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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:
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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.

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WHERE: Bishop Henry Whipple Federal Building, Room 570, Ft. Snelling, MN.
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WHERE: Federal Building, 601 East 12th Street, Room 110, Kansas City, MO.
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WASHINGTON, DC

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

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Presidential Documents

Title 3—

The President

Proclamation 6144 of June 11, 1990

State-Supported Homes for Veterans Week, 1990

By the President of the United States of America

A Proclamation

When they served as active members of the United States Armed Forces, our Nation's veterans often endured great risks and hardships to defend the lives and liberty of others. As a measure of the lasting respect and gratitude we owe to each of them, our Nation has developed a system of benefits for its veterans and established a Cabinet-level Department to administer those benefits.

The fifty States have likewise established government agencies to assist veterans. One of the most important functions of these State agencies has been to operate homes dedicated to providing needed care for ill, elderly, or disabled veterans. Shortly after the Civil War, a number of States established homes for disabled soldiers and sailors. The first State veterans home was founded in 1864 by the State of Connecticut. Today there are 60 State-supported homes for veterans in 37 States across the country. According to the Department of Veterans Affairs, State homes for veterans provided 4.8 million days of care for veterans last year alone.

State homes for veterans were originally built or acquired with State funds and operated entirely at State expense. In 1888, however, the Federal Government began to cover part of the cost of the care borne by the States. Later, the Congress authorized Federal matching grants to assist States in constructing nursing homes and domiciliary facilities. These grants also assist the States in expanding or otherwise remodeling existing buildings for the provision of domiciliary care, nursing services, and other medical services to veterans. By providing needed care to our veterans, the States help the Federal Government to carry out an important responsibility. We take pride in this long-standing example of a constructive Federal-State partnership.

Those dedicated to promoting the interests of our Nation's veterans have long appreciated the importance of State veterans homes. With the aging of the veteran population, State homes are becoming an increasingly valuable resource. Indeed, in the years ahead, State homes will play a critical role in helping to meet rising demands for nursing services and domiciliary care among veterans.

To enhance public awareness of the importance of State homes for veterans, the Congress, by Senate Joint Resolution 231, has designated the week of June 10 through June 16, 1990, as "State-Supported Homes for Veterans 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 of June 10 through June 16, 1990, as State-Supported Homes for Veterans Week. I call upon the American people to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of June, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90-13875
Filed 6-11-90; 3:26 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.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Receiving and Processing Applications for Making Farmer Program Loans Guaranteed by the Farmers Home Administration

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to change the processing of applications for guaranteed Farmer Program loans. This action would require credit bureau reports on new guaranteed loan applications. The intended effect of this action is to provide each FmHA office with the necessary credit information to make a sound credit decision, thereby reducing the Government's exposure to losses.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: Ed Douglas, Financial Analyst, Farmers Home Administration, U.S. Department of Agriculture, room 5507, South Agriculture Building, Washington, DC 20250. Telephone (202) 475-4425.

SUPPLEMENTARY INFORMATION:

This rulemaking action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined "non-major" since the annual effect on the economy is less than $100 million and there will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Furthermore, 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.

Discussion of Background

In so much as FmHA is the lender of last resort, it is incumbent on FmHA to have sound credit management policies. What is set forth in this final rule is fundamental to all financial institutions that make loans. Once a lender has secured a completed loan application, the next logical step is to secure a credit report. This is generally standard operating procedure in the industry. Since it is incumbent on the lender to determine the history of both the applicant's willingness and ability to repay any and all debts incurred, a credit report is often an excellent source for this type of information. Since the Farmers Home Administration guarantees these loans, this should enhance the decision making ability of FmHA employees, thus reducing the Government's exposure to losses.

Summary of Comments and Responses

FmHA published a proposed rule in the **Federal Register** on November 27, 1989 (54 FR 48770) inviting comments until December 27, 1989. Three comments were received.

Comment 1. The first letter of comment took exception to requiring lenders to get credit reports. However, it is the Agency's position that a credit report for all guaranteed loan applications is fundamentally sound credit management and supports OMB policy.

Comment 2. The second letter of comment supports the requirement of credit reports and concurs with our opinion, that this action will serve to reduce the Government's exposure to losses. The Agency concurs with this comment.

Comment 3. The third letter of comment supports the requirement of credit reports and feels it to be a prudent decision and one in which they could comply with. In addition, they feel the credit approval process would be enhanced as a result of the new requirement. The Agency again concurs with this comment.

Environmental Impact Statement

This rule has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

For reasons set forth in the Final rule related to Notice, 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this activity is related to the following program that is subject to intergovernment consultation with state and local officials:

10.416—Soil and Water Loans

In turn, the following programs to which this activity is also related, are not subject to Executive Order 12372:

10.406—Farm Operating Loans
10.407—Farm Ownership Loans

List of Subjects in 7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, chapter XVIII, title 7, 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 B—Farmer Program Loans

2. Section 1980.113 is amended by revising paragraph (a)(3) to read as follows:

§ 1980.113 Receiving and processing applications.

(a) * * *

(3) Credit bureau report, where available, and other pertinent information concerning an applicant's credit history obtained by the lender.

* * * * *

3. Section 1980.124 is amended by adding a new paragraph (a)(8) to read as follows:

§ 1980.124 Consolidation, rescheduling, reamortizing, and deferral.

(a) * * *

(8) A credit report is obtained by the lender.

* * * * *

Dated: April 30, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-13672 Filed 6-12-90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-272-AD; Amdt. 39-6617]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes configured as freighters, which requires the replacement of the existing supernumerary oxygen system bleed relief valves with higher operating pressure bleed relief values, and limiting occupancy to 16 people until replacement is accomplished. This amendment is prompted by a review by the manufacturer which determined that the present configuration bleed relief valves will not allow proper operation. This condition, if not corrected, could result in insufficient emergency oxygen supply for operation with 20 occupants.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle Washington.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Herron, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1949. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 747 series airplanes configured as freighters, which requires the replacement of the existing supernumerary oxygen system bleed relief valves with higher operating pressure bleed relief valves, and limiting occupancy to 16 people until replacement is accomplished, was published in the **Federal Register** on January 26, 1990 (55 FR 2668).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter had no objection to the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 13 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for required parts is $162 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,776.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Alert Service Bulletin 747-35A2061, dated October 19, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure that sufficient oxygen is available to supernumeraries during emergency conditions, accomplish the following:

A. Within the next 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

"Limit occupancy of supernumeraries to 16 people."

B. Within the next 3,000 hours time-in-service after the effective date of this AD, remove an replace the bleed relief valves with higher operating pressure bleed relief valves, in accordance with Boeing Alert Service Bulletin 747-35A2061, dated October 19, 1989. Once this is accomplished, the limitation required by paragraph A., above may be removed from the AFM.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office,

9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective July 23, 1990.

Issued in Seattle, Washington, on June 5, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13624 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-57-AD; Amdt. 39-6633]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which requires inspection of wiring clearances in the aft fairing areas of the left and right strut bulkheads; repair, if necessary; and repositioning of wire bundles and wrapping of wire bundles and hydraulic tubing where insufficient clearances are found. This amendment is prompted by three reports of wire chafing and subsequent electrical shorting between the wiring and the adjacent structure or hydraulic components. This condition, if not corrected, could result in a fire caused by ignition of leaking hydraulic fluid by the electrical arcing.

EFFECTIVE DATE: July 2, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Letcher, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Four operators of Boeing Model 767 airplanes have reported nine cases of insufficient clearance between wiring and hydraulic components in the aft fairings of the left and right engine struts. In three of these instances, the chafing of wires serving the alternating current motor pump (ACMP) resulted in electrical arcing. In one case, this arcing caused damage to the supply port boss on a hydraulic reservoir and subsequent leakage of hydraulic fluid. This condition, if not corrected, could result in a fire due to the ignition of leaking hydraulic fluid by the electrical arcing.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-29A0054, dated March 26, 1990, which describes procedures for inspection of wire bundle clearances, relocation of wiring, and wrapping of wire bundles and hydraulic tubing.

Since this condition is likely to exist on other airplanes of the same type design, this AD requires inspection and, if necessary, the relocation and wrapping of wire bundles and the wrapping of hydraulic tubing, in accordance with the service bulletin previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure heron are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, listed in Boeing Alert Service Bulletin 767-29A0054, dated March 26, 1990, certificated in any category. Compliance required within the next 500 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent fire caused by the chafing of wires on hydraulic components, accomplish the following:

A. Inspect the wire bundles in the aft fairing areas of the left and right engine struts to determine if sufficient separation exists between the wire bundles and hydraulic components, in accordance with Boeing Alert Service Bulletin 767-29A0054, dated March 26, 1990. If adequate separation is not present, prior to further flight, repair, adjust the wire bundles, and install protective coverings on the wiring and hydraulic tubing in accordance with the Alert Service Bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective July 2, 1990.

Issued in Seattle, Washington, on June 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13625 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-23-AD; Amdt. 39-6629]

Airworthiness Directives; British Aerospace (BAe) PLC Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which supersedes emergency AD 89-24-04, dated November 22, 1989, and is applicable to certain British Aerospace (BAe) PLC Jetstream Models 3101 and 3201 airplanes. It requires modification of the airplane electrical system, and a revision to the emergency procedures section of the airplane flight manual. Hazardous failures have been reported which resulted in either disruption of AC power and/or simultaneous presentation of misleading navigation information. This condition, if not corrected by the actions required herein, could result in catastrophic consequences to the airplane occupants.

DATES: June 25, 1990.

EFFECTIVE DATE: Comments for inclusion in the Rules Docket must be received on or before July 31, 1990. Compliance: As prescribed in the body of the AD.

ADDRESSES: BAe Alert Service Bulletins (ASB) 24-A-JA 900443, Revision 1, dated May 1, 1990, and ASB 24-A-JM 7708, Revision 1, dated May 22, 1990, applicable to this AD, may be obtained from British Aerospace PLC, Manager, Product Support, Commercial Aircraft Airlines Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; Telephone (44-292) 79888; facsimile (44-292) 79703; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435-9100; facsimile (703) 435-2628. This information may be examined at the Rules Docket at the address below. Send comments on the AD in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-23-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT:

Mr. Wayne E. Gaulzetti, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2710; facsimile (322) 230.05.34; or

Mr. John P. Dow, Sr., Small Airplane Directorate, Airplane Certification Service, FAA, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: On September 14, 1989, a BAe Jetstream Model 3107 airplane experienced disruption of AC electrical power. This hazardous failure condition was evaluated and it was found that in addition to a failure within the inverter, the emergency procedures in the Airplane Flight Manual (AFM) did not provide the crew with instructions to prevent the disruption of AC power caused by this failure. Due to the hazards of AC power disruption an interim crew procedure was devised by the manufacturer and made mandatory by the Civil Aviation Authority (CAA) of the United Kingdom (UK) as an Advance Amendment Bulletin (AAB) to the airplane AFM. The potential consequences of this unsafe condition were evaluated by the FAA. As a result, priority letter AD 89-24-04 was issued, effective November 22, 1989, requiring adoption of the crew procedures specified in the AAB as an interim measure with a permanent fix envisaged.

On March 2, 1990, BAe published remedial action in ASB 24-A-JM 7708 which required modification of the electrical system by the incorporation of a method to switch the inverter synchronization lines. The FAA was evaluating this modification when another hazardous AC electrical system inverter failure incident occurred on March 23, 1990, to a U.S. operator of a Jetstream Model 3201 airplane.

This incident involved an overvoltage and out-of-frequency failure of the essential inverter which was not detected by the monitor circuits. The inverter failure logic incorrectly evaluated the condition as a failure of the main inverter. The crew responded properly to the cues presented to them and switched the main inverter from the system and then switched the unpowered AC buses into the essential inverter which had an overvoltage and out-of-frequency failure. This damaged the navigation equipment and ultimately resulted in the simultaneous display of misleading heading information to the crew on all 4 gyrostabilized heading indicators. While misleading heading information was displayed, there were no indications to the crew that all headings, though the same, were erroneous by up to 180° In certain instrument flight conditions, this misleading hearing could be catastrophic to the crew and occupants of the airplane. It was also found that the airplane involved had BAe ASB 24-A-JM 7708 embodied at the time of the incident. The FAA postponed incorporating this ASB as a terminating action for AD 89-24-04 until further evaluations could be made.

The manufacturer subsequently issued BAe ASB 24-A-JA 900443, dated April 27, 1990, and Revision 1, dated May 1, 1990, and Revision 1 to ASB 24-A-JM 7708 dated May 22, 1990. The FAA has reviewed these actions and found these ASBs to be an acceptable remedy to the inverter problems.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued which supersedes priority letter AD 89-24-04 and requires the modification of the airplane electrical system, and revision of the emergency procedures section of the airplane flight manual on BAe PLC Jetstream Models 3101, and 3201 airplanes. This AD, by incorporating both ASBs, resolves all problems by an interim action which provides for deactivation of the AC transfer function, installation of a switching function to separate the synchronization circuits of the main and essential inverters, and appropriate emergency crew procedures. This AD will eliminate the hazard to the airplane while allowing the necessary time for a permanent fix to be properly developed. Further action currently being evaluated includes certain modifications to the AC static inverters. If these actions are found to be acceptable, they will be considered for further action. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety, and thus was not preceded by notice and public procedure, comments are invited on this rule. Interested persons are

invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered and this rule may be amended in light of the comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report summarizing each FAA-public contact concerned with the substance of this AD, will be filed in the Rules Docket.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

British Aerospace, PLC.: Applies to Jetstream Models 3101 and 3201 (serial numbers 697 and subsequent) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent disruption to AC electrical power resulting from AC system failures, and misleading navigation information, accomplish the following:

(a) Within 50 hours time-in-service (TIS) of the effective date of this AD, modify the airplane electrical system and revise the emergency procedures section of the airplane flight manual (AFM) as described in BAe Alert Service Bulletin (ASB) 24-A-JA 900443, Revision 1, dated May 1, 1990, Section 2, *Accomplishment Instructions*, and *Appendix C* (without modification 7708). This revision to the AFM requires removal of the instructions described in AD 89-24-04.

(b) Within 100 hours TIS of the effective date of this AD, modify the airplane electrical system as described in BAe ASB 24-A-JM 7708, Revision 1, dated May 22, 1990, and revise the emergency procedures section of the AFM as described in ASB 24-A-JA 900443, Revision 1, dated May 1, 1990, *Appendix C* (with modification 7708).

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An alternate method of compliance or adjustment of the compliance times which provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to British Aerospace PLC, Manager, Product Support, Commercial Aircraft Airlines Division, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; Telephone (44-292) 79888; facsimile (44-292) 79703; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435-9100; facsimile (703) 435-2628; or may examine the documents referred to herein at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment supersedes Priority Letter AD 89-24-04.

This amendment becomes effective on June 25, 1990.

Issued in Kansas City, Missouri, on May 31, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13626 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-39-AD; Amdt. 39-6632]

Airworthiness Directives; Fokker Model F-27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F-27 series airplanes, which requires a one-time inspection to detect cracks in the cockpit window frames, and repair, if necessary. This amendment is prompted by full-scale fatigue testing by the manufacturer which revealed cracks in several parts of the window post assemblies. This condition, if not corrected, could result in decompression of the airplane.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Huhn, Standardization Branch, ANM-113; telephone (206) 431-1950. *Mailing address*: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Fokker Model F-27 series

airplanes, which would require a one-time inspection to detect cracks in the cockpit window frames, and repair, if necessary, was published in the **Federal Register** on March 30, 1990 (55 FR 11954).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

This is considered to be interim action. The manufacturer is currently attempting to determine the extent and nature of the addressed damage, and is developing an appropriate repetitive inspection schedule and/or modification that will preclude the need for repetitive inspections. Once these are developed, the FAA may consider further rulemaking to revise this AD to require additional necessary action.

It is estimated that 33 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,920.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Applies to Model F27 series airplanes, as listed in Fokker Service Bulletin F27/53-109, dated October 10, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent decompression of the airplane, accomplish the following:

A. Perform an inspection of the cockpit window frames, in accordance with Fokker Service Bulletin F27/53-109, dated October 10, 1989, as follows:

1. For Serial Numbers 10561 through 10684, 10686, 10687, 10689 through 10692, prior to the accumulation of 20,000 landings or within 90 days after the effective date of this AD, whichever occurs later.

2. For Serial Numbers 10102 through 10560, prior to the accumulation of 30,000 landings or within 90 days after the effective date of this AD, whichever occur later.

B. If cracks are found, repair prior to further flight, in accordance with Fokker Service Bulletin F27/53-110, dated October 27, 1989.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 N. Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective July 23, 1990.

Issued in Seattle, Washington, on June 5, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13627 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-21-AD; Amdt. 39-6616]

Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, DC-10-40, DC-10-40F, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-10-10, -10F, -15, -30, -30F, -40, -40F, and KC-10A (Military) series airplanes, which requires modification of the aircraft hydraulic system. This amendment is prompted by reports of an incident resulting in loss of all three hydraulic systems. This condition, if not corrected, could result in loss of aircraft hydraulic power and simultaneous loss of the aircraft flight control system.

EFFECTIVE DATES: July 20, 1990.

ADDRESSES: The applicable service information may be obtained from Douglas Aircraft Company, P.O. Box 1771, Long Beach, California 90801, Attn: Manager, Service Changes, Mail Code 73-30. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. Razzeto, Aerospace Engineer, Los Angeles Aircraft Certification Office, Systems and Equipment Branch, ANM-131L, FAA Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5355.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, DC-10-40, DC-10-40F, and KC-10A (Military) series airplanes, which requires modification of the aircraft hydraulic system, was published in the

Federal Register on March 12, 1990 (55 FR 9140).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter recommended that the hydraulic system modification not be incorporated until the manufacturer demonstrates sustained flight and landing of a Model DC-10 configured as proposed. The commenter contended that the Model DC-10 may not be able to maneuver sufficiently to make a safe landing. In response, the FAA notes that a Model DC-10, modified as required by this amendment, has undergone flight evaluation by the FAA and been found to meet the applicable Federal Aviation Regulations and to be readily controllable and able to continue safe flight and landing. Those flight tests demonstrated that the airplane was more easily controlled than the earlier simulator tests predicted.

The same commenter proposed that all Model DC-10 series airplanes be required to install the interim modification because there is no difference in any Model DC-10 series' hydraulic system. The FAA does not concur. This action was originally prompted by an accident in which the failure of a General Electric CF6-6 series engine, which is installed only on the Model DC-10-10, initiated the onset of a sequence of events that eventually led to loss of control of the airplane. Since there is no similar service history involving other Model DC-10 series airplanes equipped with other engine types, the FAA has determined that it is necessary to place emphasis on more immediate action (the "interim" modification) to address the problems directly related to the Model DC-10-10. This determination was based upon not only the degree of urgency in addressing the subject unsafe condition, but the availability of required parts as well.

Another commenter recommended that all three hydraulic systems be modified to ensure full use of all flight control surfaces after damage to all three hydraulic systems, and that all Model DC-10 series airplanes be required to have the "final" modification (Number 3 hydraulic system shutoff valve) within 6 months of the effective date of the AD as interim modification. The FAA does not concur. The flight control system of the Model DC-10 series airplanes includes redundant actuators and pressure sources by design. The modification required by this amendment will prevent total loss of hydraulic fluid from the Number 3 hydraulic system, and the airplane will retain adequate control to allow a safe landing.

This commenter also suggested that the various hydraulic and electrical systems be separate from the associated backup system because backup systems are necessary. The FAA concurs. The required modification places the shutoff valve out of the zone of potential engine debris damage.

Three commenters stated that, while they intend to accomplish the modification within the proposed 12-month compliance period, the compliance time is too restrictive. One commenter stated that this places an unreasonable burden on operators, who will require special scheduling and additional out-of-service time for their Model DC-10 fleet. Another commenter related concern over parts availability and suggested that the compliance time be extended in case adequate parts were not available. Another commenter proposed an 18-month compliance time to allow the modification to be accomplished during a normal "C" check schedule. The FAA does not concur with the suggestions to extend the compliance period. In developing an appropriate compliance time for this AD action, the FAA considered not only the immediate action necessary in addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modification within the maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. The manufacturer has advised that an ample number of required parts for the affected fleet will be available for modification of the U.S. fleet within the 12-month compliance period. Therefore, the FAA has determined that an extension of the compliance time is inappropriate and unjustified.

Two commenters suggested that the estimate of 71 manhours per airplane to accomplish the modification is too low. The relevant McDonnell Douglas service bulletin estimated 112.5 manhours and one major operator is actually expending 220 manhours per airplane. The FAA concurs that a revised estimate is necessary. The economic impact analysis, as specified in the Notice, inadvertently contained information relevant only to the installation of the "interim" modification. Since issuance of the Notice, the FAA has reviewed and approved McDonnell Douglas Service Bulletin 29-128, dated February 22, 1990, which describes procedures for installing the "final" modification (shutoff valve in the Number 3 hydraulic system and cockpit annunciation system). The economic impact paragraph, below, has been revised to include the additional manhours necessary to accomplish the final modification.

The final rule has been revised to specify that the modification described in McDonnell Douglas Service Bulletin 29-128, dated February 22, 1990, is an acceptable means of complying with the requirements of this rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 428 McDonnell Douglas Model DC-10-10, -10F, -15, -30, -30F, -40, -40F, and KC-10A (Military) series airplanes of the affected design in the worldwide fleet. It is estimated that 243 airplanes of U.S. registry will be affected by this AD, that it will take approximately 220 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of parts to accomplish this modification is estimated to be $29,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,185,400.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-10-10, -10F, -15, -30, -30F, -40, -40F, and KC-10A (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent total loss of aircraft hydraulic power and flight control systems, accomplish the following:

A. For Model DC-10-10 and -10F series airplanes:

1. Within 6 months after the effective date of this AD, accomplish either subparagraph a. or b., below:

a. Modify the Number 3 hydraulic system by installing flow rate sensing hydraulic fuses and check valves in accordance with paragraph 2, Accomplishment Instructions, of McDonnell Douglas DC-10 Service Bulletin 29-129, dated February 14, 1990; or

b. Install an electrically operated hydraulic system shutoff valve and return line check valve in the Number 3 hydraulic system.

The shutoff valve must be activated by a hydraulic fluid level sensor in the Number 3 hydraulic system reservoir and annunicated in the cockpit. The installation must be made in a manner which is approved by the Manager, Los Angeles, Aircraft Certification Office, FAA, Northwest Mountain Region, or in accordance with McDonnell Douglas DC-10 Service Bulletin 29-128, dated February 22, 1990.

2. For those airplanes modified in accordance with paragraph A.1.a., above, within 1 year after the effective date of this AD, install an electrically operated hydraulic system shutoff valve and return line check valve in the Number 3 hydraulic system. The shutoff valve must be activated by a hydraulic fluid level sensor in the Number 3 hydraulic system reservoir and annunicated in the cockpit. The installation must be made in a manner which is approved by the Manager, Los Angeles Aircraft Certification Office, FAA Northwest Mountain Region, or in accordance with McDonnell Douglas DC-10 Service Bulletin 29-128, dated Feburary 22, 1990. The modification required by paragraph A.1.a., above, may be removed after accomplishment of this subparagraph.

B. For Model DC-10-15, -30, -30F, -40F, and KC-10A (Military) series airplanes, within one year after the effective date of this AD, install an electrically operated hydraulic system shutoff valve and return line check valve in the Number 3 hydraulic system. The shutoff valve must be activated by a hydraulic fluid level sensor in the Number 3 hydraulic system reservoir and annunciated in the cockpit. The installation must be made in a manner which is approved by Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, or in accordance with McDonnell Douglas DC-10 Service Bulletin 29-128, dated February 22, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Douglas Aircraft Company, P.O. Box 1771, Long Beach, California 90801, Attn: Manager, Service Change, Mail 73-30. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective July 20, 1990.

Issued in Seattle, Washington, on June 4, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13628 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-61-AD; Amdt. 39-6634]

Airworthiness Directives; McDonnell Douglas Model DC-10-15, DC-10-30, DC-10-30F, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC-10-15, -30, -30F and KC-10A (Military) series airplaines, which currently requires repetitive eddy current inspections of the horizontal flange of the engine forward mount truss assembly on pylons 1 and 3. This amendment adds repetitive eddy current inspections of the vertical flange of the engine forward mount truss assembly on pylons 1 and 3, and extends the existing inspection intervals for inspections of the horizontal flange. This amendment is prompted by recent reports of cracking found in the four forward vertical flange attaching bolt holes, and by additional data from the manufacturer relative to the existing inspection intervals. This condition, if not corrected, could result in the loss of structural integrity of the wing engine forward mount truss fitting and eventual loss of the wing engine from the airplane.

EFFECTIVE DATE: July 2, 1990.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60).

This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Aerospace Engineer, Los Angeles Aircraft Certification Office, Airframe Branch ANM-120L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5231.

SUPPLEMENTARY INFORMATION: On May 26, 1989, the FAA issued AD 89-13-01, Amendment 39-6235 (54 FR 54 25231, June 14, 1989) to require repetitive eddy current inspections of the four forward horizontal flange attaching bolt holes of the engine forward mount truss assembly on pylons 1 and 3, and repair or replacement, if necessary. That action was prompted by reports of fatigue cracks extending from the horizontal flange attaching bolt holes that were found using an eddy current inspection technique. This condition, if not corrected, could result in the loss of structural integrity of the wing engine forward mount truss fitting and eventual loss of the wing engine from the airplane.

Since issuance of that AD, there have been additional reports of cracks found extending from some of the four forward vertical flange attaching bolt holes of the engine forward mount truss assembly on pylons 1 and 3. Fatigue analysis indicates that the cracking initiated in the horizontal flange, and was followed by crack initiation in the

vertical flange. If not corrected, such cracking could allow the lower legs of the truss assembly to disconnect from the pylon box beam, eventually resulting in separation of the pylon truss assembly from the pylon. Separation of the wing engine could follow.

In addition, the manufacturer has provided additional crack growth data which substantiates an increase in certain repetitive inspection intervals currently required by the existing AD. The FAA has evaluated this data and has determined that the increase in inspection intervals, as recommended by the manufacturer, may be made without adversely affecting safety.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A54-103 dated March 7, 1990, which describes procedures for eddy current inspections of the four forward vertical flange attaching bolt holes of the engine forward mount truss assembly on pylons 1 and 3, and modification, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 89-13-01 to add a requirement to conduct eddy current inspections and modifications, if necessary, of the four forward vertical flange attaching bolt holes of the engine forward mount truss assembly on pylons 1 and 3, in accordance with the service bulletin previously described. Additionally, this action extends the existing repetitive eddy current inspection intervals of 225, 450, and 900 flight hours (as specified in various situations) to 250, 500, and 1,000 flight hours, respectively.

This action also revised paragraph A.7. to specify that replacement of at least one of the specified cracked/repaired truss fittings is required. This change has been made in order to clarify the intent of the subparagraph, and to preserve consistency with the remaining subparagraphs of paragraph A.

The requirements of this AD are considered interim action. The manufacturer is currently developing a modification which, if installed will terminate the need for the repetitive inspections. Once the modification is developed and approved, the FAA may consider revising this AD to require its installation as terminating action for the required inspections.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6235 (54 FR 25231, June 14, 1989), AD 89-13-01, with the following new airworthiness directive:

McDonnell Douglas: Applies to all Model DC-10-15, -30, -30F, and KC-10A (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the failure of the engine forward mount truss assembly, accomplish the following:

A. Prior to the accumulation of 9,000 landings or 30,000 flight hours, whichever occurs first, or within 20 days after June 22, 1989 (the effective date of Amendment 39-6235, AD 89-13-01), whichever occurs later, conduct an eddy current inspection of the engine forward mount truss assembly on pylons 1 and 3, in accordance with paragraph 2, "Accomplishment Instructions," of McDonnell Douglas Alert Service Bulletin No. A54-99, Revision 1, dated March 31, 1989 (hereafter referred to as A54-99):

1. If no crack indications are found in either horizontal flange, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 2,000 landings or 6,000 flight hours, whichever occurs first.

2. If a single crack indication in one bolt hole of the horizontal flange is found with no crack indication extending out from under the AUB7013-1 angle, and there are no crack indications in the opposite fitting:

a. Conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 500 flight hours.

b. Prior to the accumulation of 500 landings or 2,000 flight hours, whichever occurs first, after the initial detection of a crack, install SR10540003-3 Rev. A. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or SR10540003-4 Rev. A. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99. After installation of the strap, conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours.

3. If a single crack indication in one bolt hole is found in the horizontal flange with the crack extending out from under the AUB7013-1 angle, but not beyond the tangent point of the fillet radius to the vertical flange, as shown on Figure 2 (Condition III) of A54-99 and there are no crack indications in the opposite fitting:

a. Prior to further flight, install SR10540003-3 Rev. A. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or SR10540003-4 Rev. A. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99; and

b. Conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 250 flight hours.

4. If multiple crack indications in the bolt holes are found in the horizontal flange with no crack extending out from under the AUB7013-1 angle, and there are no crack indications in the opposite fitting:

a. Prior to further flight, install SR10540003-3 Rev. A. strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or SR10540003-4 Rev. A. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99; and

b. Conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 1,000 flight hours.

5. If multiple crack indications in the bolt holes are found in the horizontal flange with a crack extending out from under the AUB7013-1 angle, but not progressing beyond the tangent point of the fillet radius to the vertical flange, as shown in Figure 2 (Condition V) of A54-99, and there are no crack indications in the opposite fitting:

a. Prior to further flight, install SR10540003-3 Rev. A strap on the horizontal flange of the cracked AUB7000-501 truss fitting, or SR10540003-4 Rev. A. strap on the horizontal flange of the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-99; and

b. Conduct repetitive eddy current inspections in accordance with A54-99 at intervals not to exceed 250 flight hours.

6. If a crack is found to have extended out from under the AUB7013-1 angle in the horizontal flange, through the fillet radius into the vertical flange, as shown in Figure 2 (Condition VI) of A54-99: Prior to further flight, replace the cracked/repaired truss fitting with a new fitting and continue inspections in accordance with this AD.

7. If cracks are found in both AUB7000 truss fittings: Prior to further flight, replace at least one of the cracked/repaired truss fittings with a new fitting and continue inspections in accordance with this AD.

B. Upon finding a crack in the horizontal flange as a result of the inspections required by AD 89-13-01 (Amendment 39-6235) or paragraph A., above, or within 30 days after the effective date of this AD, whichever occurs later, conduct an eddy current inspection of the vertical flange of the cracked AUB7000-501 or AUB7000-502 truss fitting, as applicable, in accordance with the "Accomplishment Instructions" of McDonnell Douglas Alert Service Bulletin A54-103, dated March 7, 1990 (hereafter referred to as A54-103).

C. As a result of the inspections of the vertical flange required by paragraph B., above, accomplish the following:

1. If no cracks are found in the vertical flange, conduct repetitive eddy current inspections of the vertical flange in accordance with A54-103 concurrently with each inspection required by paragraph A., above.

2. If crack indication(s) are found in the vertical flange, with no crack indication extending through the fillet radius into the horizontal flange:

a. Prior to further flight, install SR10540003-3 Rev. A and SR10540003-5 Rev. A. straps on the cracked AUB7000-501 truss fitting, or SR10540003-4 Rev. A and SR10540003-6 Rev. A on the cracked AUB7000-502 truss fitting, as applicable, in accordance with A54-103; and

b. Conduct repetitive eddy current inspections in accordance with A54-103 at intervals not to exceed 250 flight hours.

3. If a crack is found to have extended through the fillet radius into the horizontal flange: Prior to further flight, replace the cracked/repaired truss fitting with a new fitting and continue inspections in accordance with this AD.

D. An alternate means of compliance or adjustment of compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment supersedes Amendment 39-6235, AD 89-13-01.

This amendment becomes effective July 2, 1990.

Issued in Seattle, Washington, on June 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13629 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-11-AD; Amdt. 39-6627]

Airworthiness Directives; S.E.L.A. Laboratoire Abadie (SELA) Fluorescent Lighting System Components

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing Airworthiness Directive (AD), applicable to S.E.L.A. Laboratoire Abadie (SELA) Fluorescent Lighting System Components. It requires inspection for, and remedy of, improperly installed or damaged SELA lamp connector assemblies and replacement of certain damaged SELA TR remote power units installed in aircraft. High voltage arcing, overheating, and burning have occurred on these components. The actions specified herein will prevent smoke, fire, electromagnetic interference (EMI), or electrical shock from occurring in the airplane.

EFFECTIVE DATE: July 2, 1990.

Compliance: as prescribed in the body of the AD.

ADDRESSES: SELA Technical Data Sheet REF 90/11980, dated February 9, 1990, and Bigorre Aerospace Corporation (BAC) "How To" Number 1 manual, dated May 10, 1980, applicable to this AD, may be obtained from S.E.L.A. Laboratoire Abadie, BP No. 1 65500, Vic En Bigorre, France; Telephone (33) 62.96.71.56; Facsimile (33) 62.96.23.09, or Bigorre Aerospace Corporation, Suite 1107, 6543-46th Street North, Pinellas Park, Florida 34665; Telephone (813) 525-8115; Facsimile (813) 522-5820. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Mr. Wayne E. Gaulzetti, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.05.34; or

Mr. John P. Dow, Sr., Small Airplane Directorate, Airplane Certification Service, FAA, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: AD 90-07-08, Amendment 39-6546, applicable to SELA Fluorescent lighting lamp connectors Part Number (P/N) 3185-1A, Remote Power Unit (RPU) P/Ns TR 992, TR 992A, TR 992-1, TR 992-3, TR 992-4, and TR 992-5, was published in the **Federal Register** on March 20, 1990 (55 FR 10226) with April 9, 1990, as the effective date. This AD must be revised for a number of reasons. After its issuance, comments were received from BAC and from operators of airplanes with SELA components installed. BAC pointed out an error in paragraph (b)(4)(iv) of the AD which, if not changed, would allow potentially serious conditions to remain uncorrected. This paragraph allowed a gap of no more than 0.04 inch (1mm) between the contact fitting and the lamp end. This dimension should have been included in paragraph (b)(4)(v) of the AD. In addition, the Beech Model 2000, and the Piper Model PA-42 airplanes were included in the applicability statement of the AD because they were believed to have the SELA cabin lighting system installed. It has now been determined that neither model is so equipped.

Since numerous operators received AD 90-07-08 after its effective date, the FAA has granted several extensions to the compliance time of paragraph (a) of the AD. Similarly operators requested an extension of the paragraph (b) compliance time to 120 days from 90 days to accommodate inspecting and

remedying a large fleet of mixed aircraft. Since the compliance time of paragraph (b) of AD 90-07-08 was established to allow a thorough inspection and repair of all aircraft, the FAA believes it is in the public interest to extend the compliance time as requested. Further, several operators requested as an alternate means of compliance approval to disable the cabin fluorescent lighting system until the inspection of paragraph (b) could be accomplished. This has been determined to be an acceptable alternate means of compliance to AD 90-07-08. Other editorial changes have been made to clarify the AD based upon comments and questions received by the FAA. Accordingly AD 90-07-08 is being amended to incorporate all of the foregoing changes.

The compliance time for the inspection requirement of this AD was based on the amount of time that the airline operators would need to inspect and remedy defects within their fleet. The requirement to replace failed or failing bulbs was established to minimize one likely failure condition which would result in extended periods of high voltage before the inspection could be performed.

The manufacturer has developed a new lamp connector scheme and a remote power unit (RPU) incorporating a high voltage monitor circuit which will shut off the high voltage output after several seconds of continuous high voltage. These devices are presently under evaluation by the FAA and may be incorporated in subsequent action.

