditions:

(1) If more than one of these packages is present, the distance shall be computed from the following table on the basis of the total transport index number determined by adding together the transport index number on the labels on the individual packages and overpacks in the vehicle or storeroom.

(2) Where more than one group of packages is present in any single storage location, a single group may not have a total transport index greater than 50. Each group of packages must be handled and stowed not closer than 6 meters (20 feet) (measured edge to edge) to any other group.

| Total transport index | Minimum separation distance in meters (feet) to nearest undeveloped film in various times of transit | | | | | Minimum distance in meters (feet) to area of persons, or minimum distances in meters (feet) from dividing partition of cargo compartments |
|---|---|---|---|---|---|---|
| | Up to 2 hours | 2-4 hours | 4-8 hours | 8-12 hours | Over 12 hours | |
| None | 0.0 (0) | 0.0 (0) | 0.0 (0) | 0.0 (0) | 0.0 (0) | 0.0 (0) |
| 0.1 to 1.0 | 0.3 (1) | 0.6 (2) | 0.9 (3) | 1.2 (4) | 1.5 (5) | 0.3 (1) |
| 1.1 to 5.0 | 0.9 (3) | 1.2 (4) | 1.8 (6) | 2.4 (8) | 3.4 (11) | 0.6 (2) |
| 5.1 to 10.0 | 1.2 (4) | 1.8 (6) | 2.7 (9) | 3.4 (11) | 4.6 (15) | 0.9 (3) |
| 10.1 to 20.0 | 1.5 (5) | 2.4 (8) | 3.7 (12) | 4.9 (16) | 6.7 (22) | 1.2 (4) |
| 20.1 to 30.0 | 2.1 (7) | 3.0 (10) | 4.6 (15) | 6.1 (20) | 8.8 (29) | 1.5 (5) |
| 30.1 to 40.0 | 2.4 (8) | 3.4 (11) | 5.2 (17) | 6.7 (22) | 10.1 (33) | 1.8 (6) |
| 40.1 to 50.0 | 2.7 (9) | 3.7 (12) | 5.8 (19) | 7.3 (24) | 11.0 (36) | 2.1 (7) |

Note 1: The distance in the table must be measured from the nearest point on the nearest packages of radioactive materials.

(c) Shipments of low specific activity materials and surface contaminated objects, as defined in § 173.403 of this subchapter, must be loaded so as to avoid spillage and scattering of loose materials. Loading restrictions are set forth in § 173.425 of this subchapter.

(d) Packages must be so blocked and braced that they cannot change position during conditions normally incident to transportation.

(e) Persons should not remain unnecessarily in a vehicle containing radioactive materials.

(f) Each fissile material, controlled shipment (as defined in § 173.403 of this subchapter) must be transported in accordance with one of the methods prescribed in § 173.457 of this subchapter. The transport controls must be adequate to assure that no fissile material, controlled shipment is transported in the same transport vehicle with any other fissile radioactive material shipment. In loading and storage areas each fissile material, controlled shipment must be segregated by a distance of at least 6 meters (20 feet) from any other package required to bear one of the "Radioactive" labels described in § 172.403 of this subchapter.

(g) For shipments transported under exclusive use conditions the radiation dose rate must not exceed 0.02 mSv per hour (2 mrem per hour) in any position normally occupied in the motor vehicle. For shipments transported as exclusive use under the provisions of § 173.441(b) for packages with external radiation levels in excess of 2 mSv (200 mrem per hour) at the package surface, the motor vehicle must meet the requirements of a closed transport vehicle (§ 173.403 of this subchapter). The total transport index for packages containing fissile material may not exceed 100.

31. In § 177.843, paragraphs (a) and (b) would be revised to read as follows:

**§ 177.843 Contamination of vehicles.**

(a) Each motor vehicle used for transporting radioactive materials under exclusive use conditions in accordance with § 173.425(c) or § 173.443(c) shall be surveyed with radiation detection instruments after each use. A vehicle may not be returned to service until the radiation dose rate at every accessible surface is 0.005 mSv per hour (0.5 mrem per hour) or less and the removable (non-fixed) radioactive surface contamination is not greater than the level prescribed in § 173.443(a).