Since the FAA has determined that the unsafe condition described in AD 90-07-08 and herein is still likely to exist or develop in other airplanes that have this same equipment installed, this AD is being revised and reissued. It will continue to require inspection, repair, or replacement components on SELA fluorescent lighting system-equipped airplanes. Because an emergency condition exists that requires the immediate adoption of this amended regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by revising and reissuing AD 90-07-08, Amendment 39-6546, to read as follows:

S.E.L.A. Laboratoire Abadie (SELA): Applies to fluorescent lighting lamp connectors, Part Number (P/N) 3185-1A, and Remote Power Units (RPU), P/Ns TR 992, TR 992A, TR 992-1, TR 992-3, TR 992-4, and TR 992-5, manufactured by SELA, and installed in, but not limited to AMD-BA Falcon Models 10, 20, 50, 900, BAe Jetstream Models 3101 and 3201, CASA Model 235, Embraer Model EMB-120, and SAAB-Scania Model SF 340A airplanes certificated in any category.

Note 1: SELA and Aerospace Lighting Corporation (ALC) components are similar in size, shape and color and have similar part numbers. They may be identified by trademark. The SELA RPU can be identified by a starburst pattern incorporating the text "laboratoire, abadie, France." The ALC RPU can be identified by a stylized ALC logo with "Aerospace Lighting Corp" in smaller print beneath the logo. The ALC lamp connector has "ALC" molded into the gray body of the conical piece of the connector body with a black lock ring. The SELA lamp connector is stamped in yellow ink on a black connector body with a gray lock ring. The ALC lamp can be positively identified by the presence of a small hole in the locking channel of each blue plastic end piece.

Compliance: Required as indicated in the body of the AD, unless already accomplished per AD 90-07-08.

To prevent smoke, fire, and possible electrical shock, or electromagnetic interference to flight critical or essential systems, accomplish the following:

(a) If the cabin fluorescent lighting system is not deactivated, within the next 30 days after the effective date of this AD, and thereafter until the actions described in paragraph (b) of this AD are accomplished, insert a copy of this AD into the limitations section of the airplane flight manual, and prior to each takeoff where cabin fluorescent lights are used: Visually check the cabin fluorescent lighting, and remedy as follows:

(1) Replace all failed lamps prior to further flight.

(2) Replace all failing lamps which have noticeably less illumination (darker) than adjacent lamps within the next 10 hours time-in-service after the lamp condition is found.

(b) If the cabin fluorescent lighting system is not deactivated, within the next 120 days after the effective date of this AD, visually inspect all cabin fluorescent lighting system components, and prior to further flight remedy all defects found following the instructions in this AD. If the cabin fluorescent lighting system is deactivated as described in paragraph (c) of this AD, the inspection described in this paragraph is not required until the fluorescent lighting system is reactivated.

Note 2: The aircraft manufacturer's maintenance manual, the installer's maintenance manual, other service information, SELA Technical Data Sheet (TDS) REF 90/11980, dated February 9, 1990, or Bigorre Aerospace Corporation (BAC) "How To" Number 1 Manual, dated May 10, 1989, contains information which supplements the instructions described in this AD. This information is important to proper maintenance and replacement of defective components.

(1) Insure that the aircraft manufacturer's instructions regarding electrical safety precautions are followed.

Note 3: Hazardous voltages may exist in the fluorescent lighting system.

(2) Visually inspect all installed SELA RPUs (P/Ns) TR 992, TR 992A, TR 992-1, TR 992-3, TR 992-4, and TR 992-5 wiring harnesses:

(i) If charred, burned, or peeling insulation on wires is found, replace the RPU assembly as a unit. No repairs of the high voltage wires may be made except for the installation of the lamp connector.

(ii) Remove and discard any foil insulation installed around the RPU.

(iii) Remove all tywraps where wires may be bundled together and inspect the wire insulation for crimps, kinks, or abrasion.

Replace the RPU if the insulation is damaged. Do not fold the wire harness against itself.

(iv) Insure that the wire insulation is protected from abrasion against the aircraft structure by use of grommets, standoffs, or similar items.

(v) Measure the length of the output wires from the RPU termination to the lamp connectors. Insure that each high voltage wire does not exceed 78 inches (2M) in length. If the wire exceeds 78 inches, cut the lamp connector end of the wire and install a new fitting (P/N 3185-5) by stripping between 0.12 inch (3mm), and 0.20 inch (5mm) of the insulation from the end of the wire and crimping the fitting onto the wire with Deutsch crimping pliers P/N 15500 and SELA positioner P/N 3185-8 in place of Deutsch positioner 20 MS (red), or Burndy M10S-1 crimping tool with S-6A die, or SELA/BAC approved equivalent. Do not solder the wire into the fitting.

(3) Each lamp shall be installed only into 2 connectors made by the same manufacturer as the lamp.

(4) Visually inspect all lamp connector assemblies and for each such assembly:

(i) Replace all burned, melted, cracked, or incorrectly installed lamp connectors, (SELA TDS REF 90/11980 dated February 9, 1990, provides installation criteria).

(ii) Insure that the lamp connector spring (P/N 3185-22), is free to move within the connector, is unbroken and undamaged, and the wire does not bind within the connector. After the lamp connector is correctly installed on the lamp, the spring will not move freely.

(iii) Insure that the contact fitting (P/N 3185-5) is properly crimped and is not soldered onto the wire.

(iv) Insure that the contact fitting is installed flush over the end of the lamp contact with no gap between the fitting and the mating end of the lamp.

(v) Insure that the lamp connector body (P/N 3185-7) is installed first over the lamp until it "clicks" into position. There should be no more than a 0.04 inch (1mm) gap between the connector body and the lamp end. Slide the locking sleeve (P/N 3185-15) over the connector body. Do not slide the locking sleeve onto the connector before installation on the lamp.

(vi) Insure that there are no bare wires or stray wire strands at the end of the connector after assembly.

Note 4: High voltage potentials may exist between adjacent output wires and hasten the formation of arcing damage.

(5) Insert the lamp into no more than 2 clips insuring a snug fit. Insure that lamp clips are properly secured to the airplane structure. Reposition any lamps that contact this structure.

(c) The cabin fluorescent lighting system may be deactivated in accordance with the following instructions:

(1) If the deactivation is accomplished by tripping a circuit breaker (CB), then the CB must be tywrapped in the tripped position, or a collar installed which prevents resetting of the CB.

Note 5: Some airplane installations may power this system through more than one switch or circuit. In those cases, the fluorescent lighting system power lead must be removed, capped, and stowed so that no combination of switch selections will power the cabin fluorescent lights.

(2) A placard is placed in proximity to the cabin fluorescent lighting system control stating that the system is deactivated.

(3) That prior to each boarding of passengers at night or during reduced light conditions, the flight crew must ensure that one passenger reading light per row and all vestibule lights are illuminated.

(4) That prior to deplaning passengers at night or during reduced light conditions, the flight crew:

(i) Request that all passengers turn on the reading light above their seat, and

(ii) ensure that the vestibule lighting is illuminated.

(5) All other cabin lights are required to be operable.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) The visual check, only, required by paragraph (a) of this AD, may be accomplished by a certificated flightcrew member.

Note 6: When the checks required by paragraph (a) of this AD are accomplished by a flightcrew member pursuant to the restrictions specified in paragraph (e) of this AD, maintenance records must be maintained as required by FAR 91.173, 121.380, or 135.439 as applicable and a maintenance record is not required unless a defect is found.

(f) An alternate method of compliance or adjustment of the compliance times which provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium.

Note 7: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to S.E.L.A. Laboratoire Abadie, BP No. 1 65500, Vic En Bigorre, France; Telephone (33) 62.96.71.56; Facsimile (33) 62.96.23.09, or Bigorre Aerospace Corporation (BAC), Suite 1107, 6543-46th Street North, Pinellas Park, Florida 34665; Telephone (813) 525-8115; Facsimile (813) 522-5820; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This Amendment revises AD 90-07-08 Amendment 39-6546.

This amendment becomes effective on July 2, 1990.

Issued in Kansas City, Missouri, on June 4, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13631 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-16-AD; Amdt. 39-6631]

Airworthiness Directives; SAAB-Scania Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-Scania Model SF-340A series airplanes, which requires removal of four fasteners in the lower part of the wing/fuselage attachment fitting at Wing Station 42.3; enlargement of the holes; inspection to detect cracks; repair if cracks are found; and installation of oversize fasteners. This amendment is prompted by a report of fatigue damage in the four fastener positions in the lower part of the wing/fuselage attachment fitting at Wing Station 42.3 (both wings) that occurred during airframe fatigue testing. This condition, if not corrected, could result in reduced structural integrity of the wings.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone 431-1978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain SAAB-Scania Model SF-340A series airplanes, which requires removal of four fasteners in the lower part of the wing/fuselage attachment fitting Wing Station 42.3; enlargement of the holes; inspection to detect cracks; repair if

cracks are found; and installation of oversize fasteners; was published in the **Federal Register** on March 22, 1990 (55 FR 10621).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 67 airplanes of U.S. registry will be affected by this AD, that is will take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for the required modification kits is $155. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $53,265.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive.

Saab-Scania: Applies to Model SF-340A series airplanes, Serial Numbers 004 through 108, inclusive, certificated in any category. Compliance is required prior to the accumulation of 16,000 landings or within 30 days after the effective date of this AD, whichever occurs later, unless previously accomplished.

To prevent fatigue damage and reduced structural integrity of the wings, accomplish the following:

A. Remove the four fasteners in the lower part of the wing/fuselage attachment fitting at Wing Station 42.3 (left and right wings), enlarge the holes, and inspect for cracks using a non-destructive testing method (eddy current), in accordance with SAAB-Scania Service Bulletin 340-57-017, dated December 1, 1989.

1. If no cracks are found, prior to further flight, install oversize fasteners in accordance with the service bulletin.

2. If cracks are found, prior to further flight, further enlarge the holes and install oversize fasteners, in accordance with service bulletin. The holes may be enlarged up to 0.264/0.262 inch (6,706/6,655 mm).

3. If cracks are still found following the maximum reaming allowed, repair prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania, Product Support, S-581.88, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective July 23, 1990.

Issued in Seattle, Washington, on June 5, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13630 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 25246; Amdt. No. 357]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action makes a correction to the Docket number on a Final Rule published on June 7, 1990 (55 FR 23191). We inadvertently inserted the wrong docket number. This action corrects that mistake.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standard Service, Federal Aviation Administration, 800 Independence Avenue W., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION:

History

This document corrects the docket number previously published in the **Federal Register** June 7, 1990 55 FR 23191). The FAA would like to change the Docket number "25246" to read Docket number "26246".

Jean Neely,

Acting, Program Management Staff, Office of Chief Counsel.

[FR Doc. 90-13632 FIled 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Furnaces

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for furnaces will remain in effect until new ranges are published.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15% or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range will be applicable until new ranges are published. The ranges of efficiencies for furnaces have not changed by as much as 15% since the last publication. Therefore, the ranges published on March 1, 1990 remain in effect until new ranges are published.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule [1] covering seven appliance categories, including furnaces. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all furnaces presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a covered product is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then on each page of the catalog that lists the product shall be included the range of estimated annual energy costs for the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[2] Because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is subject to change.

To keep the required information in line with any changes that may occur, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect until new ranges are published.

The annual reports for furnaces have been received and analyzed and it has been determined that neither the upper nor lower limits of the ranges for this product category have changed by 15% or more since the last publication of the ranges on March 1, 1990.[3]

In consideration of the foregoing, the present ranges for furnaces will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163)(1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95-619)(1978), the National Appliance Energy Conservation Act, (Pub. L. 100-12)(1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100-357)(1988), 42 U.S.C. 6294, sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-13655 Filed 6-12-90; 8:45 am]

BILLING CODE 6750-01-M

[1] 44 FR 66466, 16 CFR 305 (Nov. 19, 1979).

[2] Reports for furnaces are due by May 1.

[3] 55 FR 7302.

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16 CFR Part 401

Trade Regulation Rule: Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines

AGENCY: Federal Trade Commission.

ACTION: Notice of repeal of rule.

SUMMARY: The Federal Trade Commission announces the repeal of the trade regulation rule concerning misuse of "automatic" or terms of similar import as descriptive of household electric sewing machines ("Sewing Machine Rule" or "Rule") (16 CFR part 401). The Commission has reviewed the rulemaking record and determined that due to the changes in technology and marketing the Rule is no longer in the public interest and should be repealed. Accordingly, the Sewing Machine Rule, 16 CFR part 401, is rescinded. This notice contains a Statement of Basis and Purpose for the repeal of the Rule which incorporates a regulatory analysis.

EFFECTIVE DATE: June 13, 1990.

ADDRESSES: Requests for copies of the Statement of Basis and Purpose should be sent to the Public Reference Branch, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert E. Easton, Esq., Special Assistant—Enforcement, (202) 326-3029, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

Statement of Basis and Purpose

Background

The trade regulation rule concerning the Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines (16 CFR part 401), hereafter referred to as the Sewing Machine Rule or Rule, was promulgated in 1965. In essence, the Rule declares it to be an unfair method of competition and an unfair or deceptive act or practice to use the word "automatic" or similar terms to describe a household sewing machine. The need for the Rule, stated at the time of promulgation, was that use of the word automatic led consumers to believe that "merely by the twist of a dial or the flick of a lever" they would be able to perform complicated sewing tasks.

The Rule relates to electric sewing machines designed for household as opposed to commercial use. When the Rule was promulgated in 1965, many of the machines required that the sewer physically replace cams in the machine to enable the machine to make different types of stitches. Further, many machines required that the sewer perform other manual tasks, e.g., making tension adjustments, during the course of using the machine.

In the Statement of Basis and Purpose accompanying the Rule, the Commission stated that the use of the term "automatic", as well as illustrations and depictions of automaticity, gave consumers the impression that the sewing machines are "simple and easy to use because they are self-operating and require no manual intervention." 16 CFR 401.2. The Commission found this to be deceptive. It determined that the machines were not self-operating nor simple and easy to use. The Commission stated that consumers had to possess a considerable amount of manual dexterity and sewing skill in order to use the machines.

The Rulemaking Record

The rulemaking record in this proceeding consists of staff's reports of its inquiry dated February 7, 1989 and March 28, 1989, the Advance Notice of Proposed Rulemaking (54 FR 18906, May 3, 1989) ("ANPR"), staff's report of July 12, 1989, the Notice of Proposed Rulemaking (54 FR 38693, September 29, 1989) ("NPR"), staff's final report dated November 16, 1989 and the Presiding Officer's report dated December 19, 1989. There were no public comments received in response to the invitations for comments in the ANPR and NPR. The only evidence in the record consists of staff memoranda and a copy of the exchange of correspondence between a staff representative and Mr. Leonard Ennis, Executive Vice President of the American Home Sewing Association.

Analysis of the Rulemaking Record

The Sewing Machine Rule is premised upon concerns relating to the use of the word "automatic" which the rulemaking record indicates no longer exist. Specifically, modern home electric sewing machines require less manual adjustments, are easier to learn to operate and may, indeed, be more truthfully described as automatic than their predecessors.

During its brief inquiry, staff visited several sewing machine retailers, examined sewing machines and spoke with several sewing machine sales persons. Further, staff discussed sewing with an assistant professor of home economics who has taught courses in tailoring, speed and custom sewing and advanced principles of apparel production. Additionally, staff contacted a major trade association to ascertain the costs/benefits of the Rule from its perspective. Based upon staff's inquiry it appears that:

1—Electric sewing machines sold today have eliminated the need for many manual adjustments formerly required.

2—Today's machines use pushbuttons or computer boards to select from numerous preprogrammed stitching patterns.

3—Today's machines use direct gear drive or other systems which avoid the need for complex manual tension adjustments.

4—Today's machines are simpler to operate and their use mastered in a short time.

5—Home sewing is declining because more people work outside the home, clothing is cheaper and there are fewer sources of fabrics.

6—Sewing machine manufacturers and retailers do not incur expenses due to the Rule and view it is obsolete and anachronistic. Staff Memorandum of February 7, 1989 (R-B-1).

Because of the simplification of the operation of sewing machines over the last twenty years, it appears that the basis for the Rule no longer exists. With most of today's machines one needs only push a button or turn a knob to select the stitch and the machine will then sew that stitch (the person still has to guide the material through the needle area). Therefore, it would appear to be the case that "merely by the twist of a dial or the flick of a lever" (16 CFR 401.2) one would be able to perform sewing operations. Thus, over the years, sewing machines have become more "automatic."

A further point strengthens the argument that the Rule is unneeded. The Rule itself (401.4) states that it is permissible to use the term automatic to describe an attachment or component of a machine when, after activation and by self-operation, it will perform the mechanical function without human intervention. As examples of permissible representations, the Rule uses "automatic zig-zag attachment", "automatic buttonhole stitch attachment", "winds bobbin automatically", etc. Because these functions and many others previously performed by attachments are now incorporated into the sewing machine itself, it appears logical that the machine itself could be called automatic.

Additionally, the Commission in 1965 recognized that technological changes might obviate the need for the Rule. Section 401.5 (Future Product Improvement) states that in the event that anyone develops a sewing machine that sews itself without human intervention, that person can apply to the Commission for rule amendment or other appropriate relief.

It appears, as the Executive Vice President of the American Home Sewing Association informed the staff, that the Rule has neither a positive nor negative impact on the industry and that it is both obsolete and anachronistic.

The Commission concludes that there is substantial evidence in the rulemaking record that the Rule serves no present function. Therefore, the Commission has determined to repeal the Rule. The Commission has followed the procedures set forth in section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) in conducting this proceeding for repeal of the Rule.

Final Regulatory Analysis

The following discussion constitutes the Commission's Final Regulatory Analysis of the proposed repeal of the Rule pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* and section 22 of the Federal Trade Commission Act, 15 U.S.C. 57b-3.

A description of the reasons why action is being considered and the objectives of and legal basis for the repeal of the Rule have been explained in prior parts of this Statement of Basis and Purpose.

Repeal of the Rule would appear to have little or no effect on any small business. Because of changes in technology, it appears that small businesses no longer use the term "automatic" or terms of similar import as a method for marketing electric sewing machines.

The Sewing Machine Rule contains no information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501-3518. Repeal of the Rule would remove any other compliance requirements that are associated with the Rule.

The only significant alternative to repeal of the Rule is to take no action. Because of advances in technology, the Rule no longer serves a meaningful purpose. Under these circumstances, retaining the Rule would run counter to the efficiencies of repealing rules that no longer serve a useful purpose.

The benefits of the repeal of this Rule result from the removal of an unnecessary and irrelevant regulation from the Code of Federal Regulations (CFR) and from increasing public respect for and observance of the law.

Although the Rule does not appear to be having any current effect in the marketplace, it is prudent to eliminate such unnecessary verbiage from the CFR. Reducing the length of the CFR by several pages each year from now into the future is a consideration.

There are important intangible benefits of repealing outdated regulations. These benefits are to be found in the area of respect for the government and laws. There is a benefit for law enforcement in retaining only rules that continue to serve a demonstrable public purpose.

Another benefit of repealing the Rule could be the elimination of a chilling effect on the legitimate use of the term automatic. While we have no specific evidence on the point, prudent businesspersons may, because of the Rule, be reluctant to chance a violation and not use the term even when true. The repeal of the Rule could result in consumers being given useful information.

The Commission believes that the above benefits are sufficient to support its determination to rescind this Rule.

List of Subjects in 16 CFR Part 401

Sewing machines, Trade practices.

PART 401—[REMOVED]

The Commission, under its authority, section 18 of the Federal Trade Commission Act, as amended (15 U.S.C. 57a) amends chapter one of title 16 of the Code of Federal Regulations by removing part 401.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-13576 Filed 6-12-90; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: Pursuant to sections 2(a)(1), 4(b) and 4c of the Commodity Exchange Act ("Act"), 7 U.S.C. 2, 6(b) and 6c (1982), and part 30 of the Commission's rules and regulations promulgated thereunder, the Commission has entered into a Mutual Recognition Memorandum of Understanding ("MRMOU") with the French Commission des Operations de Bourse ("COB"). This arrangement generally will permit all products of one jurisdiction to be offered to customers located in the other jurisdiction, subject to certain conditions specified in the MRMOU intended to ensure adequate customer protection and the laws applicable to certain equity index and debt security products. Further, the arrangement will also permit brokers licensed in one jurisdiction to sell the products of that jurisdiction to customers located in the other jurisdiction, generally by complying with the rules of the licensing jurisdiction, and with requirements agreed to by the Commission and the COB to eliminate regulatory gaps. As a condition of these arrangements, and to reduce duplication and enhance cooperation, the MRMOU provides for information sharing on a routine and "as needed" basis in connection with monitoring and compliance matters, thus improving the Commission's and COB's ability to address financial or market disruptions that could affect their markets.

EFFECTIVE DATE: July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq., or Barney L. Charlon, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. *Telephone*: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On July 23, 1987, the Commodity Futures Trading Commission ("Commission") adopted final rules and regulations pertaining to the offer or sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade.[1] These rules, which became effective on February 1, 1988, establish a regulatory framework for the offer or sale in the United States of futures and option contracts made or to be made on or subject to the rules of a foreign board of trade.[2] The part 30 rules bring foreign futures and option transactions undertaken by persons located in the United States within the Commission's existing framework of customer protections. These rules effect Congress' intent that such transactions be subject to regulatory standards comparable to those applicable to domestic transactions [3] and implement a concept of substituted compliance, such that compliance with a generally comparable foreign regulation will be considered sufficient to warrant exemption from what otherwise may be duplicative Commission regulation.

In this regard, the Commission adopted rule 30.10 which permits persons located outside the United States who solicit or accept orders directly from United States customers for foreign futures or option transactions and who are subject to a generally comparable regulatory scheme in the jurisdiction in which they are located to seek an exemption from the application of certain part 30 rules.[4] In effect, as set forth in appendix A to the part 30 rules, which sets forth the standards the Commission will consider in assessing comparability, the Commission will accept substituted compliance by the foreign firm with rules and regulations in effect in the jurisdiction deemed comparable to those in effect in the United States. The elements the Commission will examine in assessing comparability of regulation include registration or other form of fitness review, minimum capital requirements, protection of customer funds, sales practice requirements, recordkeeping and reporting requirements and compliance procedures.

Unlike foreign futures, which with two exceptions can be offered or sold to customers resident in the United States without prior approval [5] foreign option contracts have been banned since 1978.[6] The part 30 rules establish a mechanism pursuant to which this ban may be lifted on a market by market and product by product basis. Specifically, under Commission rule 30.3(a),[7] the Commission may lift the foreign option ban by the issuance of an authorization order. In assessing whether to grant a foreign option petition, the Commission has reviewed, among other things: The arrangements in place for deterring sales practice abuses, the ability of United States customers to redress grievances with respect to the offer or sale of such option products and the regulatory environment in which the products are traded.

Both the rule 30.10 and rule 30.3(a) orders are premised on the existence of appropriate information sharing arrangements between the Commission and the relevant foreign regulatory authority. In particular, both the rule 30.10 and rule 30.3(a) procedures acknowledge that interjurisdictional cooperation is a necessary prerequisite for an effective regulatory program which is to be applied to a person operating from outside the United States.

Based upon the foregoing, in particular, sections 2(a)(1), 4(b) and 4c of the Act and part 30 of the Commission's rules and regulations promulgated thereunder, the Commission has entered into the MRMOU with the COB. This arrangement generally will permit all products of one jurisdiction to be offered to customers located in the other jurisdiction, subject to certain conditions specified in the MRMOU intended to ensure adequate customer protection. Further, the arrangement will also permit brokers licensed in one jurisdiction to sell the products of that jurisdiction to customers located in the other jurisdiction, generally by complying with the rules of the licensing jurisdiction, and with requirements agreed to by the Commission and COB to eliminate regulatory gaps. As a condition of these arrangements, and to reduce duplication and enhance cooperation, the MRMOU provides for

[1] 17 CFR part 30 (1989). 52 FR 28930 (Aug. 5, 1989).

[2] 52 FR 48811 (December 28, 1987).

[3] *See* S. Rep. No. 384, 97th Cong., 2d Sess. 45-46 (1982) and 51 FR 12104, 12107 (April 8, 1986).

[4] *See* Commission rule 30.10, 17 CFR 30.10 (1989).

[5] Specifically, futures or option contracts concerning stock indices and non-exempt foreign government debt instruments may not be offered or sold in the United States without compliance with certain additional procedures. *See* section 2(a)(1) of the Act, 7 U.S.C. 2 and section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder.

[6] *See* Commission rule 32.11, 17 CFR 32.11 (1989).

[7] *See* Commission rule 30.3(a), 17 CFR 30.3(a) (1989).

information sharing on a routine and "as needed" basis in connection with monitoring and compliance matters, thus improving the Commission's and COB's ability to address financial or market disruptions that could affect their markets.

Memorandum of Understanding Regarding Mutual Recognition Between the Commodity Futures Trading Commission and the Commission des Operations de Bourse

The Commodity Futures Trading Commission ("CFTC") and the Commission des Opérations de Bourse ("COB"):

Considering the increasing international activity on their respective futures and option markets;

Recognizing the need to enhance client protection through the oversight of the activities of the regulated persons transacting business on their respective markets and through the enforcement of their respective national laws and regulations concerning futures and option contracts and transactions involving such contracts;

Desiring to develop new mechanisms for mutual cooperation and assistance, including the sharing of information, between the Authorities; and

Representing that each Authority has the power to effectuate the provisions of this Mutual Recognition Memorandum of Understanding and the annexed Side Letter (collectively "MRMOU");

Understand the following:

Article 1—Definitions

1. For the purposes of this MRMOU:

(a) *"Authority"* means the CFTC or the COB;

(b) *"Authorized person"* means:

(1) A credit institution as defined by Article 1 of Law N° 84–46 dated January 24, 1984 and published in the Journal Officiel of the Republic of France or an institution regulated by Articles 69 and 99 of such law, that is approved by the Comité des Etablissements de Crédit, controlled by the Commission Bancaire and placed under the supervision of the Bank of France and of the COB, and that is authorized by the Conseil du Marché à Terme to trade Futures or Option Contracts under Article 8 of the Law dated March 28, 1885, as amended by Law N° 85–695 dated July 11, 1985, Law N° 87–1158 dated December 31, 1987, and Law N° 89–531 dated August 2, 1989, each published in the Journal Officiel of the Republic of France;

(2) A brokerage firm that is approved and controlled by the Conseil des Bourses de Valeurs and placed under the supervision of the COB, and that is authorized by the Conseil du Marché à Terme to trade Futures or Option Contracts under Article 8 of the Law dated March 28, 1885, as amended by Law N° 85–695 dated July 11, 1985, Law N° 87–1158 dated December 31, 1987, Law N° 88–70 dated January 22, 1988, and Law N° 89–531 dated August 2, 1989, each published in the Journal Officiel of the Republic of France; or

(3) Any other person that is authorized by the Conseil du Marché à Terme, and that is qualified to solicit or accept Client orders and funds involving Futures or Option Contracts;

(c) *"Client" or "Customer"* means a person who directly or indirectly has, holds, or places an order to obtain a beneficial interest in a Futures or Option Contract;

(d) *"Conseil du Marché à Terme" ("CMT")* means the professional organization under Article 5 of the Law dated March 28, 1885, as amended by Law N° 85–695 dated July 11, 1985, Law N° 87–1158 dated December 31, 1987 and Law N° 89–531 dated August 2, 1989, with the authority to establish the General Regulation of the Futures and/or Option Markets subject to its jurisdiction, to approve Authorized Persons and to improve disciplinary sanctions on such Persons or their employees;

(e) *"Futures Contract"* means an agreement, subject to regulation by the CFTC, or subject to regulation by the CMT and placed under the supervision of the COB, which is, or is held out to be, of the character of a contract for the purchase or sale for future delivery of a commodity, a financial instrument or an index, and which is traded on, or subject to the rules of, a Futures and/or Option Market;

(f) *"Futures and/or Option Market" or "Market"* means:

(1) With respect to France, the markets on Futures or Option Contracts regulated by the CMT and placed under the supervision of the COB under the Law dated March 28, 1885, as amended by Law N° 85–695 dated July 11, 1985, Law N° 87–1158 dated December 31, 1987, and Law N° 89–531 dated August 2, 1989, and which are listed in Annex A of this MRMOU; and

(2) With respect to the United States, the contract markets (as defined in CFTC regulation 1.3(h), 17 CFR 1.3(h)) designated under the Commodity Exchange Act (the "CEA"), 7 U.S.C. 1, and which are listed in Annex B of the MRMOU;

(g) *"Laws and Regulations"* means the provisions of the laws and decrees of France or the United States, a rule or regulation adopted thereunder, or an order issued thereunder, by an Authority, or by the Conseil des Bourses de Valeurs, the CMT, the National Futures Association or by a Futures and/or Option Market subject to the approval of, or in consultation with, an Authority, concerning a Futures or Option Contract, a Futures and/or Option Market, or a Person transacting business on such Market;

(h) *"National Futures Association" ("NFA")* means a self-regulatory organization with the authority, *inter alia*, to regulate certain Registered Persons conducting a business on Futures and/or Option Markets, that is a registered futures association under section 17 of the CEA, 7 U.S.C. 21, and that maintains the records of Registered Persons under the CEA;

(i) *"Option Contract"* means an agreement, subject to regulation by the CFTC, or subject to regulation by the CMT and placed under the supervision of the COB, which is, or is held out to be, of the character of an option, bid, offer, call or put, and which is traded on, or subject to the rules of, a Futures and/or Option Market;

(j) *"Person"* means an individual, association, partnership, corporation, trust, or any other legal entity;

(k) *"Recognized Person"* means:

(1) An Authorizes Person that, pursuant to this MRMOU, is permitted to offer or sell Futures or Option Contracts traded on the Markets subject to the supervision of the COB, or to accept orders and funds related thereto, to Clients residing in the United States, without any additional registration in accordance with the provisions of part 30 of the CFTC's regulations; or

(2) A Registered Person that, pursuant to this MRMOU, is permitted to offer or sell Futures or Option Contracts traded on the Markets subject to the supervision of the CFTC, or to accept orders and funds related thereto, to Clients residing in France, without any additional authorization in accordance with the provisions of Article 32 of Law N° 89–531 dated August 2, 1989;

(l) *"Recognizing Authority"* means:

(1) With respect to the recognition in France of Registered Persons listed in Annex C of this MRMOU, and the recognition of Futures or Option Contracts traded on the Markets subject to the supervision of the CFTC and listed in Annex D of this MRMOU, the COB; or

(2) With respect to the recognition in the United States of Authorized Persons listed in Annex E of this MRMOU, and the recognition of Futures or Option Contracts traded on the Markets subject to the supervision of the COB and listed in Annex F of this MRMOU, the CFTC: and

(m) "*Registered Person*" means a Person who solicits or accepts Client orders and funds related to transactions involving Futures or Option Contracts and who is registered in accordance with the requirements of section 4d of the CEA, 7 U.S.C. 6d, and part 3 of the CFTC regulations thereunder, 17 CFR part 3.

2. Words used in the singular form in this MRMOU are deemed to import the plural, and vice versa.

Article II—Mutual Recognition of Regulatory Systems

1. The Authorities have exchanged correspondence intended to inform each other of the Laws and Regulations and procedures governing the Authorized Persons, Registered Persons, Futures or Option Contracts, and Futures and/or Option Markets in their respective jurisdictions. The Authorities represent that they have informed each other of the Laws and Regulations and procedures governing the confidentiality of information to be shared pursuant to this MRMOU.

2. Based on the representations made by each Authority in the exchange of correspondence referred to in paragraph 1 of this Article, each Authority recognizes that the jurisdiction of the other Authority has Laws and Regulations which address:

(a) Authorization or registration of Persons who offer or sell Futures or Option Contracts, or accept orders and funds related thereto, including, without limitation:

(1) Criteria and procedures for refusing, granting, monitoring, suspending and revoking such authorization or registration; and

(2) Provisions for requiring and obtaining access to fitness information about Authorized or Registered Persons;

(b) Financial requirements for Authorized or Registered Persons including, without limitation, requirements concerning:

(1) The amount and nature of the assets of such Persons who carry Client accounts or handle Client funds;

(2) Accounting for transactions and transaction prices; and

(3) Daily mark-to-market clearance and settlement procedures;

(c) Systems for the protection of Client funds including, without limitation, mechanisms intended to:

(1) Mitigate the loss of Client funds because of defalcation or default;

(2) Ensure appropriate accounting for Client funds and the interests in which such funds are invested; and

(3) Permit the liquidation or transfer of Client positions when a margin call is not met;

(d) Recordkeeping and reporting requirements pertaining to financial and transaction information including, without limitation, information about:

(1) Futures or Option Contract prices;

(2) Settlement prices;

(3) Orders;

(4) Trade confirmations;

(5) Statements of the finanacial position and other accounting records of the Authorized or Registered Persons;

(6) Client account statements; and

(7) Any other Client records;

(e) Requirements which govern sales practices including, without limitation, the handling of Customer complaints, supervision of accounts, solicitation, risk disclosure, discretionary accounts, promotional material, and supervision of employees and disciplinary actions; and

(f) Procedures to audit for compliance with, and to redress violations of, Client protection and sales practice requirements including, without limitation:

(1) Surveillance programs designed to detect abusive activities which take advantage of Clients;

(2) Powers to investigate, audit, and sanction the sales practices of Authorized or Registered Persons; and

(3) Procedures to resolve Client disputes.

3. Each Authority represents that all Futures or Option Contracts and Markets subject to the supervision of such Authority are governed by the Laws and Regulations and procedures referred to in paragraph 2 of this Article and that such Authority will provide the other Authority with prompt notice of all material changes in such Laws and Regulations.

4. Each Authority will accord to Clients residing in the jurisdiction of the other Authority the equal protection of its Laws and Regulations as to Clients residing in its own jurisdiction.

5. Consequently, each Authority recognizes that:

(a) The Futures or Option Contracts and Futures and/or Option Markets subject to the supervision of the other Authority are governed by Laws and Regulations intended to provide Client and Market protections to Persons engaged in trading such Futures or Option Contracts; and

(b) The Recognized Persons subject to the supervision of the other Authority are governed by Laws and Regulations intended to provide Client and Market protections to Persons engaged in trading Futures or Option Contracts.

6. Therefore, subject to the requirements of this MRMOU including, without limitation, the provisions set forth in Articles V and VI herein, each Authority understands that:

(a) Compliance by a Recognized Person with the requirements imposed by, and under the supervision of, one Authority concerning authorization or registration of Persons, is substituted for compliance with the authorization or registration requirements imposed by, and under the supervision of, the other Authority; and

(b) Subject to the provisions of the Side Letter regarding Futures or Option Contracts concerning stock indices and certain debt securities, each Authority will permit the offer or sale, and acceptance of funds related thereto, to Clients residing in its jurisdiction, or Futures or Option Contracts which are properly authorized or designated to be traded on Markets subject to the supervision of the other Authority.

7. The Authorities understand that the recognition of an Authorized or Registered Person or the recognition of a Futures or Option Contract in accordance with paragraph 6 above may be refused by the Recognizing Authority if such recognition would prejudice the public interest in the jurisdiction of such Authority.

8. With respect to Recognized Persons, each Authority acknowledges that this MRMOU is directed to brokerage activities by such Persons in the jurisdiction of the Recognizing Authority, which involve Futures or Option Contracts traded on Markets subject to the supervision of the other Authority, and is not directed to trading activities by these Persons on Markets subject to the supervision of the Recognizing Authority.

9. Each Authority understands that this MRMOU does not exempt a Recognized Person or any other Person from any provision of the Laws and Regulations in France and in the United States which are not specified herein including, without limitation, the antifraud provisions of each of these jurisdictions.

Article III—Mutual Assistance Concerning Information Sharing

1. Each Authority acknowledges that its respective understandings set forth in this MRMOU are based on the existence of mechanisms for sharing information on an "as needed" basis and for cooperating in inquiries, investigations, proceedings and compliance matters with respect to the Laws and Regulations subject to its jurisdiction.

2. Each Authority will:

(a) Assist the other Authority, to the extent permitted by the Laws and Regulations of its jurisdiction, by providing information concerning the oversight and protection of the Markets

which are subject to the supervision of such Authority and the protection of Recognized Persons' Clients residing in the jurisdiction of the Recognizing Authority; and

(b) Designate in the Side Letter contact offices at the COB and the CFTC to receive and process all requests for such information sharing.

3. With respect to Recognized Persons, the information sharing described in this Article will include, without limitation, information concerning:

(a) Transaction specific data, including confirmation data and position data;

(b) Any data necessary to trace the funds: (1) that are located in the jurisdiction of an Authority; (2) that concern transactions on the Markets subject to the supervision of that Authority; (3) that are held by, or on behalf of, Authorized or Registered Persons recognized by the other Authority; and (4) that belong to Clients residing in the jurisdiction of such other Authority; and

(c) Data on the standing of the Recognized Person to do business, including its financial condition.

4. With respect to any arrangement between the Markets of each Authority to permit access to each others Futures or Option Contracts traded on an electronic trading system which has been authorized in the respective jurisdiction of both Authorities, information necessary to permit each Authority to ensure compliance with, or enforcement of, any Laws and Regulations of the jurisdiction of that Authority, may be shared pursuant to the provisions of this MRMOU.

5. A request for information pursuant to this Article must be made in writing and addressed to the contact office of the requested Authority designated in accordance with paragraph 2(b) above.

Such request will be accompanied by a translation in French in the case of a request to the COB, and by a translation in English in the case of a request to the CFTC. A request must specify the following:

(a) The information sought by the requesting Authority;

(b) A general description of the matter which is the subject of the request and the purpose for which the information is sought; and

(c) The desired time period for the reply and, where appropriate, the urgency thereof, in the event of urgency, a request for information and a reply thereto may be transmitted by summary or emergency procedures by mutual arrangement of the Authorities.

6. In response to a request, made in accordance with paragraph 5 above, for immediate access to the books and records of a Recognized Person that are required to be maintained under the Laws and Regulations in France or in the United States, as the case may be, and that relate to transactions subject to this MRMOU, each Authority will provide the other Authority with the copies of the books and records which are the subject of the request.

7. In addition to the specific notice provisions set forth in Article V hereunder, each Authority will inform the other Authority, on an "as needed" basis, about the authorization or registration status of a Person subject to its jurisdiction and about the status of Futures or Option Contracts traded on the Markets subject to its supervision.

8. Each Authority will use its best efforts to notify and consult with the other Authority if it becomes aware of any information which, in its judgment, materially and adversely affects the financial or operational viability of any Authorized or Registered Person recognized by such other Authority.

9. Each Authority will provide, or will cause to be provided, to the other Authority, commencing with the first filing due after the effective date of this MRMOU, as promptly as practicable after receipt of the relevant report, the following information with respect to a Registered or Authorized Person recognized by the other Authority:

(a) Copies of the annual audited financial statement, required under the Laws and Regulations of the jurisdiction of that Authority. The Authority, or its designee(s), will represent that the annual financial statement of this Person has been certified as required under the Laws and Regulations of its jurisdiction. Such Authority, or its designee(s), will further represent that, through the access it has to financial compliance information regarding the Authorized or Registered Person, it has no reason to believe that such Person has violated any of the financial requirements of the jurisdiction of this Authority; and

(b) Details of any notice received by the Authority, or its designee(s), under the Laws and Regulations of the jurisdiction of this Authority regarding any breach of financial requirements under such Laws and Regulations.

10. No provision of this MRMOU shall be considered as conferring the right to ask for, or challenge, the execution of a request for information upon any Person other than the Authorities.

11. The Authorities acknowledge that this MRMOU does not prohibit either Authority from taking measures, to the extent permitted by international law, otherwise than as provided herein to obtain information necessary to ensure compliance with, or enforcement of, its Laws and Regulations.

Article IV—Confidentiality of the Information Shared Between the Authorities

1. The requesting Authority may use the information furnished pursuant to this MRMOU solely:

(a) For the purpose stated in the request, including ensuring compliance with, or enforcement of, any Laws and Regulations specified in such request; or

(b) For purposes within the general framework of the use stated in the request, including conducting a civil or administrative enforcement proceeding, assisting in a self-regulatory enforcement proceeding, assisting in a proceeding, including a proceeding whose purpose is to permit a subsequent criminal prosecution, or conducting any investigation related thereto for any general charge applicable to the violation of the provision specified in the request.

2. In order to use the information furnished for any purpose other than those stated in paragraph 1 of this Article, the requesting Authority must first inform the requested Authority of its intention and provide this Authority with the opportunity to oppose such use. If, under such conditions, the requested Authority does not oppose such use, this Authority may subject it to certain conditions. In the event where this use of the information is opposed by the requested Authority, the Authorities agree to consult pursuant to paragraph 8 of Article VI hereunder as to the reasons for the refusal and the circumstances under which use of the information might otherwise be allowed.

3. Each Authority shall keep confidential requests made within the framework of this MRMOU, the contents of such requests, and any other matters arising during the operation of this MRMOU, including consultations between the Authorities.

4. In all cases, the requesting Authority shall keep confidential any information received pursuant to this MRMOU to the same extent as such information would be kept confidential in the jurisdiction of the requested Authority, except in the case where the information provided must be disclosed in the course of its use pursuant to paragraphs 1 and 2 of this Article.

5. However, the Authorities may, by mutual agreement, make an exception to the principle set forth in paragraphs 3 and 4 above, to the extent permitted by

the Laws and Regulations of each Authority.

Article V—Recognition of Persons and Contracts

1. The Authorities understand that the recognition of an Authorized or Registered Person will become effective thirty days after the completion of the following:

(a) The Authority notifies the Recognizing Authority that the Registered or Authorized Person is presently qualified to do business in its jurisdiction and expects to commence business in the jurisdiction of the Recognizing Authority; and

(b) The Authority provides the Recognizing Authority with the following written undertakings of the Authorized or Registered Person:

(1) A consent to submit to jurisdiction in France or the United States, as the case may be, with respect to transactions in Futures or Option Contracts with Clients residing in such jurisdiction, and a binding appointment of an agent for service of process in the jurisdiction of the Recognizing Authority, which has been filed with the CMT or the NFA, as the case may be, in accordance with the requirements of the Recognizing Authority, unless such appointment previously has been filed and remains valid;

(2) An acknowledgement of such Person that it can be required by the Authority in the jurisdiction in which it is authorized or registered to provide to that Authority immediate access to its books and records which are related to transactions subject to this MRMOU and which are required to be maintained under the applicable Laws and Regulations of the jurisdiction of that Authority; such Person further acknowledges that each Authority will cooperate in providing to the Recognizing Authority access to the copies of such books and records which are the subject of a request made by the Recognizing Authority in accordance with Article III of this MRMOU;

(3) A list of its principals including, without limitation:

(A) Its directors and officers as well as its controlling shareholders or partners, or any Person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over its activities which are subject to regulation by an Authority;

(B) Any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock;

(C) Any Person who has contributed ten percent or more of its capital;

(4) Subject to the provisions of the Side Letter, such Person consents to notify all Clients of the existence of, and to participate in, any procedure available under the Laws and Regulations of the Recognizing Authority to resolve on the papers Client disputes where such disputes involve transactions within the purview of this MRMOU; and

(5) Such Person agrees to provide Clients residing in the jurisdiction of the Recognizing Authority with the disclosures required by such Authority;

unless the Recognizing Authority gives notice to the other Authority that such recognition is refused in accordance with the provisions of this MRMOU.

2. Subject to paragraph 3 hereunder, the recognition by an Authority of a Registered or Authorized Person will remain in effect as long as such Person is authorized or registered in the jurisdiction of the other Authority.

3. The recognition of an Authorized or Registered Person may be terminated if:

(1) The Authorized or Registered Person violates the law of the Recognizing Authority;

(2) The Authorized or Registered Person fails to comply with any provision of this MRMOU;

(3) In the case of a Person recognized by the CFTC, a princpal of such Person has been disqualified from doing business in France, or in the case of a Person recognized by the COB, a principal of such Person has been disqualified from doing business in the United States under the CEA and CFTC regulations;

(4) The continued recognition of the Authorized or Registered Person is contrary to the Laws and Regulations of the Recognizing Authority; or

(5) The Authorized or Registered Person ceases to do business in the jurisdiction of the Recognizing Authority or in the jurisdiction of the Authority where such Person is authorized or registered.

4. Each Authority understands that a Recognizing Person will be required to comply with the requirements relating to protection of Client funds, prudential standards including financial requirements, risk disclosure and arbitration as set forth in the Side Letter.

5. Each Authority understands that a Recognized person will maintain its books and records according to the Laws and Regulations of the jurisdiction where such Person is authorized or registered.

6. Each Authority will notify the Recognizing Authority prior to the first offer or sale of an Option Contract subject to its regulation to Clients residing in the jurisdiction of the Recognizing Authority. The Authorities understand that the recognition of the Option Contract by such Authority will not become effective until thirty days after publication in the Bulletin Mensuel of the COB or in the **Federal Register**, as the case may be, of a notice specifying the Option Contract to be offered or sold, unless such recognition is refused as permitted by paragraph 7 of Article II of this MRMOU.

7. The Authority with jurisdiction over the Market on which are traded the Futures or Option Contracts offered or sold to Clients residing in the jurisdiction of the Recognizing Authority by an Authorized or Registered Person, will conduct, or will cause to be conducted, sales practice audits of this Authorized or Registered Person.

Article VI—Effective Date and Miscellaneous Representations

1. Each Authority acknowledges that this MRMOU has been executed in accordance with the applicable laws and Regulations in France and the United States and is based on the representations made and supporting materials exchanged by the Authorities.

2. This MRMOU will be published, in France, in the Bulletin Mensuel of the COB, and in the United States, in the **Federal Register**.

3. The Authorities acknowledge that the effectiveness of this MRMOU will depend upon the adoption of the domestic measures that are necessary to implement fully its provisions in the respective jurisdiction of each Authority. The Authorities will exchange letters to inform each other of the adoption of such measures.

4. This MRMOU will enter immediately into force upon the exchange of letters referenced in the preceding paragraph, provided that a delay of thirty days has elapsed since the publication of this MRMOU in the Bulletin Mensuel of the COB and in the **Federal Register**.

5. The Authorities acknowledge however that they will implement immediately those provisions of this MRMOU which are already in compliance with the Laws and Regulations of the jurisdiction of both Authorities, provided that the thirty-day delay referenced in the preceding paragraph has elapsed. For this purpose, the information sharing assistance between the Authorities will be subject to the conditions described in the Side Letter.

6. Subject to the notice provisions set forth in Article V above, the Authorities,

or their designees, may periodically update the Annexes of this MRMOU.

7. The Recognizing Authority will promptly notify the other Authority before refusing, suspending or terminating the recognition of an Authorized or Registered Person, and before refusing, suspending or terminating the recognition of a Futures or Option Contract subject to regulation by the other Authority.

8. The Authorities will consult, upon the request of an Authority, in the event of:

(a) A refusal by an Authority to comply with a request for information in accordance with Article III of this MRMOU; or

(b) A change in market conditions, or in their respective Laws and Regulations, or in the event of any other difficulty which may make it necessary to amend or interpret this MRMOU.

9. The Authorities may agree on such practical measures as may be necessary to facilitate the implementation of this MRMOU.

10. This MRMOU may be amended by mutual written agreement of the Authorities.

11. Each Authority understands that if the continued effectiveness of this MRMOU, in general or with respect to a particular Recognizing Person, or a Futures or Option Contract, or a Futures or Option Market, would prejudice the sovereignty, security, fundamental interests or public order of an Authority, that Authority may condition, modify, suspend or terminate the recognition of an Authorized or Registered Person or the recognition of a Futures or Option Contract, or otherwise restrict such recognition upon its motion and written notice to the other Authority.

12. This MRMOU shall remain in effect unless terminated by either Authority upon thirty days written notice to the other Authority.

In Witness Whereof, the Undersigned, being duly authorized, have signed this MRMOU.

Done at Washington, DC, in duplicate, this 6th day of June, 1990, in the English and French languages, each text being equally authoritative.

Wendy L. Gramm,

Chairman, Commodity Futures Trading Commission.

Jean Saint-Geours,

Le Président, Commission des Opérations de Bourse.

Annex A

Futures and/or Option Markets Placed under the Supervision of the COB

The Futures and/or Option Markets placed under the supervision of the COB and referenced in the provisions of this MRMOU are the following:

Marché à Terme International de France (MATIF).

Annex B

Futures and/or Option Markets Placed under the Supervision of the CFTC

The Futures and/or Option Markets placed under the supervision of the CFTC and referenced in the provisions of this NRMOU are the following:

Amex Commodities Corporation
Chicago Board of Trade
Chicago Mercantile Exchange
Chicago Rice and Cotton Exchange
Coffee, Sugar & Cocoa Exchange, Inc.
Commodity Exchange, Inc.
Kansas City Board of Trade
MidAmerica Commodity Exchange
Minneapolis Grain Exchange
New York Cotton Exchange
New York Futures Exchange, Inc.
New York Mercantile Exchange
Philadelphia Board of Trade, Inc.
Pacific Futures Exchange

Annex C

Registered Persons

The Registered Persons that, pursuant to this MRMOU, are permitted to offer or sell the Futures or Option Contracts listed in Annex D of this MRMOU to Clients residing in France are the following:

(List to be provided by the CFTC).

Annex D

Futures or Option Contracts Placed Under the Supervision of the CFTC

The Futures or Option Contracts placed under the supervision of the CFTC that, pursuant to this MRMOU, are permitted to be offered or sold to Clients residing in France are the following:

(List to be provided by the CFTC).

Annex E

Authorized Persons

The Authorized Persons that, pursuant to this MRMOU, are permitted to offer or sell the Futures or Option Contracts listed in Annex F of this MRMOU to Clients residing in the United States are the following:

(List to be provided by the COB).

Annex F

Futures or Option Contracts Placed Under the Supervision of the COB

The Futures or Option Contracts placed under the supervision of the COB that, pursuant to this MRMOU, are permitted to be offered or sold to Clients residing in the United States are the following:

(List to be provided by the COB).

SIDE LETTER

June the 6th, 1990.

Wendy L. Gramm, Chairman, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Jean Saint-Geours, Le Président, Commission des Opérations de Bourse, 39–43 Quai André Citroën, 75739 PARIS CEDEX 15.

Re: *Mutual Recognition Memorandum of Understanding between the CFTC and the COB ("MRMOU") dated June 6, 1990*

This letter refers to the agreement which was signed today by the duly authorized representatives of the Commodity Futures Trading Commission ("CFTC") and the Commission des Opérations de Bourse ("COB") (collectively, the "Authorities"), concerning the mutual recognition of Futures or Option Contracts traded on the Futures and/or Option Markets subject to the supervision of these Authorities, as well as the recognition of Authorized or Registered Persons transacting business on such Markets ("MRMOU"). This letter is intended to facilitate the operation of this MRMOU and to further clarify certain conditions imposed by the Authorities for its implementation. All terms used in this letter have the same meanings as set forth in this MRMOU.

This MRMOU is the result of extensive consultations among the Authorities and of the exchange of correspondence concerning the financial capacities of the Futures and/or Option Markets subject to their supervision.

Article V of this MRMOU sets forth certain conditions imposed by each Authority in order for an Authorized or Registered Person to become and remain recognized by such Authority. The Authorities understand that, in addition to Article V of this MRMOU and in addition to any applicable Laws and Regulations, the recognition of an Authorized or Registered Person, for the purpose of permitting the offer or sale of Futures or Option Contracts in the jurisdiction of the Recognizing Authority, will be subject to the following further conditions:

1. Protection of Client Funds

(a) In the case of an Authorized Person, the Clearing House referenced in Article 9 of the Law dated March 28, 1885, as amended, and Article 1.3.0.4. of the General Regulation of the CMT, will guarantee to such Person's Clients residing in the United States the deposits, and any variation margins, due by the Authorized Person to such Clients with respect to Futures and Option Contracts traded on a Market subject to the regulation of the COB. This full performance guarantee will be provided to such Clients provided that: (i) The Authorized Person will insure that its own positions and the positions of its Clients will be cleared separately, and that the obligations in respect of such positions cannot be offset; (ii) the Authorized Person will maintain, on behalf of such Clients, the amount of the deposit required by the Clearing House, in liquid assets which are permitted under the CMT rules; and (iii) in the event of a default of the Authorized Person, the amount referenced in subparagraph (ii) above will be transferable to another Authorized Person as Client's property. Furthermore, the undisbursed accruals will also be maintained by the Authorized Person, on behalf of such Clients, in liquid assets that are identifiable as property of a particular Client and that can

be claimed as Client's property according to Article 30 of Law N° 83-01 of January 3, 1983, as amended;

(b) In the case of a Registered Person, such Person will maintain the funds described in 1.3(gg) of the CFTC regulations, 17 CFR 1.3(gg), in accordance with the segregation provisions of section 4d of the CEA and part 1 of the CFTC regulations thereunder, 17 CFR part 1.

2. Prudential Requirements

(a) In the case of an Authorized Person, such Person will maintain net equity as required under the CMT General Regulation, provided that, according to such regulation, no subordinated debt or guarantee may be substituted for such net equity in order to fulfill the minimum capital requirements, *i.e.*, FF 7.5 million for nonclearing members, FF 50 million for individual clearing members, and FF 375 million for general clearing members, and provided, further, that, if a more stringent financial requirement is imposed by the European Economic Community on european investment firms, the Authorized Person will meet such requirement;

(b) In the case of a Registered Person, such Person will maintain capital as required under the CFTC rule 1.17, 17 CFR 1.17;

(c) The Authorities acknowledge that they will consult further as to the comparability of the prudential requirements of their respective jurisdictions concerning the Authorized or Registered Persons. As a preliminary agreement, each Authority also agrees to consult if the obligations of a Person which is authorized or registered in its jurisdiction, in respect to Clients residing in the jurisdiction of the other Authority, exceed twenty-five times any such Person's net equity. The Authorities will further consult if a substantial part of the obligations that an Authorized or Registered Person owes to his Clients originates from Clients residing in the jurisdiction of the other Authority.

3. Risk Disclosure Statements

(a) Prior to the opening of an account in Futures or Option Contracts traded on Markets subject to the supervision of the COB, for Clients residing in the United States, the Authorized Person will provide such Clients with:

(1) The information notice, translated into English, which is approved by the COB pursuant to Article 14-bis of the Law dated March 28, 1885, as amended, and by Regulation N° 90-[_____] of the COB, as attached hereto as appendix I; and

(2) The risk disclosure statements in accordance with rule 30.6 and rule 33.7 of the CFTC, 17 CFR 30.6 and 33.7, as attached hereto as appendices II and III;

(b) Prior to the opening of an account in Futures or Option Contracts traded on Markets subject to the supervision of the CFTC, for Clients residing in France, the Registered Person will provide such Clients with:

(1) The information document required by Regulation N° 90-[_____] of the COB regarding the offer or sale of securities, futures contracts, and financial products traded on a non-French market, as attached hereto as appendix IV; and

(2) The risk disclosure statements, translated into French, in accordance with CFTC rules 33.7, 1.55 and 190.10, 17 CFR 33.7, 1.55 and 190.10, as attached hereto respectively as appendices III, V and VI.

4. Arbitration Procedures

The Authorized or Registered Person consents to arbitrate, at the election of the Client, at the NFA or the CMT, the arbitration programs of each of which provides a mechanism for a hearing on the papers; provided, however, that if the claim arises primarily out of delivery, clearing, settlement or floor practices on Futures and/or Option Markets, the Recognized Person can elect to arbitrate at the forum of the jurisdiction in which it is authorized or registered; and provided, further, that the demand for arbitration at the CMT or the NFA can be filed by the Client at either such forum.

For purposes of this MRMOU, the term "public interest" in paragraph 7 of Article II of this MRMOU shall include, without limitation, the Laws and Regulations governing disqualification from authorization or registration in effect in the jurisdiction of each Authority. The Authorities understand that no employee or representative of a Recognized Person may be permitted to engage in activities subject to this MRMOU if, to the best knowledge and belief of the Authority in the jurisdiction of which the Recognized Person is authorized or registered, the employee or representative of the Recognized Person has been disqualified, or would be statutorily disqualified, from so acting under the Laws and Regulations of the jurisdiction of the Recognizing Authority.

For purposes of this MRMOU, the term "designee(s)" in paragraph 9 of Article III of this MRMOU shall mean the NFA, the CMT, or in appropriate circumstances, a Futures and/or Option Market.

The Authorities understand that Futures or Option Contracts concerning stock indices, and certain debt securities which are not exempt securities under section 3(a)(12) of the Securities Exchange Act of 1934 and rule 3a12-8 promulgated thereunder, may not be permitted to be offered or sold pursuant to this MRMOU without compliance with certain additional procedures (*see* section 2(a)(1) of the CEA, 7 U.S.C. 2, section 3(a)(12) of the Securities Exchange Act of 1934 and rule 3a12-8 promulgated thereunder).

The Authorities acknowledge that the provisions of this MRMOU concerning the recognition of Authorized or Registered Persons are only directed to those Persons residing outside the jurisdiction of the Recognizing Authority. The Authorities will ascertain, in accordance with mutually agreed upon compliance procedures or requirements, that the Persons which are authorized or registered in their respective jurisdiction, to the extent possible, do not permit their affiliates or subsidiaries which are located in the jurisdiction of the Recognizing Authority, to engage in their behalf in the activities subject to this MRMOU.

The Authorities understand that the failure by an Authorized or Registered Person to comply with any provision of this MRMOU, or the conditions and understandings referenced above may result in a denial or termination of recognition by the Recognizing Authority. A termination of recognition will be communicated, within thirty days, by written notice to the Authority of the jurisdiction in which the Person is authorized or registered. Such termination may be communicated orally in the event of an emergency. At the discretion of the Authority terminating recognition, a period of time may be permitted to make different arrangements for Clients residing in the jurisdiction of that Authority.

The Authorities also understand that the refusal by an Authority to honor any provision of this MRMOU, or the conditions and understandings referenced above, may result in a termination of this MRMOU. A termination of this MRMOU under the terms thereof will be communicated in writing, and a period of time mutually acceptable to the Authorities will be accorded to permit Recognized Persons to make other arrangements.

Each Authority will be responsible for monitoring whether the Authorized or the Registered Person that are recognized by the other Authority, meet the terms of this MRMOU and the Side Letter, and are otherwise in compliance with the respective regulatory regime of each Authority.

Until the exchange of letters of notification referenced in paragraph 3 of Article VI of this MRMOU, the Authorities acknowledge their participation in a proceeding for the return to the requested Authority of the documents, and any copies thereof, that such Authority has designated as confidential information.

Article III of this MRMOU provides that the Authorities will designate contact offices at their respective agencies to receive and process all requests for assistance in obtaining information concerning the oversight and protection of their Markets and the protection of Recognized Persons' Clients residing in their respective jurisdiction. The Authorities hereby designate such contact offices as follows:

CFTC: Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, Tel: (202) 254-8955, Fax: (202) 254-3534.

COB: Service des Placements, Commission des Opérations de Bourse, 39-43 Quai André Citröen, 75739 Paris Cedex 15, Tel: (1) 40 58 66 87, Fax: (1) 40 58 65 00.

Wendy L. Gramm,

Chairman, Commodity Futures Trading Commission.

Jean Saint-Geours,

Le Président, Commission des Opérations de Bourse.

Attachments:

List of Subjects in 17 CFR Part 30

Commodity futures.

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTION

1 The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7, U.S.C. 2, 6, 6c, and 12a (1982).

2. Appendix B to part 30 is amended by adding the following entry alphabetically:

Appendix B—Option Contracts Permitted To Be Offered and Sold in the U.S. Pursuant to § 30.3(a)

Exchange	Type of contract	FR date and citation
Marche a Terme Internationale de France.	[To be Provided].	1990; FR
* * *	*	*

3. Appendix C to part 30 is amended by adding the following entry to read as follows:

Appendix C—Foreign Petitioners Granted Relief From the Application of Certain of the Part 30 Rules Pursuant to § 30.10

Authorized Persons as designated in Annex E to Mutual Recognition Memorandum of Understanding.

FR date and citation: _____, 1990; 55 FR ___.

Issued in Washington, DC, on June 6, 1990.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-13599 Filed 6-12-90; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240 and 249

[Rel. Nos. 33-6867; 34-28094; File No. S7-16-89]

RIN 3235-AB79

Registration and Reporting Requirements for Employee Benefit Plans

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announced the adoption of rule and form amendments to revise registration and reporting requirements relating to employee benefit plans. The amendments are intended to reduce costs and expedite the effectiveness and updating of Form S-8 registration statements for such plans by: (1) Streamlining Form S-8 registration procedures under the Securities Act of 1933; and (2) amending Form 11-K under the Securities Exchange Act of 1934 to eliminate the requirement for the annual description of the plan.

EFFECTIVE DATE: All amendments are effective July 13, 1990. Registrants may elect to comply with the new rules on or after the date of this release (June 6, 1990). Registrants electing early compliance and seeking immediate effectiveness for a registration statement filed after the release date (June 6, 1990) must include a statement in the top right corner of the cover page of the Form S-8 registration statement requesting that the registration statement become automatically effective upon filing in accordance with Rule 462. Failure to include the statement will cause the Form S-8 registration statement to be subject to automatic effectiveness 20 days after filing. Refer to Section II.J. of the release for detailed information concerning transition to the new rules under the revised regulatory framework, including the applicability, if any, to ongoing offerings on Form S-8.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Murphy, Barbara C. Smith, or James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, at (202) 272-2589, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. After the effective date, contact Mary Anne Busse, Office of Chief Counsel, Division of Corporation Finance, at (202) 272-2573.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to Forms S-8,[1] S-3,[2] and F-3[3] under the Securities Act of 1933 ("Securities Act");[4] to Rules 402,[5] 405,[6] 416,[7] 424(b),[8] 457(h),[9] 472,[10] and 475a[11] under Regulation C of the Securities Act;[12] Items 512[13] and 601[14] of Regulation S-K,[15] and Form 11-K[16] and Rule 15d-21[17] under the Securities Exchange Act of 1934 ("Exchange Act").[18] The Commission also is adding Rules 428 and 462 to Regulation C.

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I. Executive Summary

The Commission is adopting substantial revisions to the procedures for registering employee benefit plan[19]

[1] 17 CFR 239.16b.
[2] 17 CFR 239.13.
[3] 17 CFR 239.33.
[4] 15 U.S.C. 77a, *et seq.*
[5] 17 CFR 230.402.
[6] 17 CFR 230.405.
[7] 17 CFR 230.416.
[8] 17 CFR 230.424(b).
[9] 17 CFR 230.457(h).
[10] 17 CFR 230.472.
[11] 17 CFR 230.475a.
[12] 17 CFR 230.400-230.499.
[13] 17 CFR 229.512.
[14] 17 CFR 229.601.
[15] 17 CFR 229.10-229.802.
[16] 17 CFR 249.311.
[17] 17 CFR 240.15d-21.
[18] 15 U.S.C. 78a, *et seq.*
[19] Securities Act Rule 405 has been amended to define "employee benefit plan" as any written purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan or written compensation contract solely for

Continued

securities on Form S-8. The abbreviated disclosure format of Form S-8 reflects the Commission's historic distinction between offerings made to employees[20] primarily for compensatory and incentive purposes and offerings made by registrants for capital-raising purposes. In recognition of the benefits to employees of participation in benefit plans, the Commission traditionally has exercised its rulemaking authority to reduce the costs and burdens incident to registration of employee benefit plan securities, where consistent with investor protection.[21]

The revisions adopted today should reduce costs to registrants by eliminating the need to prepare and file separate documents for federal securities law purposes that duplicate information otherwise provided to plan participants, while assuring timely delivery of information necessary for participants to make informed investment decisions. Under the new framework, the required plan information (excluding plan financial statements) and a written statement advising participants of the availability upon request of Exchange Act reports and other documents incorporated by reference into the Form S-8 registration statement are required to be delivered to participants,[22] but no longer will have to be in the form of a customary prospectus.[23] Registrants will be given the flexibility to use materials prepared in the ordinary course of employee communications to advise employees about their benefits.

Many employee benefit plans involve the registration not only of employer securities, but also of interests in the plan constituting separate securities.[24] To simplify the process of registering and reporting on plan interests, the Commission has: (1) Amended Form 11-K, the annual report for employee benefit plans, to require only plan financial statements;[25] (2) amended rule 416 to provide for registration of an indeterminate amount of plan interests;[26] and (3) amended Rule 457 to provide that there is no separate fee calculation for registration of plan interests.[27]

In addition, the Commission has expanded the availability of Form S-8. Under the amendments, the Form may be used by any registrant reporting under the Exchange Act, rather than only those that have been reporting for 90 days.[28] Form S-8 will be available for securities issued pursuant to individually negotiated written compensation contracts[29] and securities issued to compensate consultants and advisors employed by the registrant, under specified circumstances.[30] Form S-8 will be available for securities acquired pursuant to transfers within plans by former employees or the exercise of employee benefit plan stock options by former employees as well as the executors, administrators or beneficiaries of the estates of deceased employees, guardians or members of a committee for incompetent former employees, or similar persons duly authorized by law to administer the estate or assets of former employees.[31] Form S-8 also will be available for securities issued to compensate insurance agents who are exclusive agents of the registrant, its subsidiaries or parents.[32]

Other amendments to facilitate Form S-8 offerings, reduce costs, and provide guidance include: permitting registrants to deliver to plan participants, in lieu of the annual report to security holders containing the information required by Exchange Act Rule 14a-3, one of several other documents containing substantially the same rule 14a-3(b) information;[33] automatic effectiveness of Form S-8 registration statements upon filing;[34] clarification of filing fees for employee benefit plans;[35] simplification of procedures for the registration of additional plan securities;[36] streamlining Form S-8 disclosure requirements;[37] and clarifying and expanding the provisions for use of Form S-8 for resales.[38]

The adopted amendments differ from the proposed revisions in seven significant respects: (1) Registrants will be permitted to identify portions of documents deemed part of the Section 10(a) prospectus; (2) registrants will be required to maintain legended documents constituting the Section 10(a) prospectus for a five-year period after their last use; (3) as proposed, the adopted requirements regarding plan information include specific disclosure items but clarify that disclosure need only be made in response to an item if material to the particular plan being described; (4) financial data concerning two or more investment media must be presented for a minimum three-year period; (5) an opinion of counsel as to the legality of the securities being registered need be filed only if such securities are original issuance shares; (6) in lieu of the requirement to provide an opinion of counsel concerning compliance with the requirements of ERISA or a determination letter from the Internal Revenue Service ("IRS") that the plan is qualified under Section 401 of the Internal Revenue Code,[39] registrants will be permitted to undertake to submit the plan and amendment to the IRS in a timely manner and make all changes required by the IRS in order to qualify the plan; and (7) in lieu of the Form 11-K financial statement requirements, plans

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employees, directors, general partners, trustees (where the registrant is a business trust), or consultants and advisors, *provided that bona fide* services shall be rendered by consultants or advisors and such services must not be in connection with the offer or sale of securities in a capital-raising transaction. *See* Section II.E.3, *infra*, regarding the availability of Form S-8 for the issuance of securities to consultants and advisors. In addition, Form S-8 will be available for securities issued to compensate insurance agents who are exclusive agents of the registrant, its subsidiaries or parents. *See* General Instruction A.1 to revised Form S-8.

[20] For purposes of this release, the terms "plan participants," "participants," and "employees" generally refer to persons eligible to participate in an employee benefit plan.

[21] *See* Release No. 33-6836 (June 12, 1989) (54 FR 25936), proposing amendments to Form S-8 ("Proposing Release"), n.27 for a list of the significant releases issued to adopt, amend, and interpret Form S-8. The Proposing Release elicited letters from 35 commenters; these letters, as well as the comment summary prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7-16-89).

[22] Both new and existing requirements to deliver information to employees are set forth in rule 428(b), rather than as undertakings formerly required by Item 512(f) of Regulation S-K (17 CFR 229.512(f)). Accordingly, such undertakings have been rescinded and the remaining successive undertakings redesignated.

[23] The plan information required to be delivered to participants, the statement of documents available upon request, and the documents incorporated by reference in the Form S-8 registration statement will constitute the prospectus satisfying the requirements of Securities Act section 10(a) (15 U.S.C. 77j(a)) pursuant to rule 428. Documents containing registrant information and plan financial information will be included in both the section 10(a) prospectus and the registration statement through incorporation by reference of Exchange Act filings. The plan information will not be included in the Form S-8 registration statement, and will not be filed with the Commission pursuant to Rule 424(b).

[24] *See Section II.H.2, infra*, regarding the registration of plan interests.

[25] Special provisions applicable to plans subject to the Employee Retirement Income Security Act of 1974 (Pub. L. No. 93-406, 88 Stat. 829 (codified at 29 U.S.C. 1001, *et seq.*)), are discussed *infra* in this section. *See also* Section II.I, *infra*.

[26] Rule 416(c).

[27] Rule 457(h)(2).

[28] General Instruction A.1 to revised Form S-8.

[29] Rule 405.

[30] *Id. See also* General Instruction A.1 to revised Form S-8.

[31] General Instruction A.1. to revised Form S-8.

[32] *Id.*

[33] 17 CFR 240.14a-3(b).

[34] Rule 462.

[35] Rule 457(h).

[36] General Instruction E to Form S-8.

[37] Item 1 of Form S-8.

[38] General Instruction C to Form S-8.

[39] 26 U.S.C. 401.

subject to the Employee Retirement Insurance Security Act of 1974 ("ERISA") need furnish only such financial statements and schedules as are required to be filed under applicable ERISA regulations, except that the "limited scope" audit exemption permitted under ERISA [40] will not be available. An ERISA plan also may file Form 11-K within 180 days after the plan's fiscal year end.

Part III of the release contains two charts, the first showing changes to Form S-8 and the second comparing the Form S-8 undertakings to deliver information formerly required pursuant to Item 512(f) of Regulation S-K, which has been rescinded, to the delivery requirements of Rule 428(b). Significant changes effected by the adopted requirements are discussed below. Clarifying language revisions and other minor changes also have been adopted.

II. Amendments to Registration and Reporting Requirements

A. Prospectus Requirements

1. Plan Documents Constitute Section 10(a) Prospectus Under Revised Framework

The amendments adopted today eliminate the requirement that registrants prepare a separate document for federal securities law purposes in order to convey plan information to employees in connection with offers and sales of securities being made pursuant to an employee benefit plan. Instead, based on a recognition that materials containing plan information often are prepared by personnel and employee relations offices, the rules require that current plan information be delivered to employees in a timely fashion, but do not specify a legal format for that information, which may be contained in one or more documents provided to plan participants.[41]

The amendments eliminate the requirement that registrants fulfill their prospectus delivery obligations imposed by section 5 of the Securities Act [42] by disseminating a customary prospectus included in the registration statement.[43] Rather, registrants will fulfill such obligations by providing plan participants: (1) Document(s) containing the plan information required by Form S-8, updated as necessary;[44] and (2) a written statement advising participants of the availability, upon written or oral request, of the documents incorporated by reference in the registration statement and stating that those documents are incorporated by reference in the prospectus.[45] These delivered documents, together with the documents incorporated by reference into the Form S-8,[46] will constitute a prospectus meeting the requirements of section 10(a) of the Securities Act pursuant to paragraph (a)(1) of rule 428. Item 3 to Form S-8, adopted as proposed, will permit incorporation by reference of an effective Exchange Act registration statement on Form 10 or 20-F [47] as an alternative to the registrant's annual report filed pursuant to section 13(a) or 15(d) of the Exchange Act or Rule 424(b) prospectus. Registrants also no longer will be required to file the section 10(a) prospectus with the Commission pursuant to rule 424.