(b) This section does not apply to any vehicle used solely for transporting radioactive material if a survey of the interior surface shows that the radiation dose rate does not exceed 0.1 mSv per hour (10 mrem per hour) at the interior surface or 0.02 mSv per hour (2 mrem per hour) at 1 meter (3.3 feet) from any interior surface. These vehicles must be stenciled with the words "For Radioactive Materials Use Only" in lettering at least 0.076 meter (3 inches) high in a conspicuous place, on both sides of the exterior of the vehicle. These vehicles must be kept closed at all times other than loading and unloading.

* * * * *

32. In § 177.861, paragraph (a) would be revised and Notes 1 and 2 would be removed to read as follows:

**§ 177.861 Accidents: radioactive materials.**

(a) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this subchapter, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at every accessible surface is less than 0.005 mSv per hour (0.5 mrem per hour) and there is no significant removable radioactive surface contamination (see § 173.443 of this subchapter).

* * * * *

## PART 178—SHIPPING CONTAINER SPECIFICATIONS

33. The authority citation for part 178 would continue to read as follows:

**Authority:** 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1.

34. Section 178.350-2 would be revised to read as follows:

**§ 178.350-2 Specific requirements.**

Each packaging must be so designed and constructed that it meets the requirements of § 173.412 of this subchapter for Type A packaging.

Issued in Washington, DC on October 30, 1989, under authority delegated in 49 CFR part 106, Appendix A.

**Alan I. Roberts,**

*Director, Office of Hazardous Materials Transportation.*

[FR Doc. 89-25841 Filed 11-13-89; 8:45 am]

BILLING CODE 4910-60-M

federal register

Tuesday
November 14, 1989

# Part III

# Environmental Protection Agency

## Daminozide: Receipt of Request to Cancel and Cancellation Order and Termination of Special Review of Food Uses; Notices

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/40C; FRL 3660-4]

## Daminozide; Termination of Special Review of Food Uses

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

**ACTION:** Notice; termination of special review.

**SUMMARY:** This Notice announces the termination of the Special Review of the food uses of daminozide (trade names Alar® and Kylar®). On October 11, 1989, the sole registrant of daminozide, Uniroyal Chemical Company Inc., requested a voluntary cancellation of its registrations for the food uses of daminozide. Also in this **Federal Register**, EPA is issuing a cancellation order, that will be effective November 17, 1989 thereby prohibiting the sale, distribution, or the use of daminozide for food uses as of that date. Since there will be no food use registrations, the food use portion of the Special Review of daminozide will be terminated.

**FOR FURTHER INFORMATION CONTACT:** By Mail: Lisa Engstrom, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M Street SW, Washington, DC. 20460.

Office location and telephone number: Special Review Branch, Room 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703) 557-7400.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

EPA is terminating the special review of the food uses of daminozide. This action follows the voluntary cancellation of daminozide food-use registrations by the sole daminozide registrant, Uniroyal Chemical Company. As announced elsewhere in this **Federal Register**, EPA intends to approve the cancellation of these registrations, effective November 17, 1989. Since the Special Review process evaluates the continued registration of pesticide products, and the registration status of daminozide for food uses will be resolved by the cancellation, it is appropriate to terminate the Special Review for the food uses of daminozide.

### II. Legal Background

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). The standards for registration of a pesticide which are set forth in section 3 of FIFRA requires that a pesticide be able to accomplish its intended purpose without causing "unreasonable adverse effects on the environment," (7 U.S.C. 136a (c)(5)), that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of the pesticide." (FIFRA Section 2 (bb)). If at any time, EPA determines that a pesticide no longer meets this standard for registration, then the Administrator may cancel this registration under section 6 of FIFRA.

Special Review is EPA's process for determining whether the use of a pesticide poses unreasonable effects to man or the environment; i.e., if continuation of the current registration is appropriate. If a pesticide meets or exceeds the risk criteria set forth in 40 CFR part 154, then a Special Review is initiated and information on the risks and benefits of the pesticide product use or uses in question is gathered and evaluated. At the time of the initiation of the Special Review of daminozide, the Special Review process was governed by 40 CFR part 162. If the use or uses in question are determined to pose unreasonable adverse effects to human health or the environment, then the registration of the product may be cancelled or modified as appropriate.