Several of the commenters suggested expanded use of summary plan descriptions ("SPD") for plans subject to ERISA.[48] As with any other document describing the plan, the SPD may be used to fulfill the plan information delivery requirements, provided that: (1) The SPD includes all material plan information required by Item 1 of Form S-8, or is supplemented with an additional document or documents containing required information not included in the SPD;[49] (2) the required legend noting Securities Act registration is included in the forepart of the document;[50] and (3) the SPD is prepared early enough to ensure timely delivery of current plan information to participants under the federal securities laws. Since ERISA mandates that plan administrators furnish an initial SPD to plan particpants either within 90 days after an employee becomes a participant or within 120 days after the plan becomes subject to ERISA,[51] the SPD generally would have to be distributed to plan participants prior to the ERISA deadlines in order to be timely delivered for securities law purposes, as delivery would have to precede or accompany offers and sales of the registrant's securities.

2. Legend on Plan Documents

To identify the documents constituting part of the Section 10(a) prospectus, registrants will have to include a legend [52] in a conspicuous place at the beginning of each document intended to meet the information delivery requirement stating: "This document (specifically designated portions of this document) constitutes (constitute) part of a prospectus covering securities that have been registered under the Securities Act of 1933." [53] Consistent with former requirements, registrants also will have to date each document constituting part of the Section 10(a) prospectus.[54]

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[40] *See* section 103(a)(3)(C) of ERISA.

[41] If the registrant uses more than one document to convey plan information, such documents may be delivered to each participant as a complete package or at separate intervals, provided that all material plan information is distributed on a timely basis, *i.e.*, prior to offers and sales of the registrant's securities.

[42] 15 U.S.C. 77e.

[43] Securities Act section 5(b)(2) (15 U.S.C. 77e(b)(2)) requires that a section 10(a) prospectus accompany or precede the sale or delivery after sale of any security.

[44] The plan information to be delivered to participants is set forth in Part I, Item 1 of Form S-8.

[45] Part I, Item 2 of Form S-8.

[46] Part II, Item 3 of Form S-8 retains former incorporation by reference requirements. The following documents must be incorporated by reference into the registration statement and section 10(a) prospectus: (1) The registrant's latest annual report and, where plan interests are being registered, the plan's latest annual financial report filed pursuant to Exchange Act Section 13(a) (15 U.S.C. 78m(a)) or 15(d) (15 U.S.C. 78o(d)), or specified other documents containing audited financial statements for the registrant's latest fiscal year; (2) all other reports filed pursuant to Exchange Act section 13(a) or (15(d) since the end of the fiscal year covered by the document referred to in (1) above; (3) if the class of securities to be offered is registered under Exchange Act Section 12 (15 U.S.C. 78*l*), the description of that class contained in a registration statement filed thereunder, including any amendment or report filed for the purpose of updating that description; and (4) all documents filed subsequently by the registrant pursuant to Exchange Act Sections 13(a), 13(c) (15 U.S.C. 78m(c)), 14 (15 U.S.C. 78n), and 15(d). An accountant's consent will continue to be required with respect to audited financial statements incorporated by reference into Form S-8. The consent will be filed initially as an exhibit to the registration statement, and then as an exhibit to each subsequently filed annual report on Form 10-K (17 CFR 249.310) or 11-K incorporated by reference. *See* Rule 439 (17 CFR 230.439).

[47] 17 CFR 249.210; 17 CFR 249.220f.

[48] ERISA Section 101(b)(1) (29 U.S.C. 1021(b)(1)) requires the administrator of an ERISA plan to file an SPD with the Secretary of Labor. Under ERISA Section 104(b)(1) (29 U.S.C. 1024(b)(1)), the administrator must furnish the SPD to each participant and each beneficiary receiving benefits under the plan. The SPD is, essentially, a written report describing the most significant features of a plan.

[49] For example, certain information regarding alternative investment media is required by Item 1 of Form S-8 but may not be required in the SPD.

[50] *See* section II.A.2, *infra*, regarding legending requirements.

[51] ERISA section 104(b)(1). An updated SPD or Summary of Material Modifications ("SMM") may be used to update the section 10(a) prospectus provided that the document: (i) Includes or is supplemented by an additional document or documents containing all information required by Form S-8; (ii) is appropriately legended (*see* section II.A.2, *infra*); and (iii) is timely delivered to participants for purposes of the federal securities laws.

[52] Rule 428(b)(1)(iii). In response to commenters' remarks, the requirement that the legend be printed or stamped on the document has been revised to also permit typed legends.

[53] The bracketed language should be substituted as appropriate. *See* section II.A.3, *infra*.

[54] Rule 428(b)(1)(iii).

3. Identification of Portions of Documents Deemed Part of Section 10(a) Prospectus

The Proposing Release recognized that some of the documents delivered to plan participants may include information not required by Form S-8. Therefore, comment was solicited as to whether only required plan information contained in each of the documents delivered to plan participants, rather than the entire document, should be deemed part of the Section 10(a) prospectus.[55]

All but one of the commenters remarking on the issue supported identification of portions of documents deemed to constitute part of the prospectus, and Rule 428, as adopted, permits such identification.[56] Rule 428 states, however, that unless a registrant clearly identifies the portions of a document constituting part of the prospectus, the entire document will be deemed to constitute part of the prospectus. A registrant choosing to provide that only portions of a document constitute part of the section 10(a) prospectus may, for example: (i) Include a statement in a conspicuous place at the beginning of the document clearly identifying the information constituting part of the prospectus by reference to section headings, section numbers, paragraphs or page numbers appearing within the document; or (ii) specifically designate throughout the text of the document those portions constituting part of the prospectus. Registrants will not be permitted to designate only words or sentences within a paragraph as part of the prospectus.

4. Section 10(a) Prospectus Documents Retained for Five Years

The Proposing Release provided that registrants would be required to maintain legended documents constituting the section 10(a) prospectus for a period of three years after the securities had been offered or sold; the Commission also solicited comment on whether a different document maintenance requirement would be appropriate. The adopted rules[57] require registrants to retain each document constituting part of the section 10(a) prospectus in a document file until five years after it is last used as part of the section 10(a) prospectus.

The adopted requirement clarifies, in response to comments, that the five year period is a rolling period that relates to last use of each document constituting part of the section 10(a) prospectus, rather than the collective file. Upon request, a registrant must furnish to the Commission or its staff a copy of any or all of the documents constituting the section 10(a) prospectus included in the file. The five year retention period has been adopted to ensure that documents constituting part of the section 10(a) prospectus will be maintained throughout the statute of limitations period governing many private fraud claims.[58]

B. Updating the Section 10(a) Prospectus

Registrants are required to deliver current plan information to plan participants. Accordingly, documents containing plan information must be updated to reflect material changes.[59] Registrants may update plan information simply by providing plan participants with a letter, memorandum, or other written document provided that the information is presented in a clear and organized fashion. As with information initially furnished, the updated information will have to be dated and include the legend stating that such information constitutes part of the section 10(a) prospectus.

Registrants will have to furnish only the updating material to existing plan participants; previously furnished documents need to be delivered only upon an existing participant's request. With respect to new plan participants, registrants must deliver the basic plan disclosure documents as well as all updates to such documents. If updates obscure the readability of the plan information or render it confusing, however, or otherwise unduly complicate presentation of the material information, registrants will be required to consolidate the documents and distribute the revised version to new plan participants.[60]

C. Section 10(a) Prospectus Liability

Under the amendments, non-financial plan information, which is not filed as part of the registration statement, will continue to be subject to section 12(2) of the Securites Act,[61] as well as section 17(a) of the Securities Act and section 10(b) of the Exchange Act, but will not be subject to Securities Act Section 11 liability.[62] Section 11, as well as the other civil liability and antifraud provisions, will continue to apply to the Form S-8 registration statement, including the registrant's and the plan's filings that are incorporated by reference.

The elimination of section 11 liability with respect to the narrative plan information should not increase the risk of inadequate disclosure to plan participants, since the compensatory nature of security offerings under employee benefit plans and the relationship between registrants and plan participants provide incentives for the preparation and distribution of accurate plan information. A review of the reported benefit plan cases asserting liability under the federal securities laws indicates that they have been based upon sections 17(a) and 12(2) of the Securities Act and section 10(b) of the Exchange Act and rule 10b-5 thereunder, rather than section 11. None of the commenters raised concerns with respect to this issue, and the liability aspects of the approach are adopted without modification.

D. Delivery Requirements

1. Delivery of Registrant Information

Formerly, to satisfy the eligibility requirements of Form S-8, a registrant had to furnish plan participants with an annual report to security holders for its latest fiscal year.[63] Delivery of such annual report was required to precede or accompany delivery of the Form S-8 prospectus.[64] This requirement caused

[55] Any delivered plan information that is not made a part of the section 10(a) prospectus will continue to be subject to antifraud provisions of the federal securities laws. *See* Securities Act section 17(a) (15 U.S.C. 77q(a)), Exchange Act section 10(b) (15 U.S.C. 78(b)), and Rule 10b-5 thereunder (17 CFR 240.10b-5).

[56] Rule 428(b)(1)(ii).

[57] Rule 428(a)(2). Documents containing registrant information and employee benefit plan annual reports that are incorporated by reference into the registration statement pursuant to Item 3 of Form S-8 are not required to be in the document file as they will have been filed with, and be available from, the Commission.

[58] Although there is no federal statute of limitations governing private claims under Exchange Act section 10(b) and rule 10b-5 thereunder, the Commission has argued that such claims should be governed by a five year statute of limitations drawn from Exchange Act section 20A (15 U.S.C. 78t-1). Section 20A was added by the Insider Trading and Securities Fraud Enforcement Act of 1988. *See* Brief of the Securities and Exchange Commission, *Amicus Curiae, Ceres Partners* v. *GEL Associates*, 714 F. Supp. 679 (S.D.N.Y. 1989), *appeal docketed*, No. 89-7666 (2d Cir. July 11, 1989).

[59] Rule 428(b)(1)(i).

[60] Rule 428(b)(1)(iv). Cf. *In re Franchard Corp.*, 42 S.E.C. 163, 184-85 (1964). *See also* Release No. 33-4844 (August 5, 1966) (31 FR 10667). The fact that a plan has been amended several times does not in and of itself require preparation of a revised consolidated document.

[61] 15 U.S.C. 77*l*(2).

[62] 15 U.S.C. 77k. In addition, registrant information and plan financial information which are incorporated by reference into the Section 10a prospectus will be subject to the same liability provisions.

[63] General Instruction A(1) to former Form S-8.

[64] Former Item 512(f)(1) of Regulation S-K.

difficulty for reporting issuers not subject to the Commission's proxy and information statement regulations.[65]

Under the revised requirements, delivery of the annual report to security holders is not the only means by which registrant information can be delivered to plan participants. Instead, registrants are permitted to use one of several other documents to disseminate registrant information to plan participants. Thus, a registrant not subject to the annual report to security holders requirement,[66] and not choosing to prepare such a report, will nonetheless be eligible to use Form S-8.

Pursuant to the new requirement,[67] registrants must deliver or cause to be delivered with the documents containing the information required by Part I of Form S-8, to each participant to whom such information is sent, a copy of one of the following: (1) The registrant's annual report to security holders; (2) the registrant's annual report on Form 10-K, U5S,[68] or 20-F; [69] (3) the registrant's latest prospectus filed pursuant to rule 424(b) under the Securities Act,[70] provided that the prospectus contains substantially the information required by rule 14a-3(b), or the registration statement was either on Form S-18 or F-1; [71] or (4) the registrant's effective Exchange Act registration statement on either Form 10 or 20-F.[72] Audited financial statements for the registrant's latest fiscal year must be included in whichever document is used.[73]

2. Delivery of Shareholder Communications

The rules adopted today will continue to obligate a Form S-8 registrant to furnish all shareholder communications and other reports furnished to shareholders on a continunig basis to plan participants who do not otherwise receive such information.[74] However, the amendments codify the staff's interpretive position that registrants need not deliver shareholder communications and other reports to plan participants electing not to invest in employer securities unless they request such information.[75]

The amended requirements [76] also codify the staff's interpretive position that registrants are not required to deliver shareholder communications and other reports to plan participants "in the manner" in which those materials are sent to their shareholders.[77] Rather, registrants will be permitted to furnish such information by any means reasonably calculated to reach plan participants, provided that it is sent or delivered no later than the time such material is sent to its security holders. Therefore, desk-top delivery, for example, would be permitted.[78]

E. Registration Statement Requirements

1. Revised Format

The Form S-8 registration statement no longer contains narrative plan information or the Section 10(a) prospectus. While Part I of Form S-8 continues to set forth requirements for disclosure of plan information, documents containing that information will not be filed with the Commission, as explained above. Therefore, pursuant to the revisions, the registration statement will consist of: The facing page; enumeration of documents incorporated by reference into the registration statement (Item 3); description of securities (Item 4); interests of named experts and counsel (Item 5); indemnification of directors and officers (Item 6); exemption from registration claimed (Item 7); [79] exhibits (Item 8); undertakings (Item 9); [80] and the signature page. Section 11 liability will continue to apply to all information set forth in or incorporated by reference into the registration statement.

As formerly, documents containing registrant information or plan financial statements incorporated by reference in the registration statement will be updated automatically by forward incorporation by reference of subsequently filed Exchange Act reports into the registration statement. Pursuant to rule 428, these documents will constitute part of the section 10(a) prospectus as well.

The updating procedures for plan and registrant information have been adopted as proposed, and are described in General Instruction G to Form S-8. As formerly, Form S-8 registrants will be required to describe any material changes in their affairs occurring since the end of the latest fiscal year that have not been previously included in Exchange Act filings incorporated by reference into the registration statement. General Instruction G(2) states that registrant information shall be updated by the incorporation by reference of Exchange Act reports into Form S-8 and that any material changes in the registrant's affairs required to be disclosed in the registration statement, but not required to be included in a specific Exchange Act report, shall be reported on Form 8-K [81] pursuant to

[65] Regulations 14A and 14C (17 CFR 240.14a-1-.14b-2; 17 CFR 240.14c-1-.14c-101).

[66] The requirement is imposed by either rule 14a-3 or 14c-3 (17 CFR 240.14a-3; 17 CFR 240.14c-3). Foreign private issuers eligible to file on Form 20-F (17 CFR 249.220f) and companies subject to Exchange Act reporting pursuant to section 15(d) are not subject to the rules under Section 14(a) (15 U.S.C. 78n(a)) or 14(c) (15 U.S.C. 78n(c)) of the Exchange Act.

[67] Rule 428(b)(2).

[68] 17 CFR 259.5s.

[69] Item 512(f)(4) of Regulation S-K (17 CFR 229.512(f)(4)), relating to the use of Form 20-F by foreign private issuers in lieu of the annual report to security holders, has been deleted because rule 428(b)(2) specifically permits such issuers to use Form 20-F or F-1. Additionally, former Instruction E to Form S-8, relating to non-Canadian foreign private issuers, has been rescinded as unnecessary since the use of Form 20-F is provided for by rule 428(b)(2) and the second part of the Instruction, concerning reoffers, is dealt with in revised General Instruction C.

[70] A proviso has been added to rule 428(b)(2)(iii) indicating that the financial statements included in the rule 424(b) prospectus may not be incorporated by reference from another filing.

[71] 17 CFR 239.28; 17 CFR 239.31.

[72] The document used must contain substantially the same information required by rule 14a-3, including the Management's Discussion and Analysis (required by Regulation S-K Item 303 (17 CFR 229.303)), except with respect to certain documents delivered by foreign private issuers reporting on Form 20-F and registrants complying with the requirements of Form S-18, which must contain the textual and financial information appropriate to those forms.

[73] Proposed Rule 428(b)(2)(iv) included a statement indicating that if an employee previously had received a copy of the document required to be delivered under rule 428(b)(2), the document would have to be re-delivered only upon employee request. This statement now appears as Instruction 1 to rule 428(b)(2). Proposed Rule 428(b)(2)(iv) also indicated that if the latest fiscal year of the registrant had ended within 120 days prior to delivery of documents containing plan information, the document delivered pursuant to rule 428(b)(2) could contain financial statements for the previous year, provided that a document containing financial statements for the latest fiscal year was delivered within the 120 day period. This statement appears as Instruction 2 to rule 428 and has been revised to indicate that a 190 day, rather than 120 day, period applies with respect to foreign private issuers eligible to file on Form 20-F, since such report must be filed within six months after the end of the fiscal year covered by the report.

[74] Rule 428(b)(5).

[75] *See* letter re *Union Carbide Corp.*, available Dec. 14, 1981.

[76] Rule 428(b)(5).

[77] *See* the undertaking formerly required by Regulation S-K Item 512(f)(2) (17 CFR 229.512(f)(2)).

[78] *See* letter re *Revlon, Inc.*, available June 6, 1984.

[79] Formerly, under Note 2(a) to Instruction C of Form S-8 regarding reoffers and resales, registrants were required to file as an exhibit to the registration statement a statement indicating the section of the Securities Act or Commission rule under which exemption from registration was claimed with respect to the original issuance of restricted securities registered for resale. As adopted, this requirement appears in Part II, Item 7 of the Form S-8, consistent with other Securities Act registration forms that require comparable information concerning recent sales of unregistered securities to be provided as Part II information (*e.g.*, Item 15 of Form S-1).

[80] The undertakings formerly required by Item 512(f) of Regulation S-K (relating to Form S-8 exclusively) have been incorporated in Rule 428.

[81] 17 CFR 249.308.

Item 5 thereof.[82] This will preserve Section 11 liability on all registrant information. As discussed in the Proposing Release, former Form S-8 permitted material changes in the registrant's affiars to be set forth in the prospectus or supplement thereto in lieu of being disclosed in an Exchange Act filing.[83] Requiring the changes to be set forth in Form 8-K reflects the elimination of the customary prospectus from the registration statement.

The requirement in former Item 14 of Form S-8 that registrants describe the securities being offered in accordance with Item 202 of Regulation S-K,[84] or that, if such securities constitute capital stock registered under Section 12 of the Exchange Act, the description be incorporated by reference from Exchange Act documents, is included in Part II, Item 4 of the revised Form S-8, as proposed.[85] This Item has been modified to provide that the incorporation by reference of the description of Section 12 securities no longer will be limited to capital stock.[86] If the class of securities being offered is not registered under Section 12 of the Exchange Act, the information required by Item 202 of Regulation S-K must be included in the registration statement.

2. Elimination of Ninety Day Eligibility Requirement

The Form S-8 amendments eliminate the requirement that a registrant be subject to the reporting requirements of Exchange Act section 13 or 15(d) for 90 days prior to filing a Form S-8 registration statement.[87] Form S-8, as revised, permits any registrant to use Form S-8 that: (a) Immediately prior to the time the Form S-8 registration statement is filed, was subject to section 13 or 15(d) reporting requirements; and (b) has filed all reports and other materials pursuant to such requirements during the preceding year or such shorter period that the registrant has been subject to the requirements.[88] The condition that Form S-8 registrants be subject to Exchange Act reporting requirements has been retained to ensure that current public information about the registrant is available.

3. Use of Form S-8 for Securities Issued Pursuant to Compensatory Contracts, to Former Employees, and to Consultants and Advisors

As proposed, the General Instructions to Form S-8 would have been revised to indicate that Form S-8 will be available not only for the registration of securities offered pursuant to employee benefit plans [89] but also for the registration of securities offerings pursuant to "plans" benefiting individuals in the form of individually negotiated written compensation contracts. The rules, as adopted, incorporate this proposal, but the amendment is included in rule 405 for clarity and consistency.[90] The amendments to General Instruction A[91] codify the staff's interpretive position[92] that Form S-8 is available for the exercise of non-transferable employee benefit plan stock options and the subsequent sale of the securities by plan participants who are no longer employed by the registrant at the time of exercise or sale, provided that such exercises are not prohibited under the plan.[93]

The revised General Instructions also clarify that the term "employee" includes executors, administrators or beneficiaries of the estates of deceased employees, guardians or members of a committee for incompetent former employees, or similiar persons duly authorized by law to administer the estate or assets of former employees. The inclusion of such individuals in the term "employee" is only to permit Form S-8 registration in connection with: The exercise of employee benefit plan stock options that are non-transferable (except under the laws of descent and distribution) and subsequent sale of the underlying securities, and the acquisition of registrant securities pursuant to intra-plan transfers among plan funds (including the reinvestment of earnings on plan funds) by former employees, provided that such exercises, sales or transfers are not prohibited under the terms of the plan.

Form S-8 will be available for offerings to consultants or advisors pursuant to compensatory benefit plans or written compensatory contracts under specified circumstances. The Securities Act definition of "employee benefit plan"[94] and General Instruction A to Form S-8 have been revised to include consultants or advisors who render *bona fide* services to the registrant, provided that such services are not in connection with the offer or sale of securities in a capital-raising transaction.[95] General Instruction A also has been revised to permit Form S-8 to be used for insurance agents who are exclusive agents of the registrant, its subsidiaries or parents.

F. Disclosure Requirements

1. Streamlined Plan Disclosure

As proposed, the amended Form S-8 streamlines and regroups certain former disclosure requirements[96] relating to plan information, and consolidates them as Item 1.[97] In the Proposing Release, the Commission solicited comments as to whether it would be practical to include the specified plan information in documents not specifically designed to comply with the Form S-8 disclosure requirements, as contemplated by the revised format. The Commission also requested comment on whether plan

[82] Item 5 of Form 8-K permits the registrant, at its option, to report under that item any events, with respect to which information is not otherwise called for by the form, that the registrant deeems of importance to security holders. Accordingly, a Form 8-K providing Item 5 disclosure would not, in and of itself, be determinative that the reported information is material.

[83] Item 16 of former Form S-8.

[84] 17 CFR 229.202.

[85] The description of securities is retained in the registration statement, notwithstanding its inclusion in the Section 10(a) prospectus, in order to preserve Section 11 liability on the information.

[86] Item 4 of Form S-8.

[87] General Instruction A(1) to former Form S-8.

[88] General Instruction A.1 to revised Form S-8.

[89] In the past, Form S-8 has been permitted to be used on a few occasions to register securities offered and sold in connection with transactions that were neither routine nor primarily compensatory in nature. *See* letter re *Rath Packing Co.*, available Jan. 7, 1980, involving establishment of a trust to concentrate the voting power of stock distributed pursuant to an employee stock wage payment plan. Form S-8, as amended, is available only for compensatory offerings of securities to employees (or consultants or advisors under specified circumstances) in the ordinary course of the registrant's operations. Questions as to whether an offering to employees is a compensatory offering that may be registered on Form S-8 should be directed to the Office of Chief Counsel, Division of Corporation Finance.

[90] A registrant entering into an informal unwritten compensation agreement with an employee (or consultant or advisor under specified circumstances) involving the offering of registrant securities will be permitted to register such securities on Form S-8 if the agreement is reduced to writing before registration is required. *See* letter re *Praxis Biologies, Inc.*, available May 12, 1989, in which the staff expressed the view that an issuer would satisfy the written agreement requirement in rule 701 [17 CFR 230.701] with respect to any shares of common stock that would be issued upon exercise of warrants that had been granted to certain consultants and advisors pursuant to an oral agreement entered into at the time of the grant, so long as the agreement was reduced to writing prior to the exercise of the warrants.

[91] General Instruction A.1(a) to Form S-8, as adopted.

[92] *See* letters to Donald W. Glazer, Co-Chairman, Subcommittee on Employee Benefits and Executive Compensation, American Bar Association from William E. Morley, Associate Director (Legal), Division of Corporation Finance, available Feb. 14, 1989 and May 1, 1989.

[93] *See* Section II.G, *infra*, for a discussion of Form S-8 resale provisions.

[94] *See* Rule 405.

[95] *Cf.* Rule 701, which contains similar provisions.

[96] See former Form S-8 Items 4-13.

[97] *See* the chart in Section III.A, *infra*, reflecting revisions to Form S-8.

disclosure requirements should be more general, with each registrant having the flexibility to provide plan information which in its opinion is material to participants under the circumstances.

The majority of those remarking on the proposal supported replacement of detailed disclosure requirements with a more general requirement. Some commenters, however, supported retention of specific disclosure requirements on the grounds that: (i) They provide useful guidance to registrants; and (ii) inadequate disclosure could develop if the specific requirements were eliminated. One commenter noted that, for the most part, it is practical to include the information specified by revised Item 1 in documents not specifically tailored to comply with Form S–8 requirements, but suggested that registrants be given more flexibility to decide which information is material to participants in making an informed investment decision.

Based upon these comments, Item 1 states that registrants shall deliver or cause to be delivered to each participant material information regarding the plan and its operations that will enable participants to make informed decisions with respect to investment in the plan. This information must include, but is not limited to, disclosure in response to the specified information items to the extent that such disclosure is material to the particular plan being described.

Several of the specific disclosure items in Item 1 have been reorganized and modified in response to commenters' remarks and for further clarification. The new requirements reflect the following modifications from those proposed:

(a) The former Form S–8 Item 4(f) requirement that unusual risks associated with plan participaton be disclosed has been retained; [98]

(b) The requirement that the name of each company whose employees are entitled to participate in the plan, including subsidiaries, be disclosed has been eliminated;

(c) The item requiring registrants to briefly indicate whether the plan is subject to ERISA and those provisions to which it is subject has been amended to require disclosure only of the general nature of such provisions; [99]

(d) The item requiring identification of plan administrators has been amended to provide that only an address and a telephone number which participants may use to obtain additional information about the plan and its administrators must be disclosed; [100]

(e) The item requiring that any person, other than a participating employee, with investment discretion as to any or all plan assets in one or more investment media be named and that the investment policies to be followed be described has been retained with respect to ERISA as well as non-ERISA plans; [101]

(f) The proposed requirement concerning the description of securities [102] to be included in delivered plan documents has been modified to state that documents must include the information required by Item 202 of Regulation S–K if other than common stock registered under section 12 of the Exchange Act is being offered;

(g) The item requiring a description of the securities to be offered,[103] has been amended to state that if plan interests are being registered, they need not be separately described;

(h) The instruction to the proposed requirements mandating disclosure as to whether the requirements of Regulations G [104] or T [105] has been met, if the plan involved the extension of credit to finance the acquisition of securities, has been converted to a note stating that consideration should be given to the applicability of these regulations; [106]

(i) The items regarding assignment of interests under the plan and charges and deductions that may be made against participants have been revised to indicate that no disclosure need be provided as to the effect of a qualified domestic relations order as defined in ERISA section 206(d) (29 U.S.C. 1056(d)); [107]

(j) The item regarding defaults under the plan has been retitled, "Forfeitures and Penalties," and revised to require disclosure of any event which under the plan could result in a forfeiture by, or a penalty to, a participant, and the consequences thereof; [108] and

(k) The item requiring comparative data about investment media has been revised to require financial data concerning alternative investment media to be set forth for at least a three-year period and any additional period necessary to make the data not misleading, but in no event need the total period exceed five years.[109]

Item 1 has been further revised, as proposed, to eliminate the requirements formerly specified by Items 1–3 of Form S–8 [110] concerning summary information, risk factors [111] and ratio of earnings to fixed charges, as well as information to appear in the forepart of the registration statement, inside and outside front cover pages of the prospectus, and outside back cover page of the prospectus.[112]

2. Financial Data Concerning Alternative Investment Media

Formerly, Item 12 of Form S–8 required registrants to provide five year financial data in tabular form about each investment medium, if participants could direct all or any part of the assets under a plan to two or more investment media. The proposed amendments would have continued to require that registrants set forth financial data that would enable plan participants to make informed decisions concerning the investment media, but would have eliminated the requirement that such financial data be presented for a specific time period. Moreover, the proposed amendments would have permitted financial data concerning investment alternatives to be in tabular form or other meaningful presentation. Comment was solicited as to whether it would be preferable to specify a definite time period for disclosing performance data and what the appropriate length of time should be, *e.g.*, five years, three years, or two years.

Under Form S–8, as amended, registrants will be permitted to present financial data related to two or more investment media in tabular form or other meaningful presentation; however, in a change from the proposal, Item 1(g) of revised Form S–8 requires that this data be provided for a minimum of three years (or such lesser period for which the data with respect to each investment

[98] Item 1.

[99] Item 1(a)(3).

[100] Item 1(a)(4).

[101] *Id.*

[102] Item 1(b)(2).

[103] Item 1(b)(2).

[104] 12 CFR part 207.

[105] 12 CFR part 220.

[106] Item 1(d).

[107] Items 1 (h) and (j).

[108] Item 1(i).

[109] Item 1(g).

[110] These items require the information specified by Items 501, 502 and 503 of Regulation S–K (17 CFR 229.501–.503).

[111] The former Form S–8 requirement that risk factors be disclosed pursuant to Item 503(c) of Regulation S–K (17 CFR 229.503(c)) has been deleted due to the unstructured format of the revised Section 10(a) prospectus; this disclosure will continue to be required, where applicable, in the Management's Discussion and Analysis section of Exchange Act reports that are incorporated by reference in Form S–8.

[112] The Item 502(c) of Regulation S–K (17 CFR 229.502(c)) requirement that the registrant include an undertaking to provide upon request copies of documents incorporated by reference is the only requirement from former Items 1–3 that has been retained. It is now included in Rule 428(b)(3).

medium is available). Registrants must include information for additional fiscal years if necessary to make the required data not misleading, but the total period presented need not exceed five years.[113] A specific time period has been retained to ensure that participants have a sufficient basis for evaluating performance trends.

3. Exhibits, Signatures and Undertakings

The amendments modify the exhibit requirements for registration statements on Form S-8 with respect to opinions of counsel.[114] Pursuant to section 7 of the Securities Act, the Commission today has determined to rescind the requirement that an opinion of counsel as to the legality of the securities being registered be filed unless such shares are original issuance shares.[115] In addition, in lieu of the requirement to provide an opinion of counsel concerning compliance with the requirements of ERISA or a determination letter that the plan is qualified under section 401 of the Internal Revenue Code from the IRS,[116] registrants will be permitted to undertake to submit the plan or amendment to the IRS in a timely manner and make all changes required by the IRS in order to qualify the plan.[117] Both of these changes are made at the suggestion of a commenter who noted that the legality opinion requirement for open market purchases is particularly burdensome, indicating that counsel need to opine on all prior issuances of the securities and that employees did not need greater protection under these circumstances than investors buying shares in the open market. With respect to obtaining an IRS determination letter in lieu of an opinion of counsel, the commenter noted the delays inherent in the process.

Elimination of these exhibit requirements is consistent with the Commission's traditional exercise of its rulemaking authority to reduce the costs and burdens incident to registration of employee benefit plan securities, where consistent with the protection of investors, and reflects the Commission's historic distinction between offerings made to employees primarily for compensatory and incentive purposes and offerings made by registrants for capital-raising purposes. Accordingly, the Commission finds that these requirements are inapplicable to offerings registered on Form S-8 under the circumstances specified, and that the Form S-8 disclosure requirements are adequate for the protection of investors. It should be noted, however, that if either employee benefit plan securities registered on Form S-8 are not legally issued, fully paid and non-assessable when offered or sold, or disclosure concerning compliance of the plan with ERISA is materially misleading, the civil liability provision of section 12(2) of the Securities Act as well as the antifraud provisions of section 17 of the Securities Act and Exchange Act section 10(b) and rule 10b-5 thereunder would apply.

A registrant filing on Form S-8 will be required to include in the registration statement the indemnification undertaking contained in Item 512(h) of Regulation S-K.[118] Form S-8 will continue to require disclosure in part II of the registration statement of a registrant's policies and arrangements with respect to the indemnification of its directors and officers.[119] Two notes have been added to Item 9, Undertakings. The first explains that the Regulation S-K Item 512(a)[120] undertakings are required since Form S-8 registration statements usually involve the delayed or continuous offering and sale of securities.[121] The second clarifies that the undertaking requiring foreign private issuers to file a post-effective amendment to the registration statement, including any financial statements required byArticle 3-19 of Regulation S-X,[122] at the start of any delayed offering or throughout a continuous offering, does not apply in the Form S-8 context.[123]

Finally, Instruction 1 to the Form S-8 signature requirements has been amended, as proposed, to restore the requirement that the chief financial officer sign the registration statement.

G. Reoffer and Resale Requirements

As formerly was the case, registration of reoffers or resales of employee benefit plan securities may continue to be effected by use of a reoffer prospectus filed in the customary format under cover of Form S-8 but containing the disclosure specified in Part I of Form S-3.[124] General Instruction C to Form S-8 has been adopted substantially as proposed in order to clarify the reoffer procedure.[125] The new structure highlights the distinction between treatment of control securities (securities issued under an employee benefit plan registered on Form S-8 to be reoffered by affiliates)[126] and restricted securities[127] (previously unregistered securities issued under an employee benefit plan pursuant to a Securities Act exemption to affiliates or non-affiliates).[128]

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[113] For example, registrants may need to include financial data for more than three fiscal years if recent performance results have been erratic or reflect a misleading trend. Information for a period longer than three years may be included provided that the period selected is not misleading.

[114] Regulation S-K Item 601 specifies required exhibits.

[115] Item 601(b)(5) of Regulation S-K (17 CFR 229.601(b)(5)). Thus, for shares purchase by the plan on the open market, an opinion of counsel as to the legality of the shares being registered would not be required to be filed.

[116] *Id.*

[117] These changes are reflected in Item 8 (Exhibits) of Form S-8. A cross-reference to these provisions has been added to Item 601(b)(5) of Regulation S-K.

[118] 17 CFR 229.512(h), formerly 17 CFR 229.512(f). Pursuant to this undertaking, a registrant agrees to submit to a court of appropriate jurisdiction, in connection with any claim for indemnification against liability under the Securities Act, the question of whether such indemnification is against public policy as expressed in the Act, and is therefore unenforceable. Item 18 of former Form S-8 required registrants to disclose in part II of the registration statement the Commission's position on indemnification. *See* Section II.J, *infra*, for a discussion of the applicability of this undertaking to ongoing offerings as of the effective date of the amendments.

[119] Item 6 of Form S-8, formerly Item 19.

[120] 17 CFR 229.512(a).

[121] *See* Rule 415(a)(1)(ii) (17 CFR 230.415(a)(1)(ii)), which permits securities registered pursuant to an employee benefit plan of the registrant to be offered and sold on a delayed or continuous basis.

[122] 17 CFR 210.3-19.

[123] Item 512(a)(4) of Regulation S-K (17 CFR 229.512(a)(4)).

[124] Special provisions applicable to foreign private issuers eligible to file on Form 20-F are discussed *infra* in this section.

[125] In addition to the revision to General Instruction C, the last sentence of General Instruction I.B.3 to Forms S-3 and F-3 has been amended to clarify that the sentence is merely a cross-reference to the reoffer procedure provided in Form S-8. Also, the reference in Form F-3 to compliance with Item 18 of Form 20-F has been moved to the first sentence of the Instruction as clarification.

[126] *See* definition of "affiliate" in rule 405.

[127] *See* Rule 144(a)(3) (17 CFR 230.144(a)(3)).

[128] As stated in the Proposing Release, effective as of June 20, 1989, with respect to all future issuances of securities under "top hat" stock option plans sold to executives pursuant to an exemption from registration under section 4(2) (15 U.S.C. 77d(2)) of the Securities Act or Regulation D thereunder, it is the staff's position that such securities are "restricted securities" as defined by rule 144 as are all securities issued in reliance upon an exemption from registration under section 4(2) or Regulation D.