### III. Regulatory History

Daminozide is the commonly accepted name for butanedioic acid mono (2,2-dimethylhydrazide). It was first registered as a pesticide under FIFRA in 1963 by Uniroyal Chemical Company under the trade name Alar. Daminozide was first registered for food use in 1968 as a plant growth regulator on apples, and was later registered on other food crops. For food uses, daminozide affects vegetative and reproductive growth, such as flower bud initiation, fruit set and maturity, preharvest fruit drop and storage life. Currently, for non-food uses, daminozide is registered for use on cut chrysanthemums and bedding plants: hydrangeas, marigolds, petunias, zinnias, asters, azaleas, poinsettias and gardenias.

On July 18, 1984, EPA issued a Notice of Special Review of all uses of daminozide products (49 FR 29186) based on the Agency's finding that pesticide products containing daminozide met the 40 CFR 162.11(a)(3)(ii)(A) risk criterion for oncogenicity (now 40 CFR 154.7(a)(2)(ii)). After reviewing the relevant data, EPA decided to proceed with a cancellation action based on cancer risk concerns. Although the studies available at that time were limited in nature, EPA believed that taken together, the weight of evidence required cancellation.

In September 1985, EPA drafted a combined Final Determination and Draft Cancellation Notice. As required by FIFRA, these documents were submitted to the FIFRA Scientific Advisory Panel (SAP) and the United States Department of Agriculture (USDA). The SAP believed the studies insufficient to support a quantitative risk assessment for either daminozide, or its breakdown product, unsymmetrical dimethylhydrazide (UDMH). Although EPA is not bound by the SAP's recommendation, EPA decided to delay completion of the Speical Review and take interim steps short of cancellation. These included requiring Uniroyal to conduct a battery of more complete testing on which to base a risk assessment and measures to reduce exposure.

On May 24, 1989, EPA issued its preliminary determination to cancel all food use registrations of daminozide and retain non-food use registrations unmodified (51 FR 22558). EPA's decision was based on its conclusion that the carcinogenic risk from dietary exposure to daminozide exceeded the benefits of the food uses of daminozide, and thus cancellation was appropriate. For the non-food uses, it was determined that the benefits of the use of daminozide on ornamental and bedding plants outweighed the risks incurred during the application of daminozide.

On July 2, 1989, Uniroyal entered into an agreement with EPA that provided that Uniroyal would voluntarily halt domestic sales of daminozide for food use until the completion of the Special Review process, including any administrative hearings. The agreement also provided that Uniroyal would recall existing stocks of daminozide food use products and reimburse product holders who participate in the recall effort. Recalled product would be repackaged and relabeled as the non-food product.

On October 11, 1989, EPA received Uniroyal's request for voluntary cancellation of all food use registrations of daminozide. As indicated above, EPA intends to approve Uniroyal's request, making the cancellation effective November 17, 1989. The cancellation order (see companion notice in this issue of the **Federal Register**) prohibits continued sale, distribution and use of daminozide for food uses as of November 17, 1989.

## IV. Current Action

The current action is based on the voluntary cancellation request that was received by EPA and which EPA intends to approve. As Uniroyal is the sole registrant for daminozide, and the company's food use registrations will be cancelled, there will no longer be any remaining food use registrations for daminozide. As there are no registrations, there is no need for the continued evaluation of the registrability of daminozide for food uses. Also, in light of the Agency's belief that continued use of daminozide on food crops is inappropriate, there is no need to provide for use of existing stocks. Other reasons support this conclusion: All sales were halted by the company as of June 2, 1989; the company has been actively recalling all outstanding product and has committed to do so until November 30, 1989 for growers and December 31, 1989 for distributors; and no objections were received to EPA's proposed decision in the Preliminary Determination not to grant the use of existing stocks.

As part of the terms of the cancellation, the registrant will complete and submit results of the remaining outstanding carcinogenicity studies. With these data, EPA will conduct a final risk assessment for workers. EPA will also conduct a final dietary risk assessment based on these data. After evaluation of these studies, EPA will decide whether any further regulatory action to mitigate risks to workers applying non-food use daminozide is warranted.

Accordingly, this notice is being issued to publicly announce EPA's decision to terminate the Special Review of food-use products containing daminozide. The decision is effective upon the date of cancellation of the food-use registrations.

## V. Availability of Public Docket

The Agency has established a public docket (OPP-30000/40A) for the daminozide Special Review. The docket is located in Rm. 246 at the office location address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. This docket will include this Notice; any other Notices pertinent to the Daminozide Special Review and the Agency's decision regarding the termination of the Special Review of the food uses of daminozide; documents which are not marked as Confidential Business Information and copies of written comments or other materials submitted to EPA at any time during the Special Review process by any person outside the government; a transcript of all public meetings held by EPA for the purpose of gathering information on daminozide; memoranda describing each meeting on daminozide during the Special Review process between EPA personnel and any person outside the government; and a current index of materials in the public docket.

Dated: November 3, 1989.

**Linda J. Fisher,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 89-26663 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

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## Office of Pesticides and Toxic Substances

[OPP-30000/40B; FRL 3660-3]

## Daminozide: Receipt of Request to Cancel; Cancellation Order

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

**ACTION:** Notice of receipt; cancellation order.

**SUMMARY:** This Notice, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, announces EPA's receipt of a request from Uniroyal Chemical Company (Uniroyal) to cancel all registrations of daminozide products for use on food crops. Uniroyal's request includes provisions for a recall and reimbursement program, handling of recalled/unsold stocks, information collection to monitor the cancellation and recall, and submission of study reports. Also included in this Notice is the EPA Cancellation Order, incorporating the commitments in Uniroyal's request, that will cancel all food-use registrations of daminozide, effective November 17, 1989. As of that date, all distribution or sale, and use of daminozide products for food uses shall be prohibited.

**DATE:** The cancellation shall be effective November 17, 1989.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, 703-557-1800.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

On October 11, 1989, after discussions with Uniroyal, EPA received a request from Uniroyal Chemical Company, 74 Amity Road, Bethany, Connecticut 06525, for the voluntary cancellation of all of its registrations of daminozide products for use on food crops: Alar (EPA Registration No. 400-99); Kylar (400-103; Alar for Grapes 400-430); and Alar 85 (400-79) as an end use product. Uniroyal, the sole registrant of daminozide in the United States, will maintain its B-Nine SP (400-110) and B-Nine (400-69) registrations as end use products, and its Alar Technical (400-117) and Alar 85 (400-79) registrations as manufacturing use products. All of the retained registrations are for products that are to be labeled for non-food uses only. The Uniroyal request also includes provisions for a recall/reimbursement program for existing stocks of the cancelled products, specific handling or recalled/unsold stocks, information collection to monitor the cancellation and recall, and submission of toxicology study reports. As detailed below, EPA intends to approve Uniroyal's request and by the attached Order will cancel the subject registrations and prohibit any sale or distribution of these products, effective November 17, 1989. In addition, because EPA has determined that continued use of daminozide on food crops would result in unreasonable adverse effects on human health the Order also prohibits further sale, distribution or use of existing stocks of daminozide food-use products as of the effective date of cancellation.

Elsewhere in this **Federal Register**, EPA is also announcing the termination of its Special Review of daminozide for use on food crops; the Special Review of daminozide non-food uses will be continued to completion.

## II. Provisions of Uniroyal's Request

As part of the October 11, 1989 request for voluntary cancellation of its registrations for daminozide food-use products, Uniroyal included several provisions that, if adopted, would mitigate the impact of cancellation on third parties and provide EPA with valuable information. Specifically, Uniroyal offered to extend the recall/reimbursement program initiated as part of a June 2, 1989 Agreement with EPA, which temporarily halted Uniroyal's sales of daminozide food-use products. The program would be extended until November 30, 1989, for growers and December 31, 1989, for distributors. Uniroyal would notify all distributors,

grower organizations, and trade associations on its daminozide mailing list of the extended acceptance dates.