This position does not affect plans in which securities may be issued to employees as bonus awards without consideration. In such plans, the securities issued will not be restricted securities if the issuer is subject to periodic reporting under the Exchange Act, its securities are actively traded, and the amount distributed is relatively small in comparison to the total amount of the securities of the issuer which are issued and outstanding after the distribution. *See* Release 33-5750 (Oct. 8, 1976) (41 FR 45632) and 33-6188 (Feb. 1, 1980) (45 FR 8960). The amount distributed will always be "relatively small" if it is less than 1% of the amount outstanding. *See* Release 33-6281 (Jan. 15, 1981) (46 FR 8446). An amount greater than 1% may still be "relatively small" within the meaning of the test if

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In particular, General Instruction C to Form S-8 has been amended to codify the staff's interpretive position that permits registrants to refer generically to selling security holders of control securities in the reoffer prospectus, provided that the names of those intending to resell are not known at the time of filing the Form S-8 registration statement. Later, as the names become known, registrants must supplement the reoffer prospectus with that information and file the supplement as required by rule 424(b).[129] This procedure will not be available with respect to reoffers by sellers of restricted securities, whether affiliates or non-affiliates of the registrant, since their identity should be known at the time the reoffer transaction is registered.[130]

The Commission has eliminated the 10% volume limitation on the number of securities that may be registered for resale, as proposed. The volume limitations imposed by rule 144(e) [131] will continue to apply to the amount of securities reoffered or resold by means of the reoffer prospectus if the registrant does not meet the registrant requirements of Form S-3.[132]

In addition, the Instruction has been revised, as proposed, to specify less burdensome procedures for reoffers by selling shareholders of foreign private issuers eligible to file on Form 20-F. Formerly, General Instruction E to Form S-8 specified that resales by shareholders of such issuers could be made using the same procedures described in General Instruction C with respect to resales by shareholders of domestic registrants, except that a prospectus on either Form F-2 [133] or F-3 would be used (depending on the issuer's eligibility to use the respective form) in lieu of a reoffer prospectus prepared in accordance with the requirements of Form S-3. General Instruction E has been rescinded and General Instruction C revised to substitute Form F-3 for S-3 with respect to foreign private issuers eligible to file on Form 20-F wherever applicable. Thus, the reoffer prospectus used in connection with resales of plan securities by employees of any foreign private issuer eligible to file on Form 20-F will comply with the requirements of Form F-3, just as the Form S-3 prospectus is available for a domestic registrant. Similarly, if the foreign private issuer is eligible to use Form F-3, the volume limitations imposed by Rule 144(e) will not apply to reoffers, just as for a domestic registrant meeting the registrant requirements of Form S-3.

H. Other Proposed Amendments to Form S-8

The Commission has adopted, as proposed, the following other changes to Form S-8.

1. Immediate Effectiveness of Form S-8 Registration Statements Upon Filing

Form S-8 registration statements will become effective automatically upon filing, as proposed.[134]

2. Automatic Registration of Plan Interests

In order to simplify procedures for registering plan interests,[135] paragraph (c) has been added to rule 416 to provide that a registration statement covering both registrant securities offered pursuant to an employee benefit plan and plan interests that constitute separate securities will be deemed to cover such plan interests in an indeterminate amount.[136] The facing page of Form S-8 has been modified to require registrants to include a statement, where appropriate, indicating that the registration statement covers an indeterminate amount of plan interests. Thus, plan interests will be registered automatically together with the other securities being offered.

3. Filing Fees

Formerly, the aggregate offering price and the amount of the registration fee for Form S-8 registration statements was computed with respect to the aggregate contributions of employees, except that employer contributions were included if employees could choose the medium in which the employer's contributions were to be invested.[137] As proposed and adopted, the method of calculating registration fees is based upon the aggregate offering price for the maximum amount of the registrant's securities (other than plan interests) covered by the registration statement.[138] If the offering price per share (or the option exercise price) is unknown, the fee is calculated on the basis of the market price of registrant securities of the same class as those to be offered, as determined in accordance with paragraph (c) of rule 457.[139] Rule 457(h)(2) provides that there is no separate fee calculation for plan interests. Paragraph (h)(3) of rule 457 has been added, as proposed, to clarify that, as formerly, where a registration statement covers securities to be offered to employees pursuant to an employee benefit plan, as well as the resale of those securities, no additional filing fee

distribution of such amount would have no measurable effect on the public market for the employer's securities. *See, e.g.*, letter re *Premark International Inc.*, available March 29, 1988 (approximately 3% of outstanding).

[129] Formerly, the Instruction required registrants to specify the names of selling persons and file either a post-effective amendment or a Rule 424(b) prospectus to add names to the reoffer prospectus.

[130] General Instruction C has been amended to increase the number of shares that a non-affiliate may sell before being named in the reoffer prospectus from the lesser of 400 shares or 1% of the shares issuable under the plan to the lesser of 1000 shares or 1% of the shares issuable under the plan.

[131] 17 CFR 230.144(e).

[132] As proposed, Form S-8 as adopted permits "control securities" and "restricted securities" to be registered for reoffer or resale in any amount because each seller of such securities would continue to be subject to Rule 144(e) volume limitations, unless the registrant was eligible to use Forms S-3 or F-3. It should be noted that other securities sold pursuant to the volume limitations of Rule 144(e) would not include securities sold pursuant to the Form S-8 reoffer prospectus. *See* Rule 144(e)(3)(VII), which provides that securities sold pursuant to an effective registration statement such as a Form S-8 need not be included in determining the amount of securities sold in reliance upon rule 144.

[133] 17 CFR 239.32.

[134] *See* Rule 462. General Instruction D to Form S-8 has been revised to state that registration statements become effective upon filing and eliminate the provisions regarding pre-effective amendments to Form S-8 registration statements as unnecessary. This Instruction also has been modified to clarify that applications pursuant to rule 24b-2 (17 CFR 240.24b-2) for confidential treatment of portions of Exchange Act documents incorporated by reference into the Form S-8 must be acted upon, *i.e.*, granted or denied, by the Commission staff prior to the filing of the registration statement. In addition, amendments to this Instruction were proposed to reduce the number of copies that need to be filed with the Commission and to delete requirements to furnish the Commission copies of amendments marked to show changes as well as copies of documents incorporated by reference. As adopted, these changes are reflected in new paragraphs to rules 402 and 472.

[135] Whether a separate security in the form of a plan interest exists depends upon the facts and circumstances of the particular plan. *See* Release Nos. 33-6188, pt. II(A), and 33-6281, pts. I and II, which discuss some of the criteria to be considered in making such a determination.

[136] This was proposed as new rule 416A, but restructured as part of existing rule 416. General Instruction F directs registrants' attention to rule 416(c).

[137] *See* letter to William F. Archerd, available April 13, 1984. Since the revised rules base registration fees solely on the maximum amount of the registrant's securities to be covered by Form S-8, the staff's position in that letter regarding fee calculations no longer is applicable.

[138] Revised rule 457(h)(1). If employer and employee contributions will be used to purchase registrant securities, the maximum amount of securities to be offered must be registered and the registration fee calculated based upon such maximum amount.

[139] 17 CFR 230.457(c). If there is no market for the securities to be offered, rule 457(h)(1) states that the book value of such securities computed as of the latest practicable date prior to the date of filing the registration statement shall be used.

must be paid with respect to the securities to be offered for resale. Also as formerly, a fee will have to be paid for restricted securities registered for resale by employees as permitted by General Instruction C to Form S–8.

4. Registration of Additional Securities

As discussed in the Proposing Release, when a registrant increases the number of securities that may be issued pursuant to an existing plan, it is required to file a new registration statement to cover the additional securities. When such registration statement is filed, rule 429 [140] allows the previously registered securities to be offered and sold through the delivery of the prospectus filed as part of the new registration statement.[141]

The procedure specified by rule 429, enabling registrants to disseminate a single prospectus to plan participants in connection with offerings of plan securities registered under two or more registration statements, will not be available with respect to Form S–8 registration statements under the revised framework since rule 429 contemplates the filing of a prospectus. However, use of a prospectus applicable to securities registered at different times remains possible, without the rule 429 procedure, because registrants will have the flexibility to modify prospectuses without filing them.

General Instruction E to Form S–8 provides a procedure for the filing of a simplified registration statement covering additional securities of the same class as other employee benefit plan securities for which a previously filed Form S–8 registration statement or registration statements are effective.[142] There is no need to repeat previously filed information. The registration statement would consist only of the facing page; a statement indicating that the contents of the earlier registration statement, identified by file number, are incorporated by reference; the signature page; the legality opinion;[143] the consents of the accountant and counsel;[144] and any additional required information not filed earlier, *e.g.*, an exhibit not required to be filed as part of the earlier Form S–8 registration statement.

If the new registration statement covers restricted securities being offered for resale it must include the required reoffer prospectus. If the earlier registration statement included a reoffer prospectus, the new registration statement is deemed to include that reoffer prospectus; however, a revised reoffer prospectus must be filed if the reoffer prospectus is substantively different from that filed in the earlier registration statement.

Registrants will continue to update the Section 10(a) prospectus by delivery of plan information to employees and through incorporation by reference of registrant information and plan financial statements in the prospectus; this information also is incorporated by reference in the Form S–8 registration statement. A filing fee will be paid only with respect to the additional securities being registered.

I. Form 11–K

The amendments to Form 11–K [145] have been adopted as proposed, except that the filing requirements for ERISA plans have been modified to address commenters' concerns as discussed below. The requirements for disclosure of non-financial plan information have been eliminated.

Several commenters advocated an exemption from the Form 11–K annual reporting requirements for ERISA plans given ERISA regulatory requirements. Although such an exemption has not been adopted, the Form 11–K reporting framework has been modified in response to commenters' remarks to eliminate the need to prepare and file separate Form 11–K financial statements for federal securities law purposes that duplicate information otherwise provided to plan participants. Under the amendments adopted today, Form 11–K financial statements may be prepared in accordance with the financial reporting requirements of ERISA.[146] To the extent required by ERISA, the plan financial statements will be required to be examined by an independent public accountant, except that the "limited scope exemption" will not be available.[147] Finally, plans subject to ERISA will be permitted to file their Forms 11–K within 180 days after the plan's fiscal year end.[148]

Exchange Act Rule 15d–21 permits plan annual financial statements to be filed as part of a registrant's annual report on Form 10–K, or as an amendment thereto, rather than on Form 11–K, within 120 days after the end of the plan's fiscal year. The Proposing Release solicited comment as to whether such period should be reduced to 90 days to conform to the Form 11–K filing requirements. In view of the comments received as to the value to registrants in having this additional 30 day period, (*e.g.*, so as not to overlap with a registrant's Form 10–K preparation), the 120-day filing period option afforded by the Rule has been retained.[149]

J. Transition to New System

The Form S–8 amendments adopted today will become effective 30 days after publication in the **Federal Register** ("Effective Date"). All new Form S–8 registration statements filed with the Commission on or after the Effective Date must comply with the revised rule and form requirements and will become effective immediately upon filing in accordance with rule 462.

Registrants may elect early compliance with the new rules and seek immediate effectiveness of a registration statement filed on or after the date of this Release ("Release Date") but must include the following legend in the top right corner of the cover page of the registration statement: "The registrant requests that the registration statement become effective immediately upon filing pursuant to Securities Act Rule 462." Any registrant filing a Form S–8 registration statement prior to the Effective Date that does not include this legend may file a pre-effective amendment to elect effectiveness upon filing. Failure to include the legend will cause a registration statement filed before the Effective Date to become effective on the twentieth day from the date of filing.

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[140] 17 CFR 230.429.

[141] The prospectus must include all information required by Form S–8 with respect to securities covered by both the earlier registration statement and the later one.

[142] The additional securities registered on the simplified registration statement must be used in connection with the same plan or plans for which securities previously were registered.

[143] Item 601(b)(5) of Regulation S–K (17 CFR 229.601(b)(5)).

[144] Item 601(b)(24) of Regulation S–K (17 CFR 229.601(b)(24)).

[145] Form 11–K is the annual or transition report required to be filed by employee benefit plans subject to Exchange Act section 15(d) where plan interests are separate securities registered under the Securities Act. The facing page of Form 11–K has been amended to include boxes to be marked to show whether the form is filed as an annual or a transition report pursuant to section 15(d) of the Exchange Act. This amendment should ensure consistency among the Exchange Act Forms.

[146] ERISA requires an income statement only for the plan's last fiscal year and balance sheet reflecting beginning and end of plan year balances only (ERISA sections 103(b)(3) (A) and (B) (29 U.S.C. 1023(b)(3) (A) and (B))). In addition, ERISA does not require audited financial statements for plans with less than 100 participants.

[147] *See* section 103(a)(3)(C) of ERISA.

[148] ERISA requires a plan administrator to file a plan annual report within 210 days after the close of the plan year. (ERISA section 104(a)(1)(A) (29 U.S.C. 1024(a)(1)(A))).

[149] In addition, rule 15d–21 conforms the timing requirement for plans subject to ERISA to that specified by Form 11–K.

Registrants with ongoing offerings of securities on Form S-8 may elect to comply with the revised rules and forms at any time on or after the Release Date.[150] If a registrant elects to continue to use its previously distributed prospectus as its new section 10(a) prospectus, no additional filing is required, provided that the prospectus is current for Federal securities law purposes. If a registrant elects to designate a previously distributed plan document(s), or parts thereof (other than a customary prospectus), as constituting part of the new section 10(a) prospectus, then it must distribute a dated written notice to plan participants which indicates that the document constitutes part of the section 10(a) prospectus and states that additional copies of the document(s) are available upon request.[151] All plan documents delivered to new participants under the revised rules must include a legend in accordance with Rule 428(b)(1)(iii).

Registrants with ongoing offerings of securities on Form S-8 will be required to comply with the revised rules and forms pursuant to rule 401(b) [152] when section 10(a)(3) of the Securities Act [153] requires the registration statement to be updated. The section 10(a)(3) updating requirement for a Form S-8 registration statement generally is fulfilled by the registrant's filing of an annual report on Form 10-K. Many registrants becoming subject to the new requirements with the filing of the Form 10-K will not have to take any affirmative steps to comply with the new rules; no additional filing is required unless necessary to add Part II information newly required by Form S-8 that has not previously been filed, such as the indemnification undertaking required by Item 512(h) (formerly Item 512(i)) of Regulation S-K.[154] Registrants with ongoing Form S-8 offerings may rely on rule 416(c) [155] with respect to the offer or sale of plan interests made on or after the Release Date; no additional filing needs to be made to indicate such reliance. Rule 416(c) will not apply to offers of sales or plan interests made prior to the Release Date. With respect to the Form 11-K revisions, plans with fiscal years ending on or after the Effective Date will become subject to the new rules. Optional early compliance with these rules also is permitted.

III. Charts Reflecting Revisions

The following charts highlight the substantive changes between the former and revised Form S-8 and information delivery requirements. Editorial and clarifying change are not noted.

A. Revisions to Form S-8

[150] All registrants electing early compliance with the revised rules and forms must comply with all applicable revisions.

[151] The document must be current for Federal securities law purposes and include all required disclosure, by itself or together with other documents constituting part of the section 10(a) prospectus.

[152] 17 CFR 230.401(b).

[153] 15 U.S.C. 77j(a)(3).

[154] This additional information may be included in either a Form 8-K, which is incorporated by reference in the registration statement, or a post-effective amendment (which does not have to repeat previously filed information). Many Form S-8 registrants included this undertaking voluntarily and accordingly would not have to repeat it.

[155] Where a Form S-8 registration statement relates to securities to be offered pursuant to an employee benefit plan, including plan interests, rule 416(c) deems an indeterminate amount of such interests to be registered.

Former form S-8	Revised form S-8
Facing page	Legend required, where appropriate, stating that the registration statement also covers an indeterminate amount of plan interests.
General Instruction A(1)—Rule as to Use of Form S-8	Registrant must be subject to Exchange Act reporting requirements immediately prior to filing registration statement rather than for 90 days prior to filing. Requirement to furnish an annual report to security holders moved to Rule 428(b)(2); Rule 428 (b)(2) expanded to permit delivery of other documents which contain financial statements for the issuer's latest fiscal year instead of the annual report to security holders.
	Rule 405 amended to define "employee benefit plan" to include written compensation contracts. This term also expanded to include advisors or consultants provided that *bona fide* services are rendered by the consultant or advisor and such services are not in connection with the offer or sale of securities in a capital-raising transaction. The term "employee" for purposes of Form S-8 has been expanded to include former employees as well as executors, administrators, or beneficiaries of the estates of deceased employees, guardians or members of a committee for incompetent former employees, or similar persons duly authorized by law to administer the estate or assets of former employees to permit: (1) exercise of stock options and the subsequent sale of the securities provided that such exercises and sales are not prohibited under the plan; and (2) acquisition of registrant securities pursuant to intra-plan transfers among plan funds provided that such transfers are not prohibited by the plan. General Instruction A also revised to permit Form S-8 to be used for insurance agents who are exclusive agents of the registrant, its subsidiaries or parents.
	"Registrant" defined as the person whose securities are to be offered pursuant to the plan and also may include the plan itself. The term "registrant" is used throughout Form S-8 in lieu of "issuer."
General Instruction B—Application of Rules and Regulations	Definitions removed to General Instruction A.1.
General Instruction C—Reoffers and Resales	Restructured for clarity. Control and restricted securities acquired pursuant to an employee benefit plan may be registered for reoffer or resale in any amount, provided that the amount of securities that may be reoffered or resold by each person may not exceed, during any three-month period, the amount specified in Rule 144(e). If the registrant satisfies the registrant requirements for Forms S-3 or F-3, the control and restricted securities may be reoffered or resold without limitation. (The former 10% limit on the number of restricted securities that may be registered for resale has been rescinded.) The number of shares that a non-affiliate may sell before being named in the reoffer prospectus is increased from 400 to 1000.
	Foreign private issuers eligible to file on Form 20-F may use Form F-3 in lieu of Form S-3, thereby liberalizing the treatment of such issuers set forth in former General Instruction E. Requirement to file an exhibit setting forth a statement indicating the exemption from registration claimed modified to require only a statement (rather than an exhibit) and redesignated as Part II, Item 7. Method of naming selling security holders clarified.
General Instruction D—Filing and Effectiveness, etc.	Registration statement becomes effective upon filing, pursuant to Rule 462, rather than in 20 days. References to pre-effective amendments deleted. Statement added that requests for confidential treatment under the Exchange Act with respect to reports incorporated by reference in Form S-8 must be acted upon by the staff prior to the filing of the Form S-8.

Former form S-8	Revised form S-8
	Cross-references provided to new paragraphs (c) and (d) to Rules 402 and 472, respectively, which provide that amendments marked to show changes and copies of documents incorporated by reference no longer required in Form S-8. Total number of copies of registration statement reduced.
General Instruction E—Foreign Registrant	Deleted. Requirements to deliver an annual report on Form 20-F moved to Rule 428(b)(2). Reference to use of the reoffer prospectus by foreign private issuer incorporated in General Instruction C.
	General Instruction E—Procedure set forth for registering additional plan securities.
	General Instruction F—Reference to Rule 416(c) regarding registration of an indeterminate amount of plan interests.
	General Instruction G—Procedures for updating (replaces former Instruction to Part II).
Part I—Information Required in the Section 10(a) Prospectus	Headnote added setting forth the new approach that Part I information can be provided to employees in the document(s) specified in Rule 428(b)(1). Customary prospectus format no longer required.
Item 1—Forepart of Prospectus and Outside Front Cover Page	Deleted.
Item 2—Inside Front and Outside Back Cover Pages of Prospectus.	Deleted, except that requirement to deliver, upon request, documents incorporated by reference is moved to Rule 428(b)(3). Delivery of documents was formerly required by Item 502(c) of S-K through Item 2 of S-8. The registrant's statement to employees that such information is available upon request moved to Item 2 of S-8.
Item 3—Summary Information, etc	Deleted.
Item 4—General Information Regarding the Plan	Introductory language included in Item 1(a) that the specified information is required only to the extent material to the particular plan being described.
	Former Item 4 retained and redesignated as Item 1(a), with the following exceptions:
	1. Deletion of the requirements in former Item 4(a) that the name of each company whose employees are entitled to participate in the plan, including subsidiaries, be disclosed and that an exhibit be filed naming subsidiaries.
	2. Deletion of requirement in former Item 4(b) to state when plan was created, the parties thereto, and the manner of its creation.
	3. Redesignation of former Item 4(c) (tax disclosure) as Item 1(f).
	4. Deletion of former Item 4(d) (number of employees participating and eligible to participate in the plan).
	5. Modification of first sentence of former Item 4(e) as Item 1(a)(3) to require disclosure of the general nature of applicable ERISA provisions. Deletion of second sentence of same former item which requires disclosure of the principal protective provisions of Titles I and IV of ERISA not applicable to the plan and whether such protections will be extended to participants by the registrant.
	6. Former Item 4(f) (certain risks to participants) incorporated in Item 1.
	7. Redesignation of former Item 11 (administration of the plan) as Item 1(a)(4) except that only an address and a telephone number which participants may use to obtain additional information about the plan and its administrators is required.
Item 5—Securities to be Offered and Employees Who May Participate in the Plan.	Retained and redesignated as Items 1 (b) and (c), with the following exceptions:
	1. Elimination of second sentence of former Item 5(a) (limitation on amount of securities to be offered), which required statement as to the source of any limitation on the amount of securities to be offered.
	2. Redesignation of former Item 5(b) (restrictions on resale) as Item 1(e).
	3. Redesignation of former Item 5(c) (disclosure of participation and basis of eligibility) as Item 1(c).
	4. Deletion of former Item 5(d) (maximum and minimum amounts of securities).
	5. Requirement added in Item 1(b)(2) to furnish the information required by Item 202 of Regulation S-K with respect to the securities being offered, if other than common stock registered under Section 12 of the Exchange Act. Addition of statement that if plan interests are being registered, they need not be separately described.
Item 6—Purchase of Securities Pursuant to the Plan	Retitled "Purchase of Securities Pursuant To The Plan and Payment For Securities Offered" and redesignated as new Item 1(d). Deletion of requirement for tabular information about options (former Instructions 1–4) and addition of requirement to describe terms regarding the amount of securities that can be purchased (see discussion of former Item 5). Redesignation of former Item 12(c) as Item 1(d)(6).
Item 7—Payment for Securities Offered	Retained and redesignated as Item 1(d) (2) and (5). Instruction mandating disclosure as to whether the requirements of Regulation G or T have been met converted to a note advising registrants to consider the applicability of these regulations.
Item 8—Contributions Under the Plan	Retained and redesignated as Item 1(d)(4).
Item 9—Withdrawal from the Plan—Assignment of Interest	Retained and redesignated as Item 1(h). Addition of a paragraph stating that no information need be provided as to the effect of a qualified domestic relations order as defined by ERISA Section 206(d).
Item 10—Defaults Under the Plan	Retitled "Forfeitures and Penalties" and redesignated as Item 1(i). Requirement modified to set forth events which could, under the plan, result in a forfeiture by, or a penalty to, a participant, and the consequences thereof.
Item 11—Administration of the Plan	Retained and redesignated as Item 1(a), except that certain disclosure (*e.g.*, any material relationship between the administrators and the employees, the registrant or its affiliates) not required for ERISA plans.
Item 12—Investment of Funds	Retained and redesignated as Item (1)(g), except that:
	1. Requirement to present five year tabular information for alternative investment media is replaced by requirement to provide tabular or other meaningful presentation of financial data for a minimum of three years. Registrants must include information for additional fiscal years if necessary to make the required data not misleading, but the total period presented need not exceed five years.
	2. Retention and redesignation of Item 12(b) (investment discretion of persons other than a participating employee) as Item 1(a)(4).
	3. Retention and redesignation of Item 12(c) (nature of asset purchases by non-ERISA plans) as Item 1(d)(6).
	4. Deletion of Item 12(d) (brokers and their commissions).

Former form S-8	Revised form S-8
Item 13—Charges and Deductions and Liens Therefor	Retained and redesignated as Item 1(j). Addition of a paragraph stating that no information need be provided as to the effect of a qualified domestic relations order as defined by ERISA Section 206(d).
Item 14—Description of Registrant's Securities	Unless common stock registered under Section 12 offered, delivered plan documents must include S-K Item 202 information (see discussion of Item 1(b)(2)). Requirement to incorporate by reference description of securities (if a Section 12 class) or provide a description as required by S-K Item 202 (if not a Section 12 class) redesignated as Part II, Items 3(c) and 4. Ability to incorporate by reference from Section 12 description of securities no longer limited to common stock.
Item 15—Incorporation of Certain Documents by Reference	Retained and redesignated as Part II, Item 3. Documents are incorporated by reference in the registration statement (as well as the prospectus, as formerly). Enumerated documents expanded to include effective registration statement on Form 10 or 20-F.
Item 16—Additional Information	Deleted since such information required to be included in Exchange Act reports. Updating requirements set forth in General Instruction G which provides, among other matters, that any material changes required to be disclosed in the registration statement but not required to be included in a specific Exchange Act report must be reported pursuant to Item 5 of Form 8-K.
Item 17—Interests of Name Experts and Counsel	Retained and redesignated as Part II, Item 5.
Item 18—Disclosure of Commission Position on Indemnification, etc..	Replaced by requirement to include undertaking on indemnification in Part II, Item 6. Former S-K Item 512(i) redesignated as S-K Item 512(h).
Part II—Information Not Required in Prospectus	Retitled, "Information Required in the Registration Statement."
Item 19—Indemnification of Directors and Officers	Retained and redesignated as Part II, Item 6.
Item 20—Exhibits	Retained and redesignated as Part II, Item 8. Requirement to file an exhibit setting forth a statement indicating the exemption from registration claimed modified to require only a statement (rather than an exhibit) and redesignated as Part II, Item 7. Opinion of counsel and IRS determination letter requirements modified.
Item 21—Undertakings	Retained and redesignated as Part II, Item 9. Required undertakings specifically enumerated.
Instruction to Part II re updating	Deleted; replaced by General Instruction G.
Signatures	Requirement that principal financial officer sign registration statement added to Instruction 1.

B. Revisions to Information Delivery Requirements

(Form S-8 undertakings formerly specified by Item 512(f) of Regulation S-K now included in Rule 428(b).)

Former undertakings	Rule 428(b)
512(f)(1)—Delivery of annual report to security holders	Redesignated as Rule 428(b)(2) and expanded to permit delivery of other documents containing audited financial statements for the issuer's latest fiscal year in lieu of the annual report to security holders. Filings made by foreign private issuers (*e.g.* Form 20-F) may be used as delivery documents.
512(f)(2)—Delivery of shareholder communications	Redesignated as 428(b)(5). Delivery required only to employees participating in a stock option plan or plan fund investing in registrant's securities and other plan participants who so request. Registrants permitted to deliver such information by any means calculated to reach plan participants provided that the material is sent or delivered no later than the time the material is sent to its security holders.
512(f)(3)—Delivery upon request of annual report of the plan	Redesignated as Rule 428(b)(4) and simplified in structure.
512(f)(4)—Delivery of Form 20-F by foreign private issuer in lieu of annual report to security holders.	Included in Rule 428(b)(2).
Rule 428(b)(3)—Registrant must deliver promptly to each employee to whom information is required to be delivered, upon request, a copy of the information incorporated by reference pursuant to Part II, Item 3, not including exhibits. (Delivery was formerly required pursuant to Item 502(c) of S-K through Item 2 or Form S-8.)	
Rule 428(b)(1)—Requirements for delivery of plan information and for updating information set forth. Documents constituting part of the Section 10(a) prospectus or containing portions constituting part of the prospectus shall be dated and legended to indicate that they constitute part of the Section 10(a) prospectus. If portions of a document are so designated, a statement is required in the forepart of the document to identify the portion clearly. Revision of documents provided to new employees required if documents containing updating information obscure the readability of the plan information.	

IV. Cost-Benefit Analysis

In the Proposing Release, the Commission requested commenters to provide views and data to aid in evaluating the costs and benefits associated with the proposed rule and form changes. Each of the three commenters who responded to the request indicated that there would be substantial savings to registrants due to the elimination of redundant and unnecessary disclosure.[156]

[156] The American Society of Corporate Secretaries, Inc. (ASCS) included in its comment

Continued

The Commission believes that the changes to the Form S-8 registration and reporting requirements will decrease significantly the time and expense incurred by reporting companies in registering employer securities to be offered pursuant to employee benefit plans while preserving investor protection and the availability of information to plan participants about the registrant and plan operations under the federal securities laws. The amendments to Form S-8 will reduce prospectus preparation, printing and distribution costs substantially by relying on employer communications to convey material information about employee benefit plans. Elimination of requirements for filing non-financial plan information with the Commission also will reduce costs associated with the issuance of securities pursuant to such plans.

Furthermore, the simplified registration form, with the attendant savings, will benefit a larger number of registrants than could take advantage of Form S-8 registration under the former regulations. Form S-8 registration is available to more issuers because the amended regulations no longer require that a registrant be subject to the reporting requirements of Exchange Act section 13 or 15(d) for 90 days prior to filing a Form S-8 registration statement. In addition, its use will be expanded to certain offerings to former employees as well as to those made pursuant to compensatory contracts. Moreover, Form S-8 may be used in connection with offers and sales to consultants and advisors under specified conditions and for securities issued to compensate insurance agents who are exclusive agents of the registrant, its subsidiaries or parents.

The revisions making Form S-8 registration statements effective upon filing, simplifying the method of calculating filing fees, and simplifying the procedures for the registration of additional securities and plan interests each will reduce the burdens and costs associated with the registration process. Finally, amendments to Form 11-K that eliminate the requirement for non-financial plan information and permit ERISA plans to furnish financial statements and schedules that are prepared in accordance with the financial reporting requirements of ERISA, in lieu of the Form 11-K financial statement requirements, should reduce substantially the costs of complying with reporting obligations of plans that are subject to Exchange Act section 15(d).

letter statistics compiled from a 1986 survey of its membership which indicated the costs of compliance with Form S-8. With respect to ERISA plans, the cost of a new registration statement or post-effective amendment ranged from $15,000 to $135,000, and the cost of a 424(c) appendix ranged from $2,000 to $33,000. With respect to stock option plans, the cost of a new registration statement or post-effective amendment ranged from $4,000 to $6,000 and the cost of a 424(c) appendix ranged from $500 to $3,000. ASCS indicated that these figures were still valid, subject to adjustment for inflation. Another commenter suggested that the cost of compliance with the former Form S-8 requirements was well in excess of $100,000 per year.

V. Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 604 has been prepared regarding the amendments described in this release. Members of the public who wish to obtain a copy of the Final Regulatory Flexibility Analysis should contact Elizabeth M. Murphy, Barbara C. Smith, or James R. Budge, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. The corresponding Initial Regulatory Flexibility Analysis appears at 54 FR 25948 (Securities Act Release No. 6836).

VI. Statutory Basis for Rules and Forms

Rules 428 and 462, amendments to Rules 402, 405, 416, 424(b), 457(h), 472, and 475a, Items 512 and 601 of Regulation S-K, and Forms S-8, S-3, and F-3 are being adopted by the Commission pursuant to sections 6, 7, 8, 10, and 19 of the Securities Act.[157] The amendments to Form 11-K and Rule 15d-21 are being adopted pursuant to sections 15(d) and 23(a) of the Exchange Act.[158]

List of Subjects in 17 CFR Parts 229, 230, 239, 240 and 249

Prospectus delivery requirements, Reporting and recordkeeping requirements, Registration requirements, Securities.

VII. Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

1. The authority citation for part 229 is revised to read as follows:

[157] 15 U.S.C. 77 f, g, h, j and s.

[158] 15 U.S.C. 78o(d) and 78w(a).

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25), 77aa(26), 78*l*, 78m, 78n, 78o, 78w, 80a-8, 80a-29, 80a-30 and 80a-37, as amended, unless otherwise noted.

2. The authority citations following §§ 229.512 and 229.601 are removed.

3. By removing paragraph (f) of § 229.512; redesignating paragraphs (g), (h), (i) and (j) as (f), (g), (h) and (i); and revising redesignated paragraph (h) introductory text as follows:

§ 229.512 (Item 512) Undertakings.

* * * * *

(h) *Request for acceleration of effective date or filing of registration statement on Form S-8.* Include the following if acceleration is requested of the effective date of the registration statement pursuant to Rule 461 under the Securities Act (§ 230.461 of this chapter), or if the registration statement is filed on Form S-8, and: * * *

* * * * *

4. By amending § 229.601 by adding a note to the end of paragraph (b)(5) to read as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) * * *

(5) * * *

Note: Attention is directed to Item 8 of Form S-8 for exemptions to this exhibit requirement applicable to that Form.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 is revised to read as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 79t, and 80a-37, as amended, unless otherwise noted.

Authority Citations for §§ 230.402, 230.416, 230.424, 230.457, and 230.472 [Removed]

2. The authority citations following §§ 230.402, 203.416, 230.424, 230.457 and 230.472 are removed.

3. By adding paragraph (c) to § 230.402 to read as follows:

§ 230.402 Number of copies; binding; signatures.

* * * * *

(c) Notwithstanding any other provision of this section, if a registration statement is filed on Form S-8 (§ 239.16b of this chapter), three copies of the complete registration statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the

Commission. Each copy shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side or stitching margin in such manner as to leave the reading matter legible. At least one such copy shall be manually signed by the persons specified in section 6(a) of the Act. Unsigned copies shall be conformed. Three additional copies of the registration statement, similarly bound, also shall be furnished to the Commission for use in the examination of the registration statement, public inspection, copying and other purposes. No exhibits are required to accompany the additional copies of registration statements filed on Form S-8.

4. By amending § 230.405 to revise the definition of "Employee benefit plan" to read as follows:

§ 230.405 Definitions of terms.

* * * * *

Employee benefit plan. The term "employee benefit plan" means any written purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan or written compensation contract solely for employees, directors, general partners, trustees (where the registrant is a business trust), officers, or consultants or advisors, *provided that bona fide* services shall be rendered by consultants or advisors and such services must not be in connection with the offer or sale of securities in a capital-raising transaction.

* * * * *

5. By revising the section heading and adding paragraph (c) to § 230.416 to read as follows:

§ 230.416 Securities to be issued as a result of stock splits, stock dividends and anti-dilution provisions and interests to be issued pursuant to certain employee benefit plans.

* * * * *

(c) Where a registration statement on Form S-8 relates to securities to be offered pursuant to an employee benefit plan, including interests in such plan that constitute separate securities required to be registered under the Act, such registration statement shall be deemed to register an indeterminate amount of such plan interests.

6. By amending paragraph (b) of § 230.424 by adding a clause after the first citation "(15 U.S.C. 77j)," to read as follows:

§ 230.424 Filing of prospectuses, number of copies.

* * * * *

(b) * * * except for documents constituting a prospectus pursuant to Rule 428(a) (§ 230.428(a) of this chapter), * * *

* * * * *

7. By adding § 230.428 to read as follows:

§ 230.428 Documents constituting a section 10(a) prospectus for Form S-8 registration statement; requirements relating to offerings of securities registered on Form S-8.

(a)(1) Where securities are to be offered pursuant to a registration statement on Form S-8 (§ 239.16b of this chapter), the following, taken together, shall constitute a prospectus that meets the requirements of section 10(a) of the Act: (i) The document(s), or portions thereof as permitted by paragraph (b)(1)(ii) of this section, containing the employee benefit plan information required by Item 1 of the Form; (ii) the statement of availability of registrant information, employee benefit plan annual reports and other information required by Item 2; and (iii) the documents containing registrant information and employee benefit plan annual reports that are incorporated by reference in the registration statement pursuant to Item 3.

(2) The registrant shall maintain a file of the documents that, pursuant to paragraph (a) of this section, at any time are part of the section 10(a) prospectus, except for documents required to be incorporated by reference in the registration statement pursuant to Item 3 of Form S-8. Each such document shall be included in the file until five years after it is last used as part of the Section 10(a) prospectus to offer or sell securities pursuant to the plan. With respect to documents containing specifically designated portions that constitute part of the section 10(a) prospectus pursuant to paragraph (b)(1)(ii) of this section, the entire document shall be maintained in the file. Upon request, the registrant shall furnish to the Commission or its staff a copy of any or all of the documents included in the file.