Uniroyal's request also contained detailed information regarding how Uniroyal would handle recalled/unsold stocks of its daminozide products. Particular attention was given to the possible shipment to foreign countries, and the mechanisms by which EPA, foreign purchasers, and importing countries would receive prior notice of such shipments. To the extent that any recalled/unsold stocks are exported, Uniroyal would stipulate that all stocks are to be repackaged into products for non-food uses before being resold.

In addition, Uniroyal would complete and submit final reports on studies involving unsymmetrical dimethylhydrazine (UDMH), a metabolite and degradate of daminozide. Two of those reports, the two-year bioassay in Fischer 344 rats and the two-year "low dose" bioassay in CD–1 mice, have been recently submitted to EPA. Uniroyal has committed to completing the two-year "high dose" bioassay in CD–1 mice and providing the final report by January 1990.

Finally, Uniroyal offered to collect and provide EPA with the following information that would allow EPA to monitor the cancellation and recall of daminozide food-use products, and the sale, distribution, and use of B-Nine and B-Nine SP products:

1. Two quarterly reports, due December 31, 1989 and March 31, 1990, detailing the amount of daminozide product recalled and the amount relabeled as B-Nine and B-Nine SP (oral reports would be provided monthly with any significant changes from prior quarterly report to be provided in writing);

2. Historical domestic sales records for B-Nine and B-Nine SP products for 1985–1989;

3. Quarterly reports, beginning December 31, 1989 and continuing through September 30, 1991, detailing production and export of daminozide products, and domestic sales of B-Nine and B-Nine SP products.

Uniroyal's offer to submit this information represents a continuation of reporting provisions included in the June 2, 1989 Agreement with EPA, as clarified in EPA's July 25, 1989 letter to Uniroyal. As provided in the June 2, 1989 Agreement, the information would be submitted pursuant to section 3(c)(2)(B) of FIFRA.

## III. Existing Stocks Determination

In its October 11, 1989 request, Uniroyal did not seek a provision that would allow the sale, distribution, or use of existing stocks of food-use daminozide products. Any such provision would therefore have to be the result of an EPA initiative. For the reasons summarized below, EPA does not believe that such an action would be appropriate. Accordingly, the Agency has determined that no further distribution, sale, or use of existing stocks of daminozide products labeled for the canceled food uses will be permitted as of November 17, 1989. In addition to daminozide products in channels of trade, this existing stocks prohibition is applicable to daminozide products in the hands of growers and other end users.

EPA has consistently maintained that use of daminozide should be phased out as quickly as possible in order to prevent unacceptably high residues in food crops. This position was expressed in the Agency's "Preliminary Determination to Cancel Certain Daminozide Product Registrations" (Preliminary Determination) published in the **Federal Register** of May 24, 1989 (54 FR 22558), and more recently in the "Revocation and Amendment of Tolerances and Food Additive Regulations" published in the **Federal Register** of September 7, 1989 (54 FR 37278). Because daminozide is a systemic pesticide, it remains in plants for a considerable time after application and may result in residues in subsequent harvests. Much of daminozide use is on fruit that is stored (e.g., apples) and on crops that are processed (e.g., sour cherries). These foods may remain in the market system for long periods of time. In both of these instances, allowing use of existing stocks would effectively extend potential exposure well beyond the final use season—an option that the Agency believes will result in unreasonable adverse effects on human health.

In its Preliminary Determination, the Agency proposed cancellation of all registrations for food-uses of daminozide, with prohibition of further sale, distribution, or use of existing stocks. At the time the comment period on the Preliminary Determination closed (August 22, 1989), not a single response objecting to the proposed existing stocks provision had been received by EPA.

Any impact of EPA's decision not to allow sale, distribution, or use of existing stocks is mitigated by Uniroyal's commitment to continue the recall/reimbursement program begun in June. Users and other third-party holders, who have not already done so, will be able to return their existing stocks to Uniroyal for reimbursement of their invoice or purchase price. EPA believes that many holders either have already taken advantage of Uniroyal's program or, for other reasons, do not have strong incentives to press for use of existing stocks of canceled daminozide.