(b) Where securities are offered pursuant to a registration statement on Form S-8:

(1)(i) The registrant shall deliver or cause to be delivered, to each employee who is eligible to participate (or selected by the registrant to participate, in the case of a stock option or other plan with selective participation) in an employee benefit plan to which the registration statement relates, the information required by Part I of Form S-8. The information shall be in written form and shall be updated in writing in a timely manner to reflect any material changes during any period in which offers or sales are being made. When updating information is furnished, documents previously furnished need not be re-delivered, but the registrant shall furnish promptly without charge to each employee, upon written or oral request, a copy of all documents containing the plan information required by Part I that then constitute part of the section 10(a) prospectus.

(ii) The registrant may designate an entire document or only portions of a document as constituting part of the section 10(a) prospectus. If the registrant designates only portions of a document as constituting part of the prospectus, rather than the entire document, a statement clearly identifying such portions, for example, by reference to section headings, section numbers, paragraphs or page numbers within the document must be included in a conspicuous place in the forepart of the document, or such portions must be specifically designated throughout the text of the document. Registrants shall not designate only words or sentences within a paragraph as part of a prospectus. Unless the portions of a document constituting part of the section 10(a) prospectus are clearly identified, the entire document shall constitute part of the prospectus.

(iii) The registrant shall date any document constituting part of the section 10(a) prospectus or containing portions constituting part of the prospectus and shall include the following printed, stamped or typed legend in a conspicuous place in the forepart of the document, substituting the bracketed language as appropriate: "This document [Specifically designated portions of this document] constitutes [constitute] part of a prospectus covering securities that have been registered under the Securities Act of 1933."

(iv) The registrant shall revise the document(s) containing the plan information sent or given to newly eligible participants pursuant to paragraph (b)(1)(i) of this section, if documents containing updating information would obscure the readability of the plan information.

(2) The registrant shall deliver or cause to be delivered with the document(s) containing the information required by Part I of Form S-8, to each employee to whom such information is sent or given, a copy of any one of the following: (i) The registrant's annual report to security holders containing the information required by Rule 14a-3(b) (§ 240.14a-3(b) of this chapter) under the Securities Exchange Act of 1934 ("Exchange Act") for its latest fiscal

year; (ii) the registrant's annual report on Form 10–K (§ 249.310 of this chapter), U5S (§ 259.5s of this chapter), or 20–F (§ 249.220f of this chapter) for its latest fiscal year; (iii) the latest prospectus filed pursuant to Rule 424(b) (§ 230.424(b) of this chapter) under the Act that contains audited financial statements for the registrant's latest fiscal year, *provided that* the financial statements are not incorporated by reference from another filing, and *provided further* that such prospectus contains substantially the information required by Rule 14a–3(b) or the registration statement was on Form S–18 (§ 239.28 of this chapter) or F–1 (§ 239.31 of this chapter); or (iv) the registrant's effective Exchange Act registration statement on Form 10 (§ 249.210 of this chapter) or 20–F containing audited financial statements for the registrant's latest fiscal year.

Instructions. 1. If a registrant has previously sent or given an employee a copy of any document specified in clauses (i)–(iv) of paragraph (b)(2) for the latest fiscal year, it need not be re-delivered, but the registrant shall furnish promptly, without charge, a copy of such document upon written or oral request of the employee.

2. If the latest fiscal year of the registrant has ended within 120 days (or 190 days with respect to foreign private issuers eligible to file on Form 20–F) prior to the delivery of the documents containing the information specified by Part I of Form S–8, the registrant may deliver a document containing financial statements for the fiscal year preceding the latest fiscal year, *provided that* within the 120 or 190 day period a document containing financial statements for the latest fiscal year is furnished to each employee.

(3) The registrant shall deliver or cause to be delivered promptly, without charge, to each employee to whom information is required to be delivered, upon written or oral request, a copy of the information that has been incorporated by reference pursuant to Item 3 of Form S–8 (not including exhibits to the information that is incorporated by reference unless such exhibits are specifically incorporated by reference into the information that the registration statement incorporates).

(4) Where interests in a plan are registered, the registrant shall deliver or cause to be delivered promptly, without charge, to each employee to whom information is required to be delivered, upon written or oral request, a copy of the then latest annual report of the plan filed pursuant to Section 15(d) of the Exchange Act, whether on Form 11–K (§ 249.311 of this chapter) or included as part of the registrant's annual report on Form 10–K.

(5) The registrant shall deliver or cause to be delivered to all employees participating in a stock option plan or plan fund that invests in registrant securities (and other plan participants who request such information orally or in writing) who do not otherwise receive such material, copies of all reports, proxy statements and other communications distributed to its security holders generally, provided that such material is sent or delivered no later than the time it is sent to security holders.

(c) As used in this Rule, the term "employee benefit plan" is defined in Rule 405 of Regulation C (§ 230.405 of this chapter) and the term "employee" is defined in General Instruction A.1 of Form S–8.

8. By revising paragraph (h) of § 230.457 to read as follows:

§ 230.457 Computation of fee.

* * * * *

(h)(1) Where securities are to be offered pursuant to an employee benefit plan, the aggregate offering price and the amount of the registration fee shall be computed with respect to the maximum number of the registrant's securities issuable under the plan that are covered by the registration statement. If the offering price is not known, the fee shall be computed upon the basis of the price of securities of the same class, as determined in accordance with paragraph (c) of this section. In the case of an employee stock option plan, the aggregate offering price and the fee shall be computed upon the basis of the price at which the options may be exercised, or, if such price is not known, upon the basis of the price of securities of the same class, as determined in accordance with paragraph (c) of this section. If there is no market for the securities to be offered, the book value of such securities computed as of the latest practicable date prior to the date of filing the registration statement shall be used.

(2) If the registration statement registers securities of the registrant and also registers interests in the plan constituting separate securities, no separate fee is required with respect to the plan interests.

(3) Where a registration statement includes securities to be offered pursuant to an employee benefit plan and covers the resale of the same securities, no additional filing fee shall be paid with respect to the securities to be offered for resale. A filing fee determined in accordance with paragraph (c) of this section shall be paid with respect to any additional securities to be offered for resale.

* * * * *

9. By adding § 230.462 to read as follows:

§ 230.462 Effective date of a registration statement filed on Form S–8.

A registration statement on Form S–8 (§ 239.16b of this chapter) shall become effective upon filing with the Commission.

10. By adding paragraph (d) to § 230.472 to read as follows:

§ 230.472 Filing of amendments; number of copies.

* * * * *

(d) Notwithstanding any other provision of this section, if a registration statement filed on Form S–8 (§ 239.16b of this chapter) is amended, there shall be filed with the Commission three complete, unmarked copies of every amendment, including exhibits and all other papers and documents filed as part of the amendment. Three additional, unmarked copies of such amendments shall be furnished to the Commission. No exhibits are required to accompany the additional copies of amendments to registration statements filed on Form S–8.

11. By revising the section heading and introductory phrase in § 230.475a up to the second ";" to read as follows:

§ 230.475a Certain pre-effective amendments on Forms S–3, S–4, F–2, F–3 and F–4 deemed filed with the consent of Commission.

Amendments to a registration statement on Form S–3, F–2, or F–3 (§ 239.13, § 239.32 or § 239.33 of this chapter) relating to a dividend or interest reinvestment plan; * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. The authority citation for part 239 continues to read, in part, as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, *et seq.*, * * *

2. By revising General Instruction I.B.3 of Form F–3 (§ 239.33) to read as follows:

Note—The text of Form F–3 is not and the amendment will not be included in the Code of Federal Regulations.

Instructions and Form

FORM F–3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

I.B.3. Transactions involving Secondary Offerings

Outstanding securities to be offered for the account of any person other than the issuer,

including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities, if the financial statements in the registrant's latest filing on Form 20-F comply with Item 18 thereof. (In addition, attention is directed to General Instruction C to Form S-8 (§ 239.16b) for the registration of employee benefit plan securities for resale.)

* * * * *

3. By revising the last sentence of General Instruction I.B.3 of Form S-3 (§ 239.13) to read as follows:

Note—The text of Form S-3 is not and the amendment will not be included in the Code of Federal Regulations.

Instructions and Form

FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

General Instructions

* * * * *

I.B.3. * * * (In addition, attention is directed to General Instruction C to Form S-8 (§ 239.16b) for the registration of employee benefit plan securities for resale.)

* * * * *

4. By revising § 239.16b to read as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to employee benefit plans.

Any registrant that, immediately prior to the time of filing a registration statement on this form, is subject to the requirement to file reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934, and has filed all reports and other materials required to be filed by such requirements during the preceding 12 months (or for such shorter period that the registrant was required to file such reports and materials), may use this form for registration under the Securities Act of 1933 (the "Act") of the following securities:

(a) Securities of such registrant to be offered to its employees or employees of its subsidiaries or parents pursuant to any employee benefit plan.

(b) Interests in the above plans, if such interests constitute securities and are required to be registered under the Act. (*See* Release No. 33-6188 (February 1, 1980) and section 3(a)(2) of the Act.)

5. By revising the text of Form S-8 (§ 239.16b) to read as follows:

Note—The text of Form S-8 is not and the amendments will not be included in the Code of Federal Regulations.

OMB approval

OMB Number: 3235-0066
Expires: April 30, 1992
Estimated average burden hours per response—49

Instructions and Form

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address of Principal Executive Offices)

(Zip Code)

(Full title of the plan)

(Name and address of agent for service)

(Telephone number, including area code, of agent for service)

Calculation of Registration Fee

Title of securities to be registered	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee

(If plan interests are being registered, include the following: In addition, pursuant to Rule 416(c) under the Securities Act of 1933, this registration statement also covers an indeterminate amount of interests to be offered or sold pursuant to the employee benefit plan(s) described herein.)

General Instructions

A. Rule as to Use of Form S-8

1. Any registrant that, immediately prior to the time of filing a registration statement on this form, is subject to the requirement to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 ("Exchange Act"), and has filed all reports and other materials required to be filed by such requirements during the preceding 12 months (or for such shorter period that the registrant was required to file such reports and materials), may use this form for registration under the Securities Act of 1933 ("Act") of the following securities:

(a) Securities of such registrant to be offered pursuant to any employee benefit plan to its employees or employees of its subsidiaries or parents. For purposes of this form, the term "employee benefit plan" is defined in Rule 405 of Regulation C (§ 230.405). For purposes of this form, the term "employee" is defined as any employee, director, general partner, trustee (where the registrant is a business trust), officer, or consultant or advisor, *provided that bona fide* services shall be rendered by consultants or advisors and such services must not be in connection with the offer or sale of securities in a capital-raising transaction. In addition, the term "employee" includes insurance agents who are exclusive agents of the registrant, its subsidiaries or parents. The term "employee" also includes former employees as well as executors, administrators or beneficiaries of the estates of deceased employees, guardians or members of a committee for incompetent former employees, or similar persons duly authorized by law to administer the estate or assets of former employees. The inclusion of all such individuals described in the preceding sentence in the term "employee" is only to permit registration on Form S-8 of: (i) The exercise of employee benefit plan stock options that are non-transferable (except under the laws of descent and distribution) and the subsequent sale of the securities, *provided that* such exercises and sales are not prohibited under the terms of the plan; and (ii) the acquisition of registrant securities pursuant to intra-plan transfers among plan funds, *provided that* such transfers are not prohibited under the terms of the plan. The term "registrant" as used in this Form means the person whose securities are to be offered pursuant to the plan, and also may mean the plan itself.

(b) Interests in the above plans, if such interests constitute securities and are required to be registered under the Act. (*See* Release No. 33-6188 (February 1, 1980) and section 3(a)(2) of the Act.)

2. Where interests in a plan are being registered and the plan's latest annual report filed pursuant to section 15(d) of the Exchange Act is to be incorporated by reference pursuant to the requirements of Form S-8, the plan shall either: (i) have been subject to the requirement to file reports pursuant to section 15(d) and shall have filed all reports required to be filed by such requirements during the preceding 12 months (or for such shorter period that the plan was required to file such reports); or (ii) if the plan has not previously been subject to the reporting requirements of section 15(d), concurrently with the filing of the registration statement on Form S-8, the plan shall file an annual report for its latest fiscal year (or if the plan has not yet completed its first fiscal year, then for a period ending not more than 90 days prior to the filing of this registration statement), *provided that* if the plan has not been in existence for at least 90 days prior to the filing date, the requirement to file an employee plan annual report concurrently with the Form S-8 registration statement shall not apply.

B. Application of General Rules and Regulations

1. Attention is directed to the General Rules and Regulations under the Act, particularly those comprising Regulation C thereunder (17 CFR 230.400 to 230.499). That Regulation contains general requirements regarding the preparation and filing of registration statements. However, any provision in this form covering the same subject matter as any such requirement shall be controlling unless otherwise specifically provided in Regulation C (*see* § 230.400).

2. Attention is directed to Regulation S-K (17 CFR part 229) for the requirements applicable to the content of the non-financial portions of registration statements under the Act. Where this form directs the registrant to furnish information required by any item of Regulation S-K, information need only be furnished to the extent appropriate.

C. Reoffers and Resales

1. *Securities.* Reoffers and resales of the following securities may be made on a continuous or delayed basis in the future, as provided by Rule 415 (§ 230.415), pursuant to a registration statement on this form by means of a separate prospectus ("reoffer prospectus"), which is prepared in accordance with the requirements of part I of Form S-3 (or, if the registrant is a foreign private issuer eligible to file on Form 20-F, in accordance with part I of Form F-3), and filed with the registration statement on Form S-8 or, in the case of control securities, a post-effective amendment thereto:

(a) *Control securities,* which are defined for purposes of this General Instruction C as securities acquired under a Securities Act registration statement held by affiliates of the registrant as defined in Rule 405 (§ 230.405). Control securities may be included in a reoffer prospectus only if they have been or will be acquired by the selling security holder pursuant to an employee benefit plan; or

(b) *Restricted securities,* which are defined for purposes of this General Instruction C as securities issued under any employee benefit plan of the registrant meeting the definition of "restricted securities" in Rule 144(a)(3) (§ 230.144(a)(3)), whether or not held by affiliates of the registrant. Restricted securities may be included in a reoffer prospectus only if they have been acquired by the selling security holder prior to the filing of the registration statement.

2. *Limitations.* The reoffer prospectus may be used as follows:

(a) If the registrant, at the time of filing such prospectus, satisfies the registrant requirements for use of Form S-3 (or if the registrant is a foreign private issuer eligible to file on Form 20-F, the registrant requirements for use of Form F-3), then control and restricted securities may be registered for reoffer and resale without any limitations.

(b) If the registrant, at the time of filing such prospectus, does not satisfy the registrant requirements for use of Form S-3 or F-3, as appropriate, then the following limitation shall apply with respect to both control securities and restricted securities: the amount of securities to be reoffered or resold by means of the reoffer prospectus, by each person, and any other person with whom he or she is acting in concert for the purpose of selling securities of the registrant, may not exceed, during any three month period, the amount specified in Rule 144(e) (§ 230.144(e)).

3. *Selling Security Holders*—(a) *Control Securities.* If the names of the security holders who intend to resell are not known by the registrant at the time of filing the Form S-8 registration statement, the registrant may either: (1) refer to the selling security holders in a generic manner in the reoffer prospectus; later, as their names and the amounts of securities to be reoffered become known, the registrant must supplement the reoffer prospectus with that information; or (2) name in the reoffer prospectus all persons eligible to resell and the amounts of securities available to be resold, whether or not they have a present intent to do so; any additional persons must be added by prospectus supplement. Prospectus supplements must be filed with the Commission as required by Rule 424(b) (§ 230.424(b)). The registrant may file a reoffer prospectus covering control securities as part of the initial registration statement or by means of a post-effective amendment to the Form S-8 registration statement.

(b) *Restricted Securities.* All persons (including non-affiliates) holding restricted securities registered for reoffer or resale pursuant to a reoffer prospectus are to be named as selling shareholders in the reoffer prospectus; *provided, however,* that any non-affiliate who holds less than the lesser of 1000 shares or 1% of the shares issuable under the plan to which the Form S-8 registration statement relates need not be named if the reoffer prospectus indicates that certain unnamed non-affiliates, each of whom may sell up to that amount, may use the reoffer prospectus for reoffers and resales. The reoffer prospectus covering restricted securities must be filed with the initial registration statement, not a post-effective amendment thereto.

Notes to General Instruction C

1. The term "person" as used in this General Instruction C shall be the same as set forth in Rule 144(a)(2) (§ 230.144(a)(2)).

2. If the conditions of this General Instruction C are not satisfied, registration of reoffers or resales must be made by means of a separate registration statement using whichever form is applicable.

D. Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment; Number of Copies

A registration statement of this Form S-8 will become effective automatically (Rule 462, § 230.462) upon filing (Rule 456, § 230.456). In addition, post-effective amendments on this form shall become effective upon filing (Rules 464, § 230.464 and 456). Delaying amendments are not permitted in connection with any registration statement on this form (Rule 473(d), § 230.473(d)), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this form become public upon filing with the Commission. As a result, requests for confidential treatment made under either Rule 406 (§ 230.406), or Exchange Act Rule 24b-2 (§ 240.24b-2) in connection with documents incorporated by reference, must be acted upon, *i.e.,* granted or denied, by the Commission staff prior to the filing of the registration statement. The number of copies of the filing required by Rules 402(c) and 472(d) (§ 230.402(c), § 230.472(d)) shall be filed with the Commission.

E. Registration of Additional Securities

With respect to the registration of additional securities of the same class as other securities for which a registration statement filed on this form relating to an employee benefit plan is effective, the registrant may file a registration statement consisting only of the following: the facing page; a statement that the contents of the earlier registration statement, identified by file number, are incorporated by reference; required opinions and consents; the signature page; and any information required in the new registration statement that is not in the eariler registration statement. If the new registration statement covers restricted securities being offered for resale, it shall include the required reoffer prospectus. If the earlier registration statement included a reoffer prospectus, the new registration statement shall be deemed to include that reoffer prospectus; *provided, however,* that a revised reoffer prospectus shall be filed, if the reoffer prospectus is substantively different from that filed in the earlier registration statement. The filing fee required by the Act and Rule 457 (§ 230.457) shall be paid with respect to the additional securities only.

F. Registration of Plan Interests

Where a registration statement on this form relates to securities to be offered pursuant to an employee stock purchase, savings, or similar plan, the registration statement is deemed to register an indeterminate amount of interests in such plan that are separate securities and required to be registered under the Securities Act. *See* Rule 416(c) (§ 230.416(c)).

G. Updating

Updating of information constituting the Section 10(a) prospectus pursuant to Rule 428(a) (§ 230.428(a)) during the offering of the securities shall be accomplished as follows:

(1) Plan information specified by Item 1 of Form S-8 required to be sent or given to employees shall be updated as specified in Rule 428(b)(1) (§ 230.428(b)(1)). Such information need not be filed with the Commission.

(2) Registrant information shall be updated by the filing of Exchange Act reports, which are incorporated by reference in the registration statement and the Section 10(a) prospectus. Any material changes in the registrant's affairs required to be disclosed in the registration statement but not required to be included in a specific Exchange Act report shall be reported on Form 8-K (§ 249.308) pursuant to Item 5 thereof.

(3) An employee plan annual report incorporated by reference in the registration statement from Form 11-K (or Form 10-K, as permitted by Rule 15d-21 (§ 240.15d-21)) shall

be updated by the filing of a subsequent annual report on Form 11-K or 10-K.

Part I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Note: The document(s) containing the information specified in this Part I will be sent or given to employees as specified by Rule 428(b)(1) (§ 230.428(b)(1)). Such documents need not be filed with the Commission either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 (§230.424). These documents and the documents incorporated by reference in the registration statement pursuant to Item 3 of Part II of this form, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act. *See* Rule 428(a)(1) (§ 230.428(a)(1)).

Item 1. Plan Information

The registrant shall deliver or cause to be delivered to each participant material information regarding the plan and its operations that will enable participants to make an informed decision regarding investment in the plan. This information shall include, to the extent material to the particular plan being described, but not be limited to, the disclosure specified in (a) through (j) below. Any unusual risks associated with participation in the plan not described pursuant to a specified item shall be prominently disclosed, as, for example, when the plan imposes a substantial restriction on the ability of a participant to withdraw contributions, or when plan participation may obligate the participant's general credit in connection with purchases on a margin basis. The information may be in one or several documents, provided that it is presented in a clear, concise and understandable manner. *See* Rule 421 (§ 230.421).

(a) *General Plan Information*

(1) Give the title of the plan and the name of the registrant whose securities are to be offered pursuant to the plan.

(2) Briefly state the general nature and purpose of the plan, its duration, and any provisions for its modification, earlier termination or extension to the extent that they affect the participants.

(3) Indicate whether the plan is subject to any provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), and if so, the general nature of those provisions to which it is subject.

(4) Give an address and a telephone number, including area code, which participants may use to obtain additional information about the plan and its administrators. State the capacity in which the plan administrators act (*e.g.*, trustees or managers) and the functions that they perform. If any person other than a participating employee has discretion with respect to the investment of all or any part of the assets of the plan in one or more investment media, name such person and describe the policies followed and to be followed with respect to the type and proportion of securities or other property in which funds of the plan may be invested. If the plan is not subject to ERISA: (i) state the nature of any material relationship between the administrators and the employees, the registrant or its affiliates; and (ii) describe the manner in which the plan administrators are selected, their term of office, and the manner in which they may be removed from office.

(b) *Securities to be Offered*

(1) State the title and total amount of securities to be offered pursuant to the plan.

(2) Furnish the information required by Item 202 of Regulation S-K (§ 229.202), except that if common stock registered under Section 12 of the Exchange Act is offered, such information is unnecessary. If plan interests are being registered, they need not be described pursuant to this item.

(c) *Employees Who May Participate in the Plan*

Indicate each class or group of employees that may participate in the plan and the basis upon which the eligibility of employees to participate therein is to be determined.

(d) *Purchase of Securities Pursuant to the Plan and Payment for Securities Offered*

(1) State the period of time within which employees may elect to participate in the plan, the price at which the securities may be purchased or the basis upon which such price is to be determined, and any terms regarding the amount of securities that an eligible employee can purchase.

(2) State when and the manner in which employees are to pay for the securities purchased pursuant to the plan. If payment is to be made by payroll deductions or other installment payments, state the percentage of wages or salaries or other basis for computing such payments, and the time and manner in which an employee may alter the amount of such deductions or payment.

(3) State the amount each employee is required or permitted to contribute or, if not a fixed amount, the percentage of wages or salaries or other basis of computing contributions.

(4) If contributions are to be made under the plan by the registrant or any employer, state who is to make such contributions, when they are to be made and the nature and amount of each contribution. If such contributions are not a fixed amount, state the basis for computing contributions.

(5) State the nature and frequency of any reports to be made to participating employees as to the amount and status of their accounts.

(6) If the plan is not subject to ERISA, state whether securities are to be purchased in the open market or otherwise. If they are not to be purchased in the open market, then state from whom they are to be purchased and describe the fees, commissions or other charges paid. If the employer or any of its affiliates, or any person having a material relationship with the employer or any of its affiliates, directly or indirectly, receives any part of the aggregate purchase price (including fees, commissions or other charges), explain the basis for compensation.

Note: If the plan is one under which credit is extended to finance the acquisition of securities, consideration should be given to the applicability of Regulation G (12 CFR Part 207) or T (12 CFR Part 220).

(e) *Resale Restrictions*

Describe briefly any restriction on resale of the securities purchased under the plan which may be imposed upon the employee purchaser.

(f) *Tax Effects of Plan Participation*

Describe briefly the tax effects that may accrue to employees as a result of plan participation as well as the tax effects, if any, upon the registrant and whether or not the plan is qualified under Section 401(a) of the Internal Revenue Code.

Note: If the plan is not qualified under Section 401 of the Internal Revenue Code of 1986, as amended, consideration should be given to the applicability of the Investment Company Act of 1940. *See* Securities Act Release No. 4790 (July 13, 1965).

(g) *Investment of Funds*

If participating employees may direct all or any part of the assets under the plan to two or more investment media, furnish a brief description of the provisions of the plan with respect to the alternative investment media; and provide a tabular or other meaningful presentation of financial data for each of the past three fiscal years (or such lesser period for which the data is available with respect to each investment medium) that, in the opinion of the registrant, will apprise employees of material trends and significant changes in the performance of alternative investment media and enable them to make informed investment decisions. Financial data shall be presented for any additional fiscal years necessary to keep the information from being misleading or that the registrant deems appropriate, but the total period presented need not exceed five years.

(h) *Withdrawal from the Plan; Assignment of Interest*

(1) Describe the terms and conditions under which a participating employee may (i) withdraw from the plan and terminate his or her interest therein; or (ii) withdraw funds or investments held for the employee's account without terminating his or her interest in the plan.

(2) State whether, and the terms and conditions upon which, the plan permits an employee to assign or hypothecate his or her interest in the plan.

(3) No information need be provided as to the effect of a qualified domestic relations order as defined in ERISA Section 206(d) (29 U.S.C. 1056(d)).

(i) *Forfeitures and Penalties*

Describe briefly every event which could, under the plan, result in a forfeiture by, or a penalty to, a participant, and the consequences thereof.

(j) *Charges and Deductions and Liens Therefor*

(1) Describe all charges and deductions (other than deductions described in paragraph (d) and taxes) that may be made against employees participating in the plan or against funds, securities or other property held under the plan and indicate who will receive, directly or indirectly, any part thereof. Such description should include charges and deductions that may be made upon the termination of an employee's

interest in the plan, or upon partial withdrawals from the employee's account thereunder.

(2) State whether or not under the plan, or pursuant to any contract in connection therewith, any person has or may create a lien on any funds, securities, or other property held under the plan. If so, describe fully the circumstances under which the lien was or may be created.

(3) No information need be provided as to the effect of a qualified domestic relations order as defined in ERISA Section 206(d) (29 U.S.C. 1056(d)).

Item 2. Registrant Information and Employee Plan Annual Information

The registrant shall provide a written statement to participants advising them of the availability without charge, upon written or oral request, of the documents incorporated by reference in Item 3 of Part II of the registration statement, and stating that these documents are incorporated by reference in the Section 10(a) prospectus. The statement also shall indicate the availability without charge, upon written or oral request, of other documents required to be delivered to employees pursuant to Rule 428(b) (§ 230.428(b)). The statement shall include the address (giving title or department) and telephone number to which the request is to be directed.

Part II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The registrant, and where interests in the plan are being registered, the plan, shall state that the documents listed in (a) through (c) below are incorporated by reference in the registration statement; and shall state that all documents subsequently filed by it pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the registration statement and to be part thereof from the date of filing of such documents. Copies of these documents are not required to be filed with the registration statement.

(a) The registrant's latest annual report, and where interests in the plan are being registered, the plan's latest annual report, filed pursuant to Section 13(a) or 15(d) of the Exchange Act, or in the case of the registrant either: (1) the latest prospectus filed pursuant to Rule 424(b) under the Act that contains audited financial statements for the registrant's latest fiscal year for which such statements have been filed, or (2) the registrant's effective registration statement on Form 10 or 20-F filed under the Exchange Act containing audited financial statements for the registrant's latest fiscal year.

(b) All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the registrant document referred to in (a) above.

(c) If the class of securities to be offered is registered under Section 12 of the Exchange Act, the description of such class of securities contained in a registration statement filed under such Act, including any amendment or report filed for the purpose of updating such description.

Item 4. Description of Securities

If the class of securities to be offered is not registered under Section 12 of the Exchange Act, set forth the information required by Item 202 of Regulation S-K (§ 229.202 of this chapter). If plan interests are being registered, they need not be described pursuant to this item.

Item 5. Interests of Named Experts and Counsel

Furnish the information required by Item 509 of Regulation S-K (§ 229.509 of this chapter).

Item 6. Indemnification of Directors and Officers

Furnish the information required by Item 702 of Regulation S-K (§ 229.702 of this chapter).

Item 7. Exemption from Registration Claimed

With respect to restricted securities to be reoffered or resold pursuant to this registration statement, the registrant shall indicate the section of the Act or Rule of the Commission under which exemption from registration was claimed and set forth briefly the facts relied upon to make the exemption available.

Item 8. Exhibits

Furnish the exhibits required by Item 601 of Regulation S-K (§ 229.601 of this chapter), except that, with respect to Item 601(b)(5):

(a) An opinion of counsel as to the legality of the securities being registered is required only with respect to original issuance securities.

(b) Neither an opinion of counsel concerning compliance with the requirements of ERISA nor an Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code shall be required if, in lieu thereof, the response to this Item 8 includes an undertaking that the registrant will submit or has submitted the plan and any amendment thereto to the Internal Revenue Service ("IRS") in a timely manner and has made or will make all changes required by the IRS in order to qualify the plan.

Item 9. Undertakings

Furnish the undertakings required by Item 512 (a), (b) and (h) of Regulation S-K (§ 229.512 (a), (b) and (h) of this chapter), as well as any other applicable undertakings in Item 512.

Notes to Item 9: (1) The Regulation S-K Item 512(a) undertakings are usually required pursuant to this item since most registration statements on Form S-6 involve the continuous offering and sale of securities under Rule 415 (§ 230.415 of this chapter).

(2) With respect to registration statements filed on this form, foreign private issuers eligible to file on Form 20-F are not required to furnish the Item 512(a)(4) undertaking.

SIGNATURES

The Registrant. Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-6 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of _____, State of _____, on _____, 19____.

(Registrant)— _____

By (Signature and Title)— _____

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

(Signature)— _____

(Title)— _____

(Date)— _____

The Plan. Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the employee benefit plan) have duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of _____, State of _____, on _____, 19____.

(Plan)— _____

By (Signature and Title)— _____

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and at least a majority of the board of directors or persons performing similar functions. Where interests in the plan are being registered, the registration statement shall be signed by the plan. If the signing person is a foreign person, the registration statement also shall be signed by its authorized representative in the United States. Where the signing person is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath the signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he or she signs the registration statement. Attention is directed to Rule 402 (§ 230.402) concerning manual signatures and Item 601 (§ 229.601) of Regulation S-K concerning signatures pursuant to powers of attorney.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 is revised to read as follows: (citations before * * * indicate general rulemaking authority).

Authority: 15 U.S.C. 78w, as amended, unless otherwise noted. * * *

2. By amending § 240.15d-21 by adding the word "and" at the end of (a)(1), removing (a)(3), and revising paragraphs (a)(2) as (b) to read as follows:

§ 240.15d-21 Reports for employee stock purchase, savings and similar plans.

(a) * * *

(2) Such issuer furnishes, as a part of its annual report on such form or as an amendment thereto, the financial statements required by Form 11-K (§ 249.311 of this chapter) with respect to the plan.

(b) If the procedure permitted by this Rule is followed, the financial statements required by Form 11-K with respect to the plan shall be filed within 120 days after the end of the fiscal year of the plan, either as a part of or as an amendment to the annual report of the issuer for its last fiscal year, *provided that* if the fiscal year of the plan ends within 62 days prior to the end of the fiscal year of the issuer, such information, financial statements and exhibits may be furnished as a part of the issuer's next annual report. If a plan subject to the Employee Retirement Income Security Act of 1974 uses the procedure permitted by this Rule, the financial statements required by Form 11-K shall be filed within 180 days after the plan's fiscal year end.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 249 continues to read as follows:

Authority: The Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.*, * * *

2. By revising the last sentence of § 249.311 to read as follows:

§ 249.311 Form 11-K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

* * * Reports on this form shall be filed within 90 days after the end of the fiscal year of the plan, or, in the case of a plan subject to the Employee Retirement Income Security Act of 1974, within 180 days after the plan's fiscal year end.

3. By revising the text of Form 11-K (§ 249.311) to read as follows:

Note—The text of Form 11-K is not and the amendments will not be included in the Code of Federal Regulations.

OMB Approval

OMB Number: 3235-0082.
Expires: March 31, 1993.
Estimated average burden hours per response—30.

Instructions and Form

FORM 11-K

FOR ANNUAL REPORTS OF EMPLOYEE STOCK PURCHASE, SAVINGS AND SIMILAR PLANS PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

General Instructions

A. Rule as to Use of Form 11-K

This form shall be used for annual reports pursuant to Section 15(d) of the Securities Exchange Act of 1934 ("Exchange Act") with respect to employee stock purchase, savings and similar plans, interests in which constitute securities registered under the Securities Act of 1933. This form also shall be used for transition reports filed pursuant to Section 15(d) of the Act. Such a report is required to be filed even though the issuer of the securities offered to employees pursuant to the plan also files annual reports pursuant to Section 13(a) or 15(d) of the Exchange Act. However, attention is directed to Rule 15d-21 (§ 240.15d-21), which provides that in certain cases the information required by this form may be furnished with respect to the plan as a part of the annual report of such issuer. Reports on this form shall be filed within 90 days after the end of the fiscal year of the plan, *provided that* plans subject to the Employee Retirement Income Security Act of 1974 ("ERISA") shall file the plan financial statements within 180 days after the plan's fiscal year end.

B. Application of General Rules and Regulations

(a) The General Rules and Regulations under the Exchange Act contain requirements applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(b) Particular attention is directed to Regulation 12B, which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, and the filing of the report. The definitions contained in Rule 12b-2 (§ 240.12b-2) should be especially noted. See also Regulation 15D.

(c) Four complete copies of each report on this form, including exhibits and all papers and documents filed as a part thereof, shall be filed with the Commission. At least one of the copies filed shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

C. Preparation of Report

This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b-12 (§ 240.12b-12). The report may omit the text of Form 11-K specifying the information required provided the answers thereto are prepared in the manner specified in Rule 12b-13 (§ 240.12b-13).

D. Incorporation of Information in Report to Employees

Any financial statements contained in any plan annual report to employees covering the latest fiscal year of the plan may be incorporated by reference from such document in response to part or all of the requirements of this form, provided such financial statements substantially meet the requirements of this form and provided that such document is filed as an exhibit to this report on Form 11-K.

FORM 11-K

(Mark One)

[ ] ANNUAL REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 [FEE REQUIRED] For the fiscal year ended _____

OR

[ ] TRANSITION REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 [NO FEE REQUIRED] For the transition period from _____ to _____ Commission file number _____

A. Full title of the plan and the address of the plan, if different from that of the issuer named below:

B. Name of issuer of the securities held pursuant to the plan and the address of its principal executive office:

REQUIRED INFORMATION

The following financial statements shall be furnished for the plan:

1. An audited statement of financial condition as of the end of the latest two fiscal years of the plan (or such lesser period as the plan has been in existence).

2. An audited statement of income and changes in plan equity for each of the latest three fiscal years of the plan (or such lesser period as the plan has been in existence).

3. The statements required by Items 1 and 2 shall be prepared in accordance with the applicable provisions of Article 6A of Regulation S-X (17 CFR 210.6A-01-.6A-05).

4. In lieu of the requirements of Items 1-3 above, plans subject to ERISA may file plan financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA. To the extent required by ERISA, the plan financial statements shall be examined by an independent accountant, except that the "limited scope exemption" contained in Section 103(a)(3)(C) of ERISA shall not be available.

Note: A written consent of the accountant is required with respect to the plan annual financial statements which have been incorporated by reference in a registration statement on Form S-8 under the Securities Act of 1933. The consent should be filed as an exhibit to this annual report. Such consent shall be currently dated and manually signed.

SIGNATURES

The Plan. Pursuant to the requirements of the Securities Exchange Act of 1934, the trustees (or other persons who administer the employee benefit plan) have duly caused this

annual report to be signed on its behalf by the undersigned hereunto duly authorized.