## IV. Conclusion

EPA has received and intends to approve Uniroyal's request to cancel all of its registrations of daminozide products for use on food crops, effective November 17, 1989. The cancellation of these registrations shall be governed by the following Order that incorporates Uniroyal's offer to continue its recall/reimbursement program, handle recalled/unsold stocks in a specified manner, submit toxicological studies, and provide other information to EPA. Further sale, distribution, or use of existing stocks of these products shall be prohibited as of the effective date of cancellation.

## V. Cancellation Order

On October 11, 1989, Uniroyal Chemical Company, the sole registrant of daminozide in the United States, requested pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, the cancellation of its registrations of daminozide products for use on food crops (EPA Reg. Nos. 400–99, 400–103, and 400–430). I intend to approve Uniroyal's request and by this Order will cancel the above registrations and prohibit any distribution or sale of the subject pesticide products, effective November 17, 1989. Uniroyal also sought to amend its other daminozide registrations (EPA Reg. Nos. 400–79 and 400–117) to delete food uses from their labels. I also approve the amendments to these registrations and hereby prohibit the distribution or sale of these products for food uses, effective November 17, 1989.

I further find that sale, distribution, or use of existing stocks of any daminozide food-use products after the cancellation date is not appropriate because the continued use of these pesticides would result in unreasonable adverse effects on the environment. Accordingly, as of November 17, 1989 no person may distribute or sell, or use any stocks of daminozide pesticide products for food uses, including existing stocks in the hands of users.

As part of its cancellation request, Uniroyal offered to continue a recall/reimbursement program initiated in June 1989; to commit to specific handling of recalled/unsold stocks; to collect and provide information that would allow EPA to monitor the cancellation and

recall; and to complete and submit final reports on three toxicological studies. The details of these provisions, which are described in Unit II of this Notice and set forth in detail in Uniroyal's October 11 request, are hereby incorporated in and made a part of this Order by reference. I accept Uniroyal's offer and by incorporating its provisions in this Order make them terms and conditions of a cancellation order issued under FIFRA. Except as referenced herein, the terms and conditions of the June 2, 1989 Agreement between EPA and Uniroyal will be superceded by this Order as of its effective date.

Finally, holders of any cancelled daminozide products that will not be returned to Uniroyal or used/recycled for some other legal purpose are advised that disposal of these products may be subject to Federal, State and local laws and regulations.

This Cancellation Order shall become effective on November 17, 1989.

Dated: November 3, 1989.

**Linda J. Fisher,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 89-26682 Filed 11-13-89; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
November 14, 1989

# Part IV

# Department of Labor

## Occupational Safety and Health Administration

## 29 CFR Part 1910

## Permit Required Confined Spaces; Notice of Additional Hearing Site

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Part 1910**

**[Docket No. S-019]**

**RIN 1218-AA51**

## Permit Required Confined Spaces

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Proposed rule; notice of additional hearing site.

**SUMMARY:** On October 10, 1989, OSHA published a notice of informal public hearing in the **Federal Register** [54 FR 41461], concerning the notice of proposed rulemaking (NPRM) which the Agency issued on June 5, 1989 [54 FR 24080] on permit required confined spaces.

The locations announced for the hearings were Washington, DC and Houston, Texas. The selection of those sites was based primarily on geographical considerations. The Service Employees International Union [Ex. 14-89], the American Federation of Labor-Congress of Industrial Organizations (Ex. 14-115), the American Federation of State, County and Municipal Employees (Ex. 14-151) and the United Steelworkers of America (Ex. 14-159) requested that OSHA hold a hearing in Chicago to facilitate the public participation of individuals in the Chicago area. OSHA has agreed to this suggestion and is hereby announcing that a hearing will take place in Chicago at the time and place indicated below. The other hearings will take place on the dates and at the locations announced in the October 10 notice. OSHA is particularly interested in receiving testimony, accompanied by documentary evidence, relating to the issues raised in the NPRM (54 FR at 24086) and in the October 10 hearing notice (54 FR 41461).