(Name of Plan)
Date

(Signature) *

* Print name and title of the signing official under the signature.

Dated: June 6, 1990.

By the Commission.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 90-13456 Filed 6-12-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 89-085]

RIN 2115-AD50

Fees Charged for Services Performed by the Coast Guard

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing regulations concerning fees charged for landings of aircraft at Coast Guard Air Station, Elizabeth City, NC, for naval architecture and marine engineering computer program services, and for preapproval tests of certain Coast Guard approved equipment. This action is necessary to make Coast Guard regulations accurately reflect current agency practices. The effect of this action is to update existing Coast Guard regulations by removing obsolete information.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant Bruce D. Branham, Office of Marine Safety, Security and Environmental Protection (G-MTH-3), U.S. Coast Guard, Washington, DC 20593-0001, (202) 267-2988.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published because this rule has no adverse safety, economic, or environmental effects, and notice and comments are considered unnecessary. Since the presence of outdated information in Coast Guard regulations leads to public confusion, the Coast Guard finds good cause to make this rulemaking effective in less than 30 days after publication in the Federal Register.

Discussion of the Regulations

1. Section 1.25 has become outdated over the years due to changes in the way the Coast Guard carries out its responsibilities. This rule amends § 1.25 by removing obsolete regulations requiring payment of fees for services that are now provided by sources other than the Coast Guard

2. Section 1.25-40(c), which lists certain service fees charged to the public by the Coast Guard, is removed. The Coast Guard no longer charges fees for aircraft landings at Air Station Elizabeth City since a portion of the air station grounds is leased to an airport authority that handles civilian aircraft landings. The previously offered naval architecture and marine engineering computer program services are obsolete and have not been provided by the Coast Guard for many years.

3. Section 1.25-50, Fees for preapproval tests, is removed. This section required that fees be paid by the manufacturer for preapproval tests of certain Coast Guard approved equipment conducted at Coast Guard facilities. The equipment approval regulations in 46 CFR subchapter Q now require manufacturers to use independent laboratories.

Drafting Information

The principal persons involved in drafting this document are LT Bruce D. Branham, Project Manager, and Mr. Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

E.O. 12291 and DOT Regulatory Policies and Procedures

This rule is considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this rule has been found to be so minimal that further evaluation is unnecessary. The previously available services have not been used by the public for many years and are no longer beneficial. Removal of the regulations requiring fees for these services has no adverse economic impact.

Regulatory Flexibility Act

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements.

Federalism Implications

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this rulemaking and concluded that preparation of an environmental impact statement or an environmental assessment is not necessary. There are no environmental issues related to this rulemaking.

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Penalties.

For the reasons set out in the preamble, 33 CFR part 1 is amended as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1, subpart 1.25, continues to read as follows:

Authority: Sec. 3, 60 Stat. 238, as amended; secs. 632, 633, 63 Stat. 545; sec. 501, 65 Stat. 290; 5 U.S.C. 552; 14 U.S.C. 632, 633; Department of Transportation Order 1100.1, Mar. 31, 1967; 49 CFR 1.4(a)(2).

§ 1.25-40 [Amended]

2. Section 1.25-40 is amended by removing paragraph (c) and Table 1.25-40(c).

§ 1.25-50 [Removed]

3. Section 1.25-50 is removed.

Dated: May 17, 1990.

D.H. Whitten,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-13683 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE01

Duty Periods

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: On pages 51199–51200 of the **Federal Register** of December 13, 1989 (55 FR 51199), VA published a final rule to amend its regulation for classification of training performed by members of the Senior Reserve Officers' Training Corps. In the amendatory language, it stated that § 3.6(d)(2) was being revised. In fact § 3.6(d)(2) is not being revised and is correct as it appears in the current edition (revised as of September 1, 1989), of title 38, Code of Federal Regulations. However, in the printed copy of December 13, 1989, four words in paragraph (d)(2) were inadvertently left out. To avoid any confusion, VA is printing the correct paragraph (d)(2). It is the same as the current paragraph in 38 CFR and there is no revision planned at this time.

FOR FURTHER INFORMATION CONTACT: Joel Drembus, (202) 233–3005.

Charles A. Fountaine III,

Records Management Service.

1. In 38 CFR part 3, § 3.6, paragraph (d)(2) is republished as it appears in the 1989 edition of the Code of Federal Regulations to read as follows:

§ 3.6 Duty periods.

* * * * *

(d) * * *

(2) Special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

* * * * *

[FR Doc. 90–13645 Filed 6–12–90; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3786–9]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a revision to the Indiana State Implementation Plan (SIP) for particulate matter. The revision was necessitated by USEPA's promulgation of new National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}).

The effect of this action is to document that Indiana's committal SIP satisfies USEPA's revised requirements for PM_{10} in areas designated as Group II (52 FR 29385). The Group II areas in Indiana are in Marion, Porter, and Vigo Counties.

DATES: This action will be effective on August 13, 1990 unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the SIP revision, and other materials relating to this notice, are available at the following addresses. (It is recommended that you telephone Maggie Greene at, (312) 886–6088, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Office of Air Management, Indiana Department of Environmental Management, 105 South Meridian Street, Indianapolis, Indiana 46225.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch, U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6088.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987, USEPA promulgated revised National Ambient Air Quality Standards (NAAQS) for particulate matter.[1] In the section of this **Federal Register** notice (52 FR 24679–82) entitled "Requirements for State Implementation Plans", USEPA set forth its SIP development policy for PM_{10}.

For areas designated as Group II under this policy, the State is required to submit either of the following two types of SIP revisions:

(1) A complete PM_{10} SIP with accompanying modeled attainment demonstration showing attainment and maintenance of the PM_{10} standard within 3 years of the SIP's adoption, or

(2) A "committal" SIP that supplements the existing SIP with enforceable commitments to perform the actions required at 52 FR 24681 for such "committal" SIPS.

On June 23, 1988, and July 17, 1989, the State of Indiana submitted committal SIPs for its Group II areas to USEPA as revisions to its particulate matter SIP. The Group II areas of concern in Indiana are in Marion, Porter, and Vigo Counties.[2]

II. Evaluation of Committal SIP Required Provisions for Group II Areas

USEPA's criteria for approval of PM_{10} SIPs is contained in the July 1, 1987, **Federal Register** Notice. There are five provisions that are required by USEPA for inclusion in every State committal SIP. These provisions require the State to perform the following activities:

(1) Gather ambient PM_{10} data, at least to an extent consistent with minimum USEPA requirements and guidance.[3]

(2) Analyze and verify the ambient PM_{10} data and report 24-hour PM_{10} NAAQS exceedances to the appropriate Regional Office within 45 days of each exceedance.

(3) When an appropriate number of verifiable 24-hour NAAQS exceedances becomes available (*See* section 2.0 of the PM_{10} SIP Development Guideline) or when data indicating an annual arithmetic mean (AAM) above the level of the annual PM_{10} NAAQS becomes available, acknowledge that a nonattainment problem exists and immediately notify the appropriate Regional Office.

(4) Within 30 days of the notification referred to in (3) above, or within 37 months of promulgation, whichever comes first, determine whether the measures in the existing SIP will assure timely attainment and maintenance of the primary PM_{10} standards, and immediately notify the appropriate Regional Office.

(5) Within 6 months of the notification referred to in (4) above, adopt and submit to USEPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later

[1] The primary and secondary particulate matter NAAQS are now violated when either: (1) The expected annual arithmetic mean value of PM_{10} concentrations exceeds 50 micrograms per cubic meter of air (50 $\mu g/m^3$) (the annual standard), or (2) the expected number of days that the PM_{10} concentration exceeds 150 $\mu g/m^3$ is more than one per calendar year (the 24-hour standard).

[2] The Group II areas in Marion and Vigo were listed at 52 FR 29385 (August 7, 1987). Porter County was added to the Group II list at 54 FR 12620 (March 28, 1989).

[3] Section 58.13 of 40 CFR part 58 requires States within 1 year after the PM_{10} NAAQS are promulgated, to begin sampling PM_{10} every day (at least at one site) in areas with a PM_{10} nonattainment probability of 95 percent or greater, and every other day (at least at one site) in areas with a nonattainment probability between 20 and 95 percent.

than 3 years from approval of the committal SIP.

III. Evaluation of Schedule Milestones

USEPA's policy for reviewing committal SIPs is set forth at 52 FR 24681 (July 1, 1987). It requires that the committal SIP include enforceable milestones with timely commitment dates, consistent with the State's PM_{10} SIP Development Plan. Indiana has acceptably committed to all required milestones.

IV. USEPA's Conclusions and Final Action

To be approvable, PM_{10} committal SIPs must incorporate all the five provisions listed above (which were enumerated at 52 FR 24681) and provide enforceable milestone commitments that ensure program implementation. Indiana has also committed to submit a list of control measures being relied upon to assure attainment and maintenance of the NAAQS for Marion and Vigo Counties by August 31, 1990, and for Porter County by December 31, 1991.

Because Indiana's proposed committal SIP for Marion and Vigo Counties commits to all of the five requisite provisions and to all the enforceable milestones, USEPA is approving Indiana's Committal SIP for PM_{10} for the Group II areas in Marion and Vigo Counties.

Indiana's proposed committal SIP for Porter County clearly satisfies the first three requirements and the fifth requirement listed above. With respect to the fourth requirement, Indiana commits to determine the adequacy of the existing SIP by the earlier of 30 days after notification of nonattainment or December 31, 1991. Although December 31, 1991, is beyond 37 months after promulgation of the PM_{10} NAAQS, it is approximately 37 months after the effective date of a lawsuit settlement agreement in which USEPA agreed to reclassify Porter County as a Group II area.[4] Under these circumstances, Indiana's commitment is acceptable. Therefore, USEPA is also approving the committal SIP for Porter County.

Because USEPA considers today's action noncontroversial and routine, it is approving it today without prior proposal. The action will become effective on August 13, 1990. However, if we receive notice by July 13, 1990, that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. See 47 FR 27073 (June 23, 1982).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in the context of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

On January 6, 1989, the Office of Management and Budget waived Tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years.

Under 5 U.S.C. 6054(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (*See* 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 13, 1990. This action may not be challenged later in proceedings to enforce its requirements. (*See* 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Particulate matter.

Dated: May 30, 1990.

Frank M. Covington,

Acting Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.776 is amended by adding new paragraph (n) to read as follows:

§ 52.776 Control strategy: Particulate matter.

* * * * *

(n) Approval—On June 23, 1988, and July 17, 1989, the State of Indiana submitted committal SIPs for particulate matter with an aerodynamic diameter equal to or less than 10 micrometers (PM_{10}) for the Group II areas within Marion and Vigo Counties and all of Porter County, respectively. The committal SIPs meet all the requirements identified in the July 1, 1987, promulgation of the SIP requirements for PM_{10} at 52 FR 24681.

[FR Doc. 90–13675 Filed 6–12–90; 8:45 am]

BILLING CODE 6560–50–M

[4] The effective date of the settlement agreement was November 28, 1988.

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40 CFR Part 81

[FRL–3787–2]

Designation of Areas for Air Quality Planning Purposes; North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending the section 107 designations for North Dakota found in 40 CFR 81.335 for prevention of significant deterioration (PSD) purposes. For all pollutants, the section 107 designated area had been the entire state. The designated areas for all pollutants are being revised to coincide with the air quality control regions (AQCR) in North Dakota. EPA's action results from a March 14, 1990, request from the State to modify the section 107 designations.

DATES: This action will become effective on August 13, 1990, unless notice is received by July 13, 1990, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments on this action should be addressed to Douglas M. Skie at the EPA Regional Office address listed below. Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m. at the following locations:

Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

Environmental Health Section, North Dakota State Department of Health and Consolidated Laboratories, 1200 Missouri Avenue, Bismarck, North Dakota 58502.

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

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, Air Programs Branch, Environmental Protection Agency,

Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, (303) 293–1814, FTS 330–1814.

SUPPLEMENTARY INFORMATION: It has come to EPA's attention that the definition of "baseline area," used in the State's prevention of significant deterioration (PSD) rules (which are a part of the North Dakota Air Pollution Control Rules) was inconsistent because the designated section 107 areas in North Dakota (see 40 CFR 81.335) consist of the entire state and not the air quality control regions (AQCRs). The State's definition was inconsistent because in one instance it indicates that there are two baseline areas, the AQCRs, and in another instance it references the section 107 designated areas which indicate that there is only one baseline area.

The State has been implementing the PSD program under the presumption of two baseline areas and has established baseline dates for increment tracking in both areas. The AQCRs include Metropolitan Fargo-Moorhead (Minnesota) (#130) and the rest of the state (#172). The State has requested that EPA modify the section 107 designations found in 40 CFR 81.335 to make them the two AQCRs. This change will allow the definition of "baseline area" in the North Dakota Air Pollution Control Rules to be consistent with what the State has been doing in practice.

Pursuant to the August 7, 1980 **Federal Register** notice (45 FR 52716), EPA may redefine baseline areas through area redesignations. Section 107(d) specifically authorizes states to submit redesignations to the Administrator. Consequently, states may submit redefinitions of the boundaries of attainment or unclassifiable areas at any time. If EPA agrees that the available data support the change, it will redefine the areas as requested. As long as no PSD source has located in, or significantly impacted on a clean area being considered for redesignation, the area can be redesignated as a new attainment or unclassifiable area, even if the area were previously part of a larger clean area in which the baseline data had been set.

In North Dakota's case, PSD sources are located in the areas slated for redesignation. However, EPA is accepting a section 107 redesignation request because the State has indicated that it is maintaining the baseline dates that had already been established and implemented in the two AQCRs. The redesignation will allow the section 107 designations to be consistent with the baseline areas and dates being applied, *i.e.*, 40 CFR 81.335 will now conform to the State's definition of "baseline area" and to what is being done in practice. This action is seen merely as an administrative action and does not have any effect on the PSD permitting program in North Dakota.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective August 13, 1990, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 13, 1990.

FINAL ACTION: EPA is amending the section 107 designations for North Dakota found in 40 CFR 81.335 for prevention of significant deterioration (PSD) purposes. For all pollutants, the section 107 designated area will coincide with the air quality control regions (AQCRs) in North Dakota.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act (CAA), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 13, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

List of Subjects in 40 CFR Part 81

Air pollution control.

Dated: June 4, 1990.

Jack W. McGraw,

Acting Regional Administrator.

40 CFR part 81, subpart C, is amended as follows:

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.335 is amended by revising the tables to read as follows:

§ 81.335 North Dakota.

NORTH DAKOTA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Metropolitan Fargo-Moorhead (Minn), AQCR 130				X
Rest of State, AQCR 172				X

NORTH DAKOTA—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Metropolitan Fargo-Moorhead (Minn), AQCR 130				X
Rest of State, AQCR 172				X

NORTH DAKOTA—OZONE (O_3)

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Metropolitan Fargo-Moorhead (Minn), AQCR 130		X
Rest of State, AQCR 172		X

NORTH DAKOTA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Metropolitan Fargo-Moorhead (Minn), AQCR 130		X
Rest of State, AQCR 172		X

NORTH DAKOTA—NO_2

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Metropolitan Fargo-Moorhead (Minn), AQCR 130		X
Rest of State, AQCR 172		X

[FR Doc. 90-13662 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9F3717/R1073; FRL-3740-9]

Isomate-M (Pheromone Dispensers); Exemption from the Requirement of a Tolerance for Quinces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the insect pheromone Isomate-M (pheromone dispensers) containing the active ingredients Z-8-dodecen-1-yl acetate, E-8-dodecen-1-yl acetate, and Z-8-dodecen-1-ol in or on the raw agricultural commodity (RAC) quinces. This regulation eliminates the need to establish a maximum permissible level for residues of this "biochemical" pesticide. This request for an exemption from the requirement of a tolerance was made in a petition submitted by John W. Kennedy Consultants, Inc., acting as the registered U.S. agent for Biocontrol, Ltd., of Warwick, Queensland 4370, Australia.

DATES: This regulation becomes effective on June 13, 1990.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3717/R1073], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., Sw., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Phil O. Hutton, Product Manager (PM) 17, Registration Division, Environmental Protection Agency, 401 M St., Sw., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2690.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 19, 1989 (54 FR 21664), announcing receipt of pesticide petition (PP) 9F3717 from Biocontrol, Ltd., 148 Palermin St., Warwick, Queensland 4370, Australia (U.S. Agent: John W. Kennedy Consultants, Inc., American Bank Building, Suite 406, Laurel, MD 20707), proposing that 40 CFR 180.1073 be amended to exempt from the requirement of a tolerance Isomate-M pheromone dispensers when used on quinces and various other RACs.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a previous rule exempting Isomate-M from the requirement of a tolerance, appearing in the **Federal Register** of May 30, 1989 (54 FR 22896). The pesticide is is useful for the purpose for which the exemption from the requirement of a tolerance is sought. Based on the data and information considered in the final rule of May 30, 1989 (54 FR 22896) and the notice of filing of May 19, 1989 (54 FR 21664), the Agency concludes that the establishment of the exemption from the requirement of a tolerance will protect the public health. Therefore, the final regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds

for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.1073 [Amended]

2. Section 180.1073 *Isomate-M; exemptions from the requirement of a tolerance* is amended by adding "quinces" in alphabetic sequence after "peaches."

[FR Doc. 90-13691 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-D

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40 CFR Part 268

[FRL-3786-7]

Land Disposal Restrictions; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting errors in the regulatory language which appeared in the **Federal Register** on September 6, 1989.

FOR FURTHER INFORMATION CONTACT: Wanda L. Levine at 202–475–6128, U.S. EPA, Office of Solid Waste (OS-322), 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: EPA promulgated the Land Disposal Restrictions First Third Scheduled Wastes final rule on August 8, 1988, and subsequently published a final rule on September 6, 1989, making corrections to that rule. This notice corrects some errors in that corrections notice.

Dated: June 6, 1990.

Don R. Clay,

Assistant Administrator for Solid Waste and Emergency Response.

The following corrections are made in the rules for FRL-3641-2, Land Disposal Restrictions, Correction, Final Rule, published in the **Federal Register** on September 6, 1989, 54 FR 36967.

§ 268.5 [Corrected]

1. On page 36971 in the first column, item number 11 is corrected to show that the introductory text of paragraph (h)(2) is revised, not the entire paragraph (h)(2). As corrected, item 11 reads:

"11. On part 31212, third column, § 268.5(h)(2) introductory text is revised to read as follows:"

§ 268.7 [Corrected]

2. On page 36971 in the first column, item number 13 is corrected to show that the introductory text of paragraph (a)(3) is revised, not the entire paragraph (a)(3). As corrected, item 13 reads:

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

§ 268.7 [Corrected]

3. On page 36971 in the first column, item number 14 is corrected to show that the introductory text of paragraph (a)(4) is revised, not the entire paragraph (a)(4). As corrected, item 14 reads:

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

§ 268.8 [Corrected]

4. On page 36971 in the second column, item number 17 is corrected to show that paragraphs (a)(2) and (a)(3) are revised, not the entire paragraph (a). As corrected, item 17 reads:

"17. On page 31214, third column, and page 31215, first and second columns, § 268.8 (a)(2) and (a)(3) are revised to read as follows:"

§ 268.33 [Corrected]

5. On page 36972 in the second column, item number 32 is corrected by changing the words "extract of the waste" to "extract or the waste." As corrected, item 32 reads:

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

[FR Doc. 90-13663 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-597; RM-6442]

Radio Broadcasting Services; Prescott Valley, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 294C2 for Channel 292A at Prescott Valley, Arizona, and modifies the Class A license of Prescott Valley Broadcasting Co., Inc. for Station KIHX-FM, as requested, to specify operation on the higher class channel, thereby providing that community with its first wide coverage area FM service. Coordinates at the petitioner's preferred site for Channel 294C2 at Prescott Valley are 34–29–25 and 112–32–00. With this action, the proceeding is terminated.

EFFECTIVE DATE: July 23, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88-597, adopted May 17, 1990, and released June 8, 1990. 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 for Arizona, is amended by amending the entry for Prescott Valley, by removing Channel 292A and adding Channel 294C2.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13716 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-382; RM-6753]

Radio Broadcasting Services; Blue Earth, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 251C3 to Blue Earth, Minnesota, as that community's second FM broadcast service in response to a petition filed by KBEW, Inc. See 54 FR 37700, September 12, 1989. The coordinates for Channel 251C3 are 43-38-18 and 94-06-00.

DATES: Effective July 23, 1990; the window period for filing applications will open on July 24, 1990, and close on August 23, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-382, adopted May 23, 1990, and released June 8, 1990. 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 Minnesota by adding Channel 251C3 at Blue Earth.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13717 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-428; RM-6872]

Radio Broadcasting Services; Winona, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 237C3 for Channel 237A at Winona, Minnesota, in response to a petition filed by KAGE, Inc., and modifies the license for Station KAGE-FM, as requested, to specify operation on the higher powered channel. See 54 FR 41852, October 12, 1989. The coordinates for Channel 237C3 are 44-03-00 and 91-42-00.

EFFECTIVE DATE: July 23, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-428, adopted May 23, 1990, and released June 8, 1990. 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 Minnesota by removing Channel 237A and adding Channel 237C3 at Winona.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13718 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-373; RM-6873]

Radio Broadcasting Services; Lexington, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 290C3 for Channel 292A at Lexington, Mississippi, and modifies the license of J. Scott Communications, Inc., for Station WLTD(FM), as requested, to specify operation on the higher class channel, thereby providing Lexington with a second wide coverage FM service. See 54 FR 37136, September 7, 1989. Coordinates for Channel 290C3 are 33-00-00 and 89-53-30.

EFFECTIVE DATE: July 23, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-373, adopted May 23, 1990, and released June 8, 1990. 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 for Mississippi, is amended by amending the entry for Lexington, by removing Channel 292A and adding Channel 290C3.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13719 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-391; RM-6883]

Radio Broadcasting Services; Halfway, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 226A to Halfway, Missouri, as that community's first FM broadcast service, in response to a petition filed by Melvin Pulley. See 54 FR 39021, September 22, 1989. There is a site restriction 6.7 kilometers north of the community. The coordinates for Channel 226A are 37-40-34 and 93-15-20.

DATES: Effective July 23, 1990; The window period for filing applications will open on July 24, 1990, and close on August 23, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-391, adopted May 17, 1990, and released June 8, 1990. 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 Missouri, by adding Halfway, Channel 226A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13720 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1000

[Ex Parte No. 440]

Cannons of Conduct

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to designate the Managing Director's Counsel as the Interstate Commerce Commission's Ethics Counselor. In our prior rule the Commission's General Counsel was designated as the Ethics Counselor. Since this rule change involves only agency internal procedure, notice and comment is not required under 5 U.S.C. 553(b). Accordingly, this rule change is being issued as a final rule.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: S. Arnold Smith, 275-7076 [TDD for hearing impaired: (202) 275-1721].

List of Subjects in 49 CFR Part 1000

Administrative practice and procedure, Conflict of interests, Seals and insignia.

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

Decided: June 6, 1990.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1000 is amended as follows:

PART 1000—THE COMMISSION

1. The authority citation for part 1000 continues to read as follows:

Authority: 49 U.S.C. 10303, 10321, 11144 and 11145.

2. Section 1000.735-12 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 1000.735-12 Interpretation and advisory service.

(a) The Managing Director's Counsel shall be the Commission's Ethics Counselor. * * *

* * * * *

[FR Doc. 90-13673 Filed 6-12-90; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 55, No. 114
Wednesday, June 13, 1990

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 908

[Docket No. FV 90-160]

Valencia Oranges Grown in Arizona and Designated Part of California Proposed Weekly Levels of Volume Regulation for the 1989-90 Season

AGENCY: Agricultural Marketing Service. USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on the need for regulation of the quantity of fresh Valencia oranges that may be shipped to domestic markets, the shipping schedule and the weekly percentage allocation between districts, and the dates for onset and duration of volume regulation for the 1989-90 Valencia orange season. Consistent with program objectives, such action may be needed to balance the supplies of fresh Valencia oranges with the demand for such oranges. This proposal is based on a marketing policy which was unanimously adopted by the Valencia Orange Administrative Committee (Committee) on March 27, 1990. The Committee locally administers the marketing order covering Valencia oranges grown in Arizona and designated part of California.

DATES: Comments must be received by July 13, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, room 2525-S, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456. Such 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: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2524-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3923.)

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 908 (7 CFR part 908), as amended, regulating the handling of Valencia oranges grown in Arizona and a designated part of 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 by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 115 handlers of Valencia oranges who are subject to regulation under the marketing order and approximately 3,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual reciepts for the last three years of less than $500,000, and small agricultural service firms are defined as those whose annual reciepts are less than $3,500,000. The majority of producers and handlers of California Valencia oranges may be classified as small entities.

The Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The declaration of policy in the Agricultural Marketing Agreement of 1937 (Act), as amended, includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of Valencia oranges that each handler may handle on a weekly basis may contribute to the Act's objectives of orderly marketing and improving producers returns.

The Valencia orange is unique in that mature oranges can be stored on the tree, to be marketed at a later time. Usually a high proportion of the crop is mature early in the season and could be marketed; but markets may be insufficient to absorb that quantity of fruit in a short period of time. The on-tree storage characteristic of the Valencia orange permits the effective use of the flow-to-market (volume regulation) provisions of the older. Thus, volume regulations can be a valuable tool in achieving the goal of market stabilization for Valencia oranges.

The major reason for the use of volume regulations under the Valencia orange marketing order is to establish and maintain orderly marketing conditions for Valencia oranges and thereby benefit producers through higher returns. Such regulation can at the same time benefit consumers by maintaining adequate supplies of Valencia oranges in the marketplace.

The Valencia marketing order also provides a variety of provisions designed to provide handlers with marketing flexibility within an established volume regulation week. When volume regulation is established for a given week, the Committee calculates the quantity of oranges (allotment) which may be handled by each handler. The provisions of the order allow handlers to ship Valencia oranges in excess of their allotments within specified limits, in response to marketing opportunities. The order includes provisions for marketing incentive allotments, shipment of oranges in excess of a handler's allotment (overshipments), shipment of oranges in quantities less than a handler's allotment (undershipments), and allotment loans. Marketing

incentive allotments provide handlers additional allotment (up to 10 percent of each handler's weekly allotment for a specified number of weeks) for market development programs and to allow handlers to take advantage of special marketing opportunities. Handlers who want to ship more than their allotment are permitted to overship that amount by one car (one car equals 1,000 cartons at 38.5 pounds net weight each) or by 20 percent of their allotment level, whichever is greater. A handler may overship in a given week, but the overshipment must be offset against the following week's allotment. Handlers may also ship less than their allotment during a given week which would give them the oportunity to ship more than their allotment during the following week. Handlers may borrow allotment from other handlers who choose to ship less than their allotment or who cannot fully utilize their allotment. These provisions are all designed for handler flexibility.

In addition, the order includes provisions that exempt the handling of certain Valencia oranges from volume regulation. Those oranges which are handled and disposed of to or in the following outlets and channels are exempt from volume regulation. They include: (1) Charitable institutions or relief organizations for distribution by such agencies; (2) commercial processors for processing into products, including juice; (3) export markets; and (4) parcel post and railway express shipments. In addition, the Committee may recommend for approval by the Secretary the exemption of minimum quantities of oranges from order provisions.

Pursuant to § 908.50 of the marketing order, the Committee is required to submit a marketing policy to the Secretary prior to recommending volume regulations for the current season. The order authorizes volume and size regulations applicable to fresh shipments of Valencia oranges to markets in the continental United States and to canada. The marketing order does not authorize regulation of export shipments of Valencia oranges or Valencia oranges utilized in the production of processed orange products.

The Committee adopted its marketing policy for the 1989–90 marketing year as its March 27, 1990, meeting in Visalia, California. Other meetings to develop, discuss and review the Committee's marketing policy were held on March 9 in Yuma, Arizona, and on March 20 in Ventura, California. In addition to Committee members, as many as 20 observers from the industry were present at these meetings.

The Committee estimates the 1989–90 Valencia orange crop to be 52,400 cars. This compares to last year's total production of 52,700 cars. The 1989–90 crop of California-Arizona Valencia oranges has also been forecast by the National Agricultural Statistics Service at 52,400 cars.

The Committee estimates District 1, Central California, 1989–90 production at 24,000 cars compared to the 24,300 cars produced in 1988–89. In District 2, Southern California, the crop is expected to be 24,900 cars compared to the 25,500 cars produced last year. In District 3, the Arizona-California Desert Valley, the Committee estimates a production of 3,500 cars compared to 2,900 cars produced last year.

The Committee has projected that the overall quality of this year's Valencia orange crop ranges from good to excellent in all districts, with a higher percentage of the fruit expected to be in a size range which the consumer prefers. Orange sizes are projected at this time to average 118 oranges per carton, about 9 percent larger than last year. Throughout the production area, the fruit is well formed with an exterior texture that runs from fairly to mostly smooth and is reasonably thin skinned. The latter feature indicates good internal fruit quality and heavy juice content.

The average orange size for the industry is projected to be 118 oranges per carton at the mid-point of the season (July 1), compared with the 1988–89 average size of 128 oranges per carton. The average size for 1989–90 crop oranges produced in District 1 is projected to be 119 oranges per carton, compared with an average of 132 oranges per carton for 1988–89 Valencia oranges. For District 2, the average size for the 1989–90 crop oranges is projected to be 117, compared to last year's average of 127. The average size for the 1989–90 crop oranges produced in District 3 is projected to be 120, compared to an average of 112 for the 1988–90 crop oranges.

There may be times when small sizes as well as excessively large sizes will be shipped in fresh fruit channels at heavily discounted prices which could produce a negative return to producers. Such discounting could be disruptive to orderly marketing of Valencia oranges. This condition could be alleviated through the use of size regulations authorized under the marketing order. The Committee has indicated that if size regulation would achieve program objectives, it would make such recommendations to the Secretary.

Valencia oranges are typically shipped and disposed of in three major distribution channels—domestic fresh, export fresh, and by-products. Traditionally, the fresh domestic outlet has been the most profitable, and the best quality fruit has gone to that market. Fruit of slightly lower grades and sizes went to the somewhat less profitable fresh export market, and the by-products channel (mostly frozen, concentrated orange juice) was a low-value salvage outlet for the remaining fruit.

In recent years, however, and especially during the 1988–89 marketing year, this situation has been changing. There are now four identifiable outlets for Valencia oranges, each of which contributes to utilization of the total crop. The first outlet is still the conventional fresh domestic market, which takes the best quality fruit for sales directly to the consumer. The second outlet is now sales of fresh oranges to institutions and retail stores for fresh squeezed orange juice. This new type of outlet provides higher returns to producers than commercial processing. Under the marketing order, shipments to both of these outlets are considered shipments to the fresh domestic market. The third major outlet for Valencia oranges continues to be the export market. The export market has and continues to undergo significant change. Asian markets for Valencia oranges have grown, especially the Japanese market which is now that single largest export customer for Valencia oranges. The Japanese market demands large, high quality fruit. The Hong Kong market, the dominant destination point in Southeast Asia and an important transshipment port, prefers a smaller, smoother skinned fruit. Other outlets in Southeast Asia include Singapore, Malaysia, and Taiwan. The fourth outlet is commercial processing or the by-product channel. Oranges diverted to by-products are used primarily for juice and animal feed. Valencia oranges that are not suitable for the fresh market are usually diverted to this outlet. The Committee reported that the projected percentage for this season to be utilized in this market outlet is higher than the average of the past four seasons.

During the 1988–89 marketing year, 37 percent of the total crop was sold in fresh domestic markets, 21 percent went to fresh export markets, and 42 percent to processing and other dispositions. Volume regulation under the marketing order was not used during the 1988–89 marketing year.

In terms of total crop utilization, the Committee estimates that approximately 21,000 cars of the 1989–90 crop (40 percent) will be utilized in fresh domestic markets compared with 37 percent in 1988–89; fresh exports are projected at 11,500 cars (22 percent) of the total 1989–90 crop compared to 21 percent in 1988–89; and 19,900 cars (38 percent) of the 1989–90 crop will be utilized in by-product channels compared with 42 percent in 1988–89. Expressed in terms of the actual volumes, Valencia oranges shipped to fresh domestic markets in 1989–90 may increase by 7 percent from 1988–89; export shipments could increase by 4 percent from 1988–89 estimates; and utilization by processors or other by-product channels in 1989–90 may decrease by 10 percent from 1988–89.

It is our view, based on the Committee's deliberations and the marketing policy, that the Committee is not likely to recommend the implementation of volume regulation prior to the end of June. In discussing the possible need for volume regulation during the season, a Committee member, at the meeting on March 9 in Yuma, Arizona, offered several reasons for not recommending regulation for the 1989–90 season. Those reasons included the observation that the February freeze in the western states most likely caused sufficient damage to Valencia oranges so as to negatively impact the supply available for fresh domestic utilization and the fact that juice prices are relatively high due to last winter's freeze in Florida. However, the Committee indicated at its marketing policy meetings that the industry may reevaluate the marketing conditions in June.

Crop and market conditions could change as the season progresses and result in a Committee recommendation for volume regulation as a response to several prospective problems. These include: (1) A possible quarantine of Valencia oranges because of problems with the Fuller Rose Beetle; (2) the spread of the Mediterranean fruit fly in Southern California; and (3) drought conditions which are of increasing concern to the California fruit and vegetable industry.

Given the views of industry members as reflected in Committee meetings thus far, the U.S. Department of Agriculture (Department) does not expect the Committee to recommend volume regulations prior to the end of June (week ending on July 5, 1990). The shipping schedule as proposed would begin with the week ending on July 5, 1990. The Committee's current schedule lists shipments through the week ending on November 1, 1990. Therefore, this proposed rule would provide for volume regulation for the period from the week ending on July 5, 1990, through the week ending November 1, 1990.

Based on the information available to it and for the purposes of this rulemaking process, the Committee recommended to the Secretary a proposed weekly schedule of the quantities of Valencia oranges that can be shipped, if volume regulation is recommended, approved and implemented for the 1989–90 season. The proposed shipping schedule is based on the initial crop estimate. Due to the anticipated normal distribution of orange sizes and crop conditions, the Committee estimates that fresh domestic shipments this season will be between 20,000 and 22,000 cars. The shipping schedule is therefore based on the mid-point total of 21,000 cars. This figure may be adjusted to reflect revised crop estimates throughout the season. The shipping schedule is proposed to be specified in a new § 908.682 of the rules and regulations.

In developing the proposed shipping schedule, the Committee considered equity of marketing opportunity and established an equity factor pursuant to § 908.51(b). The Committee compiles production estimates in cars for each district. These production estimates are based on the entire anticipated tree crop in each district that could be utilized in fresh domestic channels, exported, processed, or designated for other uses. The Committee combines these production estimates and estimates the number of cars that could be marketed in fresh domestic channels. From the relationship between these two totals an equity factor is derived and then applied to each district's estimated production in order to determine the estimated amount of each district's production that could be moved into fresh domestic markets. Therefore, all districts, no matter how much handlers ship weekly to the fresh domestic markets, should be provided the opportunity to ship, under volume regulation, the same proportionate amount to fresh domestic markets during the season. The equity factor for this season is 42 percent, or 22,000 cars, and is the same for all districts.

The shipping schedule also establishes the percentage allocation, pursuant to § 908.110(d) of the regulations, for each district for each week which is used to determine each district's proportionate share of the volume regulation when it is issued for a particular week. Each district's volume limitation for a particular week is then equitably apportioned among all handlers in each district. Thus, each handler's individual allotment is based on the entire quantity of Valencia oranges available for all uses, including export.

The Department invites comments on the need for volume regulation during the 1989–90 marketing year, the proposed shipping schedule, the percentage allocation shown in the shipping schedule, and the beginning and ending dates of regulation. Commenters proposing alternative levels of shipments and beginning and ending dates for regulation, including no regulation, for the 1989–90 season should provide as much information as possible in support of their suggested alternatives. Interested persons are also invited to comment on the possible regulatory and informational impact of this marketing policy and volume regulations on small businesses.