In order to allow interested parties adequate opportunity to decide to participate in the Chicago hearing, OSHA is allowing additional time for the submission of notices of intention to appear, testimony and documentary evidence for that hearing.

**DATES:** The deadlines for notices of intention to appear (October 25, 1989) and for the submission of testimony and documentary evidence regarding the Washington, DC hearing (November 1, 1989) and the Houston, Texas hearing (November 17, 1989) have already, effectively passed. Notices of intention to appear at the Chicago, Illinois hearing must be postmarked on or before January 5, 1990. Statements and any documentary evidence to be presented at that hearing must be postmarked by January 12, 1990.

See Supplementary Information for the dates and times of the hearings.

**ADDRESSES:** Four copies of the notice of intention to appear at the hearings, statements and documentary evidence should be submitted to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket S-019, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-8615. A notice of intention to appear also may be transmitted by facsimile to (202) 523-5046 or, for FTS, to 8-523-5046, provided the original and 4 copies of the notice are sent to the above address thereafter.

Notices of intention to appear at the public hearings, as well as any other information gathered by the Agency during this rulemaking, will be available for inspection and copying at the OSHA Technical Data Center Docket Office, Room N-2625, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-7894.

See Supplementary Information for the addresses of the hearings.

**FOR FURTHER INFORMATION CONTACT:** Hearing: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8615. For additional information on how to submit notices of intention to appear, see supplementary information, below.

Proposal and Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8151.

**SUPPLEMENTARY INFORMATION:**

HEARINGS

| Date hearing begins | Location |
|---|---|
| 1. Nov. 14, 1989 | The Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210. |
| 2. Dec. 5, 1989 | Doubletree Hotel at Post Oak, 2001 Post Oak Boulevard, Houston, Texas 77056 |
| 3. Jan. 30, 1990 | The Indiana Room Auditorium, Amoco Building, 200 East Randolph Drive, Chicago, Illinois 60603 94103. |

### Notice of Intention to Appear

All persons desiring to participate in the Chicago, Illinois hearing must file, in quadruplicate, a notice of intention to appear, addressed to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket S-019, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523-8615.

The notices of intention to appear, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issue(s) that will be addressed;

(5) A statement of the position that will be taken with respect to each issue addressed;

(6) Whether the party intends to submit documentary evidence, and if so a brief summary of that evidence; and

(7) The hearing site, in this instance Chicago, Illinois where the party wishes to testify.

### Filing of Testimony and Evidence Before Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of his or her testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10-minute presentation. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearing is open to the public, and that interested persons are welcome to attend. However, only persons who have filed a proper notice of intention to appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceeding.

### Authority and Signature

This document was prepared under the direction of Gerald F. Scannell,

Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911.

Signed at Washington, DC, on this 9th day of November, 1989.

**Gerald F. Scannell,**

*Assistant Secretary of Labor.*

[FR Doc. 89–26905 Filed 11–9–89; 4:56 pm]

BILLING CODE 4510-26-M

federal register

Tuesday
November 14, 1989

# Part V

# The President

Proclamation 6065—Washington Centennial Day, 1989

Proclamation 6066—Geography Awareness Week, 1989

Federal Register
Vol. 54, No. 218
Tuesday, November 14, 1989

# Presidential Documents

Title 3—

The President

## Proclamation 6065 of November 9, 1989

## Washington Centennial Day, 1989

**By the President of the United States of America**

**A Proclamation**

On November 11, 1889, Elisha P. Ferry, the first Governor of Washington State, received a telegram from President Benjamin Harrison announcing that Washington had become the 42nd State in the Union. A story in the *Tacoma Daily News* the following day reflected the pride and joy felt by the people of the new State:

> Occupying, as it does, the very richest section of the whole country, with its wealth of inland shores lined with timber enough to supply the world, with its rich veins of valuable ores, with its valuable agricultural lands and its unparalleled scenery for beauty and grandeur, combined with its unequalled climate, it starts out on its life of statehood with not only the eyes of this land, but the whole world upon it.