The Department will analyze comments received in response to this proposed rule and then, if warranted, issue a final rule which would include an analysis of the comments received. Throughout the season, the Committee meets on a weekly basis, if warranted, to consider current and prospective marketing conditions. If this rule is adopted and regulation is implemented during the 1989–90 season, the Committee would be expected to recommend, as necessary, amendments to the amounts allotted for each district for the upcoming week and to provide adequate justification for levels of regulation different from the established shipping schedule. If warranted, the Department would issue a rule amending the established schedule.

This proposed rule is based on the information currently available. The issuance of this proposed rule does not preclude the possibility that crop and/or marketing conditions could change and that the Committee may recommend the implementation of volume regulations sooner than contemplated by the proposed rule. As more information becomes available, the Committee may find it necessary or desirable to propose revision of the shipping scehdule proposed herein. The Department would consider the Committee's recommendations and take whatever action is appropriate under the order to achieve the order's purposes and objectives.

List of Subjects in 7 CFR Part 908

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 908 is proposed to be amended as follows:

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for 7 CFR part 908 continues to read as follows:

2. A new § 908.682 is added to read as follows:

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

§ 908.682 Valencia orange regulation 382.

The shipping schedule below establishes the quantities of Valencia oranges grown in California and Arizona, by district, which may be handled during the specific weeks as follows:

Week ending	District 1 (cartons)	% Alloc.	District 2 (cartons)	% Alloc.	District 3 (cartons)	% Alloc.	Total (cartons)
(a) July 5	312,000	48	325,000	50	13,000	2	650,000
(b) July 12	328,300	49	341,700	51			670,000
(c) July 19	328,300	49	341,700	51			670,000
(d) July 26	328,300	49	341,700	51			670,000
(e) Aug. 2	328,300	49	341,700	51			670,000
(f) Aug. 9	328,300	49	341,700	51			670,000
(g) Aug. 16	328,300	49	341,700	51			670,000
(h) Aug. 23	350,350	49	364,650	51			715,000
(i) Aug. 30	372,400	49	387,600	51			760,000
(j) Sept. 6	350,350	49	364,650	51			715,000
(k) Sept. 13	465,500	49	484,500	51			950,000
(l) Sept. 20	465,500	49	484,500	51			950,000
(m) Sept. 27	465,500	49	484,500	51			950,000
(n) Oct. 4	465,500	49	484,500	51			950,000
(o) Oct. 11	465,500	49	484,500	51			950,000
(p) Oct. 18	441,000	49	459,000	51			900,000
(q) Oct. 25	421,400	49	438,600	51			860,000
(r) Nov. 1	271,950	49	283,050	51			555,000

Dated: June 8, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-13864 Filed 6-12-90; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 250

[Docket No. R-0696]

Regulation H—Payment of Dividends by State Bank Members of the Federal Reserve System; Miscellaneous Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System is proposing the addition of a new section to its Regulation H, Membership in the Federal Reserve System, that will clarify the circumstances under which state member banks may pay dividends and will bring calculation of dividend-paying capacity into line with current regulatory reporting standards and generally accepted accounting principles (GAAP). The rule would define the terms used in two statutory provisions that impose capital and current earnings restrictions on the payment of dividends by national banks. These provisions, 12 U.S.C. 56 and 60, are made applicable to state member banks by section 9 of the Federal Reserve Act.

DATES: Comments should be received by August 13, 1990.

ADDRESSES: Comments, which should refer to Docket No. R-0696, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary; or delivered between 8:45 a.m. and 5:15 p.m. to room B-2223. Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel (202/452-3625), or Lawranne Stewart, Attorney (202/452-3513), Legal Division; or Rhoger Pugh, Manager, Policy Development (202/728-5883), or Charles Holm, Senior Accountant (202/452-3502), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf ("TDD"), Ernestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

Before a state member bank can declare a dividend, it must establish that the payment of the dividend will not impair its capital under 12 U.S.C. 56, and that the dividend can be paid out of recent earnings under 12 U.S.C. 60.[1] If the dividend payment does not meet the requirements of these sections the state member bank must obtain the approval of the Board before paying the dividend. These provisions are designed to protect and stabilize the capital support of a bank's operations.

Both sections 56 and 60 were adopted as part of the National Bank Act. The coverage of these provisions extends to state member banks under section 9 of the Federal Reserve Act, which provides that all state member banks are required "to conform to those provisions of law imposed on national banks * * * which relate to the withdrawal of capital or impairment of their capital stock, and to conform with the provisions of sections 56 and 60(b) of this title with respect to the payment of dividends." [2] Both of these provisions, however, were enacted prior to the widespread use of accrual accounting systems, and use terminology that is ambiguous and imprecise in the context of modern

[1] Sections 5204 and 5199 of the Revised Statutes, respectively.

[2] Section 9, paragraph 6 of the Federal Reserve Act (12 U.S.C. 324).

regulatory reporting and accounting practices. The OCC and the Board have issued various interpretations of sections 56 and 60,[3] some of which are inconsistent or have become outdated as a result of changes in regulatory reporting and accounting practices. The OCC has published a proposed rule concerning the payment of dividends by national banks.[4] The OCC's rule is intended to clarify the calculations of dividend paying capacity, and to make these calculations consistent with the modern accrual accounting methods used under generally accepted accounting principles (GAAP). The Board's proposed rule is substantially similar to the OCC's rule, and is being taken under the authority provided by section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)).

Purpose

The statutory provisions concerning the payment of dividends require that state member banks seek the approval of the Board in order to pay any dividend that does not meet the requirements of the statute.[5] The purpose of this notice of proposed rulemaking is to provide definitive guidelines for state member banks to use in calculating their dividend paying capacity and to clarify the circumstances under which state member banks are required to obtain the approval of the Board to pay dividends. Because of the importance of the maintenance of sound capital to the safety and soundness of member banks, the current action is being taken in the form of a regulation, the violation of which would provide the basis for an enforcement action.

Issues

A. Section 56

Section 56 provides that no bank may withdraw any portion of its capital by the payment of dividends or otherwise, and states that no dividend may be paid if losses have been sustained that equal or exceed the "undivided profits then on hand". It also provides that no dividend may be paid in excess of the bank's "net profits then on hand", after deducting losses and "bad debts". An exception to this prohibition is provided by section 59, under which a dividend that would impair capital may be paid by a vote of two-thirds of the shares of each class of stock if the permission of the Board is obtained. The Board's proposed rule would define a number of the terms used in this section, and would establish which accounts are to be used in calculating a bank's dividend paying capacity.

Bad debt—The definition of bad debt included in the Board's proposed rule is identical to the OCC provisions, which were in turn adopted from a long-standing OCC interpretation of section 56.[6] Under this definition, the term "bad debts" used in section 56 includes *matured* obligations due to the bank on which interest is past due and unpaid for six months unless the debt is well secured and in the process of collection. The question of whether a debt has matured is to be determined under the terms of the debt contract. Demand debts for which the payment of interest is six months past due will be considered to be mature regardless of whether the debt is considered to have matured under the contract or by operation of law.

Undivided profits then on hand and *net profits then on hand*—The OCC treats the phrases "undivided profits then on hand" and "net profits then on hand" used in section 56 as interchangeable terms. As the legislative history of section 56 does not indicate that these phrases were intended to have different meanings, the Board is proposing to adopt the same interpretation of these terms.

Under the Board's proposed implementation of section 56, the current calculation of "undivided profits then on hand" will be affected in the following areas:

—Allowance for loan and lease losses (ALLL)—The ALLL would not be included as part of undivided profits then on hand for the purpose of determining if the payment of a dividend would impair capital pursuant to section 56. Previously, banks have been allowed to include ALLL in undivided profits for the purposes of this section. However, as the purpose of the ALLL is to protect a bank from anticipated (although as yet unidentified) losses in its loan and lease portfolio, it would be imprudent to allow a bank to pay dividends from the ALLL when other components of undivided profits are exhausted. Furthermore, while the ALLL is treated as part of capital under the Board's capital adequacy guidelines, banks do not treat the ALLL as part of undivided profits under modern regulatory reporting and accounting practices. Consequently, the proposed rule would conform dividend paying capacity to current regulatory reporting practices and GAAP.

—Bad debt. Under the proposed rule, only bad debts in excess of the ALLL (if any) would be deducted from undivided profits then on hand. Previously, all bad debts were deducted. As the ALLL would be excluded from undivided profits under the proposed rules, if banks were also required to deduct all bad debts from undivided profits amounts related to loan losses would in effect be deducted twice.

—Surplus surplus [7]. Only the portion of surplus surplus that has been earned rather than paid in as capital may be transferred to undivided profits in order to pay dividends.[8] Before any "earned surplus surplus" may be transferred to undivided profits, however, a bank must obtain the approval of the Board and the bank's board of directors. Although the Board has not previously addressed the issue, the OCC has previously expressed the opinion that all of the surplus surplus is legally available for the payment of dividends. The OCC is now proposing to revise this opinion to limit dividend payments to the portion of surplus that has been earned.

Scope of the proposed rule.—The Board's proposed rule clarifies that, as applied to state member banks, the provisions of section 56 cover the payment of dividends on preferred as well as common stock. This aspect of the proposal differs technically from the OCC's proposed rule, which states that section 56 does not apply to the payment of dividends on preferred stock. This difference between the interpretations is due to differences in the statutes applicable to national and state member banks.[9] In spite of the differing statutes,

[3] See OCC Interpretative Rulings at 12 CFR 7.6100 and 7.6125; Interpretations of the Board at 12 CFR 250.104.

[4] 54 FR 33711 (Aug. 16, 1989) and 54 FR 42306 (Oct. 16, 1989).

[5] 12 U.S.C. 56, 59, and 60.

[6] OCC Interpretive Ruling 7.6125, 12 CFR 7.6125.

[7] In general, state member banks are required to maintain surplus accounts equal to common capital. See section 9, paragraph 11 of the Federal Reserve Act and 12 U.S.C. 60(a). Funds held in the surplus account in excess of the minimum required are known as the "surplus surplus".

[8] Corporate shares, including those of banks, are typically issued for more than the par value of the shares. The portion of the payment representing the par value is placed in the capital account, and the balance of the value received is credited to the surplus account. Such payments into the surplus account are considered "unearned surplus".

[9] The National Bank Act contains a provision at 12 U.S.C. 51b(a) that the OCC has interpreted as overriding section 56 with regard to the payment of dividends on preferred stock. This provision is not applicable to state member banks, and there is no similar override provision in the Federal Reserve Act.

there should be little difference in practice between the Board and the OCC on the treatment of dividends on preferred stock. Although the OCC has excluded preferred stock from the coverage of section 56, it still considers the provisions of section 59 to apply. Under section 59, payments that will reduce capital require the permission of the OCC as well as the approval of two-thirds of all shares. The provisions of section 59 also apply to state member banks, which must obtain the permission of the Board in addition to shareholder approval. Thus, for both classes of banks, any dividends on preferred stock in excess of the limit of section 56 would be payable only with the approval of the primary federal regulator and shareholders as required under section 59.

Effective date—This paragraph would be effective immediately upon final publication.

B. Section 60

State member banks wishing to pay dividends that meet the capital requirements of section 56 must also meet the current earnings requirements of section 60(b). Section 60(b) provides that the approval of the Board must be obtained whenever the total of all dividends declared in a calendar year exceeds the net profits of that year combined with the retained net profits of the past two years, less any required transfers to surplus or retirement funds for preferred stock. Under section 60, net profits are defined as "the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and state taxes." [10] The statutory definition was adopted at a time when few banks were using the accrual method of accounting [11] and deals with recoveries, losses, and charge offs on a cash basis by adding or subtracting these from earnings.

As discussed under section 56 above, accrual accounting methods require provisions to be made for the losses anticipated in a bank's loan portfolio by the creation of an ALLL account prior to recognition of loan charge offs. Provisions for Loan and Lease Losses (PLLL) are treated as operating expenses and are charged to current earnings. Under GAAP, therefore, provisions made to the ALLL account during the year are not part of that year's earnings available fo the payment of dividends.

Under the Board's proposed rule banks would no longer be permitted to adjust their reported net income [12] by adding back their PLLL and deducting their net charge-offs for the purpose of determining their dividend paying capacity under section 60. Net loan losses are not deducted directly from net income, as these losses are charged against ALLL. In effect, the proposed rule will treat the statutory requirement to deduct actual losses as being satisifed by the loan loss provisions under accrual accounting methods. This treatment would conform with modern regulatory reporting practices and GAAP, and with the proposed treatment of ALLL under section 56. This will also simplify the calculation of dividend payment capacity, as the net income figure from the Reports of Condition and Income may generally be used without further adjustment.[13]

Section 60 does not represent an absolute bar to the payment of dividends in excess of net profits for the year-to-date and the retained net profits of the prior two years. It does mean, however, that a bank will be required to obtain the permission of the Board before it may pay out such a dividend, enabling the Board to review the financial condition of the intitution to determine whether the dividend is appropriate.

Scope of the proposed rule.—Consistent with the OCC proposal, the Board's proposed rule provide that the recent-earnings limitations of section 60 was intended to apply to the payment of dividends by state member and national banks on both preferred and common stock.

Effective date—Banks will be required to use the proposed rules to calculate net profits beginning no later than January 1, 1991, but will be allowed to begin using the rule to calculate dividend paying capacity for 1990. Because dividend payment capacity under section 60 is based on the current year's net profits plus the retained net profits for the prior two years, banks will also have the option of using the proposed rule to recalculate retained net profits for the purpose of section 60 for one or both of the prior two years. Once a bank has elected to use the proposed rule to calculate net profits or retained net profits for a particular year, it must use the rule for all subsequent periods that are part of that calculation, and it may not change the calculation for that year at a later time. This transition provision is consistent with the transitional provisions to be adopted by the OCC.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendment will not have a significant economic impact on a substantial number of small entities. The proposed rule is intended to clarify and interpret existing statutory requirements, and does not add any reporting or other requirements. The Board anticipates that the proposed rule will have some effect on the dividend paying capacity of all state member banks, regardless of size, and does not anticipate that there will be a disproportionate or significant economic impact on a substantial number of small banks.

List of Subjects in 12 CFR Part 208

Accounting, Agricultural loan losses, Applications, Appraisals, Banks, Banking, Branches, Capital adequacy, Confidential business information, Dividend payments, Federal Reserve System, Flood insurance, Publication of reports of condition, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set out in the preamble, the Board proposes to amend 12 CFR parts 208 and 250 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11, and 21 of the Federal Reserve Act (12 U.S.C. 321–338, 248, and 486, respectively); secs. 4 and 13(j) of the Federal Deposit Insurance Act (12 U.S.C. 1814 and 1823(j), respectively); sec. 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); secs. 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); secs. 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(i), 78o–4(c)(5), 78q, 78q–1, and 78w, respectively); and sec. 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927.

2. Section 208.19 is added to read as follows:

[10] 12 U.S.C. 60(c) (Revised Statues section 5199(c)).

[11] Public Law 86–730, which added sections 60 (a) and (b), was adopted in 1959.

[12] Under modern regulatory reporting practices and GAAP, the PLLL is charged to current earnings. Consequently, subsequent charge-offs of the loan do not affect earnings.

[13] In addition to adding back loan loss provisions and deducting net loan losses, net profits as now defined is adjusted to reflect the tax effects of loan charge offs.

§ 208.19 Payment of dividends.

(a) *Capital limitations on payment of dividends.* No state member bank shall, during the time it continues its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by a state member bank that equal or exceed its undivided profits then on hand, no dividend shall be paid. No dividend shall be paid by a state member bank while it continues its banking operations, to an amount greater than its net profits than on hand, deducting therefrom its losses and bad debts.

(1) *Exceptions.* Exceptions to the limitations contained in this paragraph (a) may be made only with the prior approval of the Board under the provisions of 12 U.S.C. 59 (Revised Statutes section 5143).

(2) *Dividends on common and preferred stock.* The provisions of this paragraph (a) shall apply to the payment of dividends on both common and preferred stock.

(3) *"Bad debt."* Under the capital limitations, bad debts must be deducted from the net profits then on hand in computing funds available for the payment of dividends. The term "bad debt" includes matured obligations due a bank on which the interest is past due and unpaid for six months unless the debts are well secured and in the process of collection. Obligations include every type of indebtedness owing to the bank, including loans and investment securities. The six-month period of default may begin at any time, regardless of when the debt matures.

(i) *Matured debt.* Whether a debt has matured for the purposes of this subsection usually will be determined by applicable contract law. Generally, a debt is matured when all or a part of the principal is due and payable as a result of demand, arrival of the stated maturity date, or acceleration by contract or by operation of law. Nevertheless, any demand debt on which the payment of interest is six months past due will be considered matured even though payment on the debt has not been demanded. Installment loans on which any payment is six months past due will be considered matured even though acceleration of the total debt may not have occurred.

(ii) *Well-secured debt.* A debt is well secured if it is secured by collateral in the form of liens on, or pledges of, real or personal property, including securities, having realizable value sufficient to discharge the debt in full, or by the guaranty of a financially responsible party. If a loan is partially secured, that portion not properly secured will be considered a bad debt.

(iii) *Debt in process of collection.* A debt is in the process of collection if collection of the debt is proceeding in due course, either through legal action, including judgment enforcement procedures, or, in appropriate circumstances, through collection efforts not involving legal action which are reasonably expected to result in repayment of the debt or in its restoration to current status. In any case, the bank should have a plan of collection setting forth the reasons for the selected method of collection, the responsibilities of the bank and the borrower, and the expected date of repayment of the debt or its restoration to current status.

(iv) *Debts of bankrupt or deceased debtors.* A claim duly filed against the estate of a bankrupt or deceased debtor is considered as being in the process of collection. The obligation is well secured if it meets the criteria set forth in paragraph 3(a)(ii) of this section or if the claim of the bank against the estate has been duly filed and the statutory period for filing has expired and the assets of the estate are adequate to discharge all obligations in full.

(v) *Documentation.* The bank must maintain in its filed documentation to support its evaluation of the security. In addition, the bank must retain, at a minimum, monthly progress reports on its collection efforts, noting and explaining any deviation from the collection plan.

(4) *"Undivided profits then on hand".* For the purpose of this section, the terms "undivided profits then on hand" and "net profits then on hand" shall be considered to have the same meaning, and shall be referred to herein as "undivided profits then on hand".

(i) *Allowance for loan and lease losses.* When calculating the amount of dividends a bank can pay under 12 U.S.C. 56 and this paragraph, the bank may not add the balance in its allowance for loan and lease losses to its undivided profits for the purpose of determining undivided profits then on hand. The allowance for loan and lease losses and undivided profits are defined in the Reports of Condition and Income.

(ii) *Bad debt.* When deducting its bad debt from its undivided profits then on hand, a bank may first subtract the sum of its bad debts from the balance of its allowance for loan and lease losses account. If the sum of a bank's bad debts is greater than its allowance for loan and lease losses, the excess bad debt shall then be deducted from the bank's undivided profits then on hand.

(iii) *Surplus surplus.* State member banks, other than those accepting only trust funds, are required to maintain surplus funds equal to common capital. To the extent a bank has capital surplus in excess of its common capital, the bank has "surplus surplus." Only that portion of the surplus surplus that meets the following conditions may be tranferred to the undivided profits account and available for the payment of dividends:

(A) The bank can demonstrate that the portion of the surplus surplus to be transferred came from the earnings of prior periods, excluding the effect of any stock dividend;

(B) The bank's board of directors approves the transfer of funds from capital surplus to undivided profits; and

(C) The transfer has been approved by the Board. Requests for such approval shall be submitted to the appropriate Federal Reserve Bank. The bank may consider the transfer to be approved if the Board or the Reserve Bank does not notify the bank within thirty days after the Reserve Bank's receipt of the notice that the transfer has been disapproved or that it is subject to continuing consideration.

(b) *Earnings limitations on payment of dividends.* A state member bank may not pay a dividend if the total of all dividends declared by the bank in any calendar year exceeds the total of its net profits for that year combined with its retained net profits of the preceding two years, less any required transfers to surplus or to a fund for the retirement of any preferred stock, unless the bank has received the prior approval of the Board for the dividend under paragraph (b)(3) of this section.

(1) *Dividends on common and preferred stock.* The provisions of this paragraph (b) apply to the payment of dividends on both preferred and common stock.

(2) *Net profits.* Net profits shall be equal to the net income or loss as reported by a state member bank in its Reports of Condition and Income. When computing its "net profits" under this section, a bank should not add its provisions for loan and lease losses to, nor deduct net charge offs from, its reported net income.

(3) *Approval of dividends.* A bank must request and receive the approval of the Board before declaring a dividend if the amount of all dividends (common

and preferred), including the proposed dividend, declared by the bank in any calendar year exceeds the total of the bank's net profits of that year to date combined with its retained net profits of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock. Requests for the Board's approval shall be submitted to its Federal Reserve Bank.

(4) *Effective date and transition provisions.*

(i) For the purpose of computing "net profits" pursuant to 12 U.S.C. 60, a state member bank must apply paragraph (b)(2) of this section no later than January 1, 1991. A bank may elect to use this paragraph (b)(2) to calculate net profits prior to January 1, 1991, if it applies this provision on a full calendar year to date basis.

(ii) Whether a bank chooses to use paragraph (b)(2) beginning as of January 1, 1990 or 1991, it may elect to apply the provision to recalculate retained net profits for one or both of the prior two years.

(iii) Once a bank has elected to calculate net profits or retained net profits for a particular year applying the provisions of paragraph (b)(2), retained net profits or net profits for all subsquent periods in the calculation must also be calculated using paragraph (b)(2). If a state member bank has elected to use paragraph (b)(2) for a particular year, the bank may not change the method of calculation used for that year during subsequent periods.

PART 208—[AMENDED]

PART 250—MISCELLANEOUS INTERPRETATIONS

1. The authority citation for part 250 continues to read as follows:

Authority: 12 U.S.C. 248(i).

§§ 250.101, 250.102, 250.103 Redesignated as 208.125, 208.126, and 208.127.

2. Sections 250.101, 250.102, and 250.103 are redesignated as §§ 208.125, 208.126, and 208.127 in part 208.

§ 250.104 [Removed]

3. Section 250.104 is removed.

Board of Governors of the Federal Reserve System, June 1, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-13613 Filed 6-12-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-81-AD]

Airworthiness Directive; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, which currently requires repetitive visual inspection for cracks and repair, if necessary, and modification, of the aft pressure bulkhead (Body Station 1183) web and strap. This action would add repetitive visual inspections of airplanes modified or repaired with blind fasteners. This proposal is prompted by reports of additional cracking in airplanes repaired or modified with blind fasteners. This condition, if not corrected, could result in rapid decompression of the airplane.

DATES: Comments must be received no later than August 6, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-81-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or argumnts as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-81-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On June 5, 1986, the FAA issued AD 86-02-06R1, Amendment 39-5331 (51 FR 21511, June 13, 1986), to require repetitive visual inspections for cracks of the aft pressure bulkhead (Body Station 1183) web and strap, and repair, if necessary. That action was prompted by reports of cracking of the web and strap. This condition, if not currected, could result in rapid decompression of the airplane.

Since issuance of that AD, the FAA has re-evaluated the fatigue life of repairs made using blind fasteners, and has determined that such repairs must be repetitively inspected for cracks and loose or missing fasteners to ensure continued airworthiness. The reduced fatigue life of repairs using blind fasteners could lead to fuselage skin cracks and subsequent cabin depressurization.

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-53A0171, Revision 2, dated December 14, 1989, which describes procedures for inspection of the BS 1183 pressure bulkhead web strap, repair of cracks, and modification; and procedures for inspection for and replacement of loose or missing blind fasteners.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 86-02-06 with a new airworthiness directive that would add a requirement to repetitively

inspect repairs that incorproate blind fasteners, in accordance with the service bulletin previously described.

Revision 2 of the Boeing service bulletin has been cited in the proposed rule as an additional service information source. However, the proposed rule deletes the phrase referring to the use of "* * * later FAA-approved revisions [of the applicable service bulletin]" in order to be consistent with FAA policy in that regard. Later revisions of the service bulletin may be approved as an alternate means of compliance with this AD, as provided by paragraph H.

There are approximately 1,110 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,150 airplanes of U.S. registry would be affected by this AD; of these, approximately 35 airplanes have been modified using blind fasteners and would require additional repetitive inspections in accordance with paragraph G. of this proposed AD. These additional inspections would take appropriately 6 manhours to accomplish, at an average labor charge of $40 per manhour. Based on these figures, the total cost impact of the additional proposed requirements of U.S. operators is estimated to be $8,400 per inspection cycle.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that the proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 86–02–06, Amendment 39–5222 (51 FR 3027, January 23, 1986), as amended by Amendment 39–5331 (51 FR 21511, June 13, 1986), with the following new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracks in the Body Station 1183 pressure bulkhead web and strap, accomplish the following:

A. For airplanes with 40,000 or more flight cycles on February 6, 1986 (the effective date of Amendment 39–5222), within the next 300 flight cycles, unless accomplished within the last 3,200 flight cycles, and thereafter at intervals not to exceed 3,500 flight cycles, inspect and repair, if necessary, in accordance with paragraph D., below.

B. For airplanes with 33,000 or more flight cycles and less than 40,000 flight cycles on February 6, 1986, within the next 1,500 flight cycles, unless accomplished within the last 2,000 flight cycles, and thereafter at intervals not to exceed 3,500 flight cycles, inspect and repair, if necessary, in accordance with paragraph D., below.

C. For airplanes with fewer than 33,000 flight cycles on February 6, 1986, prior to the accumulation of 30,000 flight cycles or within the next 3,500 flight cycles after February 6, 1986, whichever occurs later, and thereafter at intervals not to exceed 3,500 flight cycles, inspect and repair, if necessary, in accordance with paragraph D., below.

D. Accomplish a close visual inspection of the web in accordance with Figure 1 of Boeing Alert Service Bulletin 727–53A0171, Revision 1, dated January 17, 1986, or Revision 2, dated December 14, 1989. If cracks are detected, repair prior to further flight, in accordance with paragraph E. or F. of the Accomplishment Instructions of the service bulletin.

E. For airplanes repaired by installation of the doubler in accordance with Boeing Service Bulletin 727–53A0171, Original Issue, within the next 15,000 flight cycles after that repair, incorporate the vertical reinforcing strap and spacers described in paragraph F. of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0171, Revision 1, dated January 17, 1986, or Revision 2, dated December 14, 1989.

F. The following constitutes terminating action for the repetitive inspections required by paragraphs A., B., and C. of this AD:

1. The preventive modification described in paragraph D. of the Accomplishment Instructions in Boeing Alert Service Bulletin 727–53A–171, Revision 1, dated January 17, 1986, or Revision 2, dated December 14, 1989.

2. The repairs described in paragraphs E. and F. of the Accomplishment Instructions in Boeing Alert Service Bulletin 727–53A0171, Revision 1, dated January 17, 1986, or Revision 2, dated December 14, 1989.

G. For airplanes repaired with blind fasteners: Within 3,000 flight cycles after the effective date of this AD, and thereafter at intervals not to exceed 3,000 flight cycles, accomplish a visual inspection for cracks and loose or missing fasteners, in accordance with Boeing Alert Service Bulletin 727–53A0171, Revision 2, dated December 14, 1989. If cracks are detected, prior to further flight, repair in accordance with the service bulletin. If loose or missing fasteners are detected, prior to further flight, replace with protruding head solid fasteners. Replacement with protruding head solid fasteners constitutes terminating action for the repetitive inspections required by this paragraph.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–13633 Filed 6–12–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90-NM-71-AD]

Airworthiness Directives; McDonnell Douglas Models DC-9-81, DC-9-82, DC-9-83, and DC-9-87 Series Airplanes and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to McDonnell Douglas Models DC-9-81, -82, -83, and -87 series airplanes and Model MD-88 airplanes, which would require a one-time visual inspection of the engine forward mount cone bolts for the correct part number, and replacement, if necessary; and a revision to the maintenance program which provides for a visual inspection for and replacement of incorrect bolts at each engine change. This proposal is prompted by reports of the installation of incorrect engine forward mount cone bolts. This condition, if not corrected, could result in failure of the cone bolt, which could cause the engine to depart the aircraft during a hard landing, in the event of a sudden engine seizure, or during flight when high velocity vertical gust is encountered.

DATES: Comments must be received no later than August 6, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-71-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglass Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1-HCO (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Lee, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5325.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-71-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Recent reports from the manufacturer indicated that there have been instances where incorrect engine forward mount cone bolts were installed on McDonnell Douglas Model DC-9-80 series airplanes. The incorrect cone bolt incorporates a reduced diameter "shear section" between the threaded and conical surface of the bolt. This condition, if not corrected, could result in failure of the cone bolt, which could cause the engine to depart the aircraft during a hard landing, in the event of a sudden engine seizure, or during flight when high velocity vertical gust is encountered.

The FAA has reviewed and approved the McDonnell Douglas MD-80 Alert Service Bulletin A71-49, dated December 21, 1989, which describes procedures to inspect for and replace incorrect cone bolts at the left and right engine forward mount.

Since this condition is likely to exist or develop on other airplanes of this same type design, and AD is proposed which would require a one-time inspection for, and replacement of, incorrect cone bolts installed on the left and right engines of the McDonnell Douglas Models DC-9-80 series airplanes, in accordance with the service bulletin previously described. Due to the interchangeability of these bolts, this proposed rule would also require the incorporation of a revision to the FAA-approved maintenance program which provides instructions for inspection/replacement of incorrect bolts at each engine change.

There are approximately 831 Model DC-9-81, -82, -83, and -87 series airplanes, and Model MD-88 airplanes, of the affected design in the worldwide fleet. It is estimated that 397 airplanes of U.S. registry would be affected by this AD, that it would take approximately 0.8 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,704.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) Is not a "signficant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to Models DC-9-81, -82, -83 and -87 (MD-81, -82, -83, and -87) series airplanes, and Model MD-88 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the engine from departing the aircraft during a hard landing, in the event of a sudden engine seizure, or during flight when high velocity vertical gust is encountered, accomplish the following:

A. Within 30 days after the effective date of this AD, accomplish the following:

1. Perform a one-time visual inspection of both the left and right engine forward mount cone bolts for the correct part number, in accordance with McDonnell Douglas MD-80 Alert Service Bulletin A71-49, dated December 21, 1989. If the part number of the cone bolt is other than "Barry" part number K2219-9SA3, prior to further flight, remove and replace the bolt with a "Barry" part number K2219-9SA3 cone bolt.

2. Incorporate a revision into the FAA-approved maintenance inspection program which provides for a visual inspection of the engine forward mount cone bolts for "Barry" part number K2219-9SA3, at each engine change and, if incorrect bolts are found, replace with "Barry" part number K2219-9SA3 bolts before each engine installation.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directorate who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1-HCO (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on June 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-13634 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AAL-1]

Proposed Alteration and Establishment of VOR Federal Airways; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of VOR Federal Airways V-350, V-510, and Red Federal Airway R-50 and establish several VOR Federal airways and colored airways in the State of Alaska. These airway changes are the result of an ever increasing demand for navigable routes within the western portion of Alaska. The National Airspace System is the primary transportation link with the western portion of Alaska. The increasing growth in air taxi and commuter operations, along with projected air traffic increases for this region, mandates these changes. These actions would improve traffic flow in this area and reduce controller workload.

DATES: Comments must be received on or before July 25, 1990.

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Air Traffic Divison, AAL-500, Docket No. 90-AAL-1, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9245.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of Federal Airways V-350, V-510, and Red Federal Airway R-50; and establish Federal Airways V-385, V-459, V-496, Green Federal Airway G-15, and Blue Federal Airway B-3. These airways are located

in the State of Alaska. The primary transportation link between the isolated western portion of Alaska and the remainder of Alaska is via the National Airspace System. The commissioning and upgrading of several new NAVAID's brought about growth in air taxi and commuter operations in this region. As this trend is projected to continue, the demand for adequate navigable airspace mandates these changes. This action would improve existing routes within this region while providing additional routes to accommodate increasing air traffic. This action would reduce controller workload. Sections 71.103, 71.107, 71.109, and 71.125 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.103 [Amended]

2. Section 71.103 is amended as follows:

G-15 [New]

From St. Marys, AK, NDB, via Anvik, AK, NDB, to Takotna River, AK, NDB.

§ 71.107 [Amended]

3. Section 71.107 is amended as follows:

R-50 [Amended]

By removing the words "From Bishop, AK, NDB via" and substituting the words "From Nanwak, AK, NDB, via Oscarville, AK, NDB; Anvik, AK, NDB; Bishop, AK, NDB;"

§ 71.109 [Amended]

4. Section 71.109 is amended as follows:

B-3 [New]

From Aniak, AK, NDB, via Anvik, AK, NDB; North River, AK, NDB; Norton Bay, AK, NDB; Hotham, AK, NDB; to Noatak, AK, NDB.

§ 71.125 [Amended]

5. Section 71.125 is amended as follows:

V-350 [Amended]

By removing the words "to Bethel, AK." and substituting the words "Bethel, AK; Emmonak, AK; to Nome, AK."

V-385 [New]

From Hooper Bay, AK, via Emmonak, AK, to Unalakleet, AK.

V-459 [New]

From Emmonak, AK; to St. Marys, AK, NDB.

V-496 [New]

From Hooper Bay, AK, to St. Marys, AK, NDB.

V-510 [Amended]

By removing the words "From McGrath, AK," and substituting the words "From Emmonak, AK, via Anvik, AK, NDB; McGrath, AK,"

Issued in Washington, DC on June 6, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-13636 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AGL-8]

Proposed Alteration of Transition Area; Ludington, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Ludington, MI, transition area to accommodate a revised NDB Runway 25 Standard Instrument Approach Procedure (SIAP) to Mason County Airport, Ludington, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before July 25, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Asst. Chief Counsel, AGL-7, Attn: Rules Docket No. 90-AGL-8, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7899.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AGL-8". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket,

FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Ludington, MI. The present transition area is being modified to accommodate a revised NDB Runway 25 SIAP to Mason County Airport, Ludington, MI. The modification to the existing airspace would consist of a 3-mile width each side of the 067° bearing from the airport, extending from the 5-mile radius area to 8.5 miles northeast of the airport.

The revised procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rules requirements.

Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Ludington, MI [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mason County Airport (lat. 43°57'50"N., long. 86°24'31"W.); and within 3 miles each side of the 067° bearing from the airport extending from the 5-mile radius to 8.5 miles northeast of the airport.

Issued in Des Plaines, Illinois, on May 31, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90-13635 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3787-1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Revised Regulations Controlling Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions consist of revised volatile organic compound (VOC) emissions regulations applicable in the entire State of New Hampshire. The intended effect of this action is to propose approval of New Hampshire's revised VOC regulations to correct deficiencies in these regulations. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments must be received on or before July 13, 1990. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, room 2313, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region I, Room 2313, JFK Federal Bldg., Boston, MA 02203 and the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302-2033.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252; FTS 835-3252.

SUPPLEMENTARY INFORMATION: On November 21, 1989, the New Hampshire Air Resources Division (ARD) submitted revisions to its SIP. The revisions consist of revised volatile organic compound (VOC) emissions regulations in Chapter Env-A 1200 of New Hampshire's Administrative Rules Governing Air Pollution as well as other miscellaneous amendments to Chapters Env-A 100, 800, and 900 dealing with definitions, test methods, and recordkeeping requirements.

Background

In the **Federal Register** on November 24, 1987, EPA's Proposed Post-1987 Policy for Ozone and Carbon Monoxide stated that air quality monitors revealed continued exceedances of the ozone standard in New Hampshire and that a SIP call would be issued. (See 52 FR 45044.) A