The area now known as Washington State had been inhabited by Native Americans for thousands of years. However, it was not until Captain Cook explored the region in 1778 and returned with tales of its land, timber, and fur that it became known to the rest of the world. More explorers followed Cook's path, and, in 1804, the young United States of America sent out an expedition led by Lewis and Clark to explore the area. In subsequent years, missionaries and pioneers journeyed across the continent to settle in the fertile territory charted by Lewis and Clark, beginning a process of growth and discovery that has continued to this day.

In 1889, Washington State was home to 350,000 people—fewer people than currently live in Seattle, now its largest city. During the past 100 years, the State has grown to a population of more than 4 million. Today's residents, like the pioneers before them, have been able stewards of the State's vast forests, clear waters, grand mountains, and abundant wildlife.

Since achieving statehood in 1889, Washington has also witnessed tremendous economic development. Washington State has become a leader in aviation, computer software, shipbuilding, trade, forestry, agriculture, and the production of energy. The Puget Sound area flourishes as a gateway to the Pacific. Eastern Washington boasts rich soil that has made the State famous worldwide for its apples and many other crops.

In recognition of the importance of Washington's contributions to the United States and in commemoration of its Centennial, the Congress, by Senate Joint Resolution 209, has designated November 11, 1989, as "Washington Centennial Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 11, 1989, as Washington Centennial Day.

**IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.**

George Bush

[FR Doc. 89-26938
Filed 11-13-89; 11:39 am]
Billing code 3195-01-M

# Presidential Documents

**Proclamation 6066 of November 9, 1989**

## Geography Awareness Week, 1989

**By the President of the United States of America**

**A Proclamation**

Geographic conditions around the world have had a great influence upon both the history of mankind and the course of current events. Geography has been an important factor in the social, political, and economic development of virtually every nation. Thus, the study of geography—the study of a people, their environment, their cultural heritage, and their natural resources—is essential not only to our understanding of the past but also to our ability to participate in an increasingly interdependent world.

While public awareness of geography is important to our Nation's political and economic leadership in the world, far too many Americans have little knowledge of the subject. According to one recent poll, Americans ranked among the bottom third on an international test of geographical knowledge. Scores for Americans between the ages of 18 and 24 were particularly poor. Statistics have indicated that a large number of American students cannot locate the United States on a map of the world, and many adults cannot name more than one-fourth of the NATO member nations. Some cannot name any.

This lack of fundamental geographic knowledge, including knowledge of foreign languages and cultures, places the United States at a serious disadvantage in matters of international commerce and politics. We cannot develop or maintain effective foreign policies, trade strategies, and business practices if the physical characteristics and political boundaries of various regions of the world are unfamiliar to us. Likewise, our efforts to promote international understanding and cooperation depend, in large part, upon our ability to understand the language, customs, and physical circumstances of other peoples. Because geographic conditions can have a profound effect upon each nation's development and role in the world, it is vital that we study them carefully.

During Geography Awareness Week, we recognize the importance of encouraging every American citizen to develop a thorough understanding of elementary geography. Fortunately, we have already begun to address the need for improvements in America's educational system, including renewed emphasis on the basics. By imparting to our Nation's schoolchildren a greater understanding of geography, and by ensuring that we set a positive example for them through our own efforts to study the world around us, we can give them one of the most important tools they will need to function in the global community.

To focus attention on the importance of the study and mastery of geography, the Congress, by Senate Joint Resolution 120, has designated the week beginning November 12, 1989, as "Geography Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning November 12, 1989, as Geography Awareness Week. I urge all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-26939
Filed 11-13-89; 11:40 am]
Billing code 3195-01-M

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523–6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

**S.J. Res. 19/Pub. L. 101–141**

To designate November 8, 1989, as "Montana Centennial Day". (Nov. 8, 1989; 103 Stat. 836; 1 page) Price: $1.00

**H.J. Res. 241/Pub. L. 101–142**

Designating October 25, 1989, as "National Arab-American Day". (Nov. 8, 1989; 103 Stat. 837; 1 page) Price: $1.00

**H.J. Res. 131/Pub. L. 101–143**

To designate May 25, 1989, as "National Tap Dance Day". (Nov. 8, 1989; 103 Stat. 838; 1 page) Price: $1.00

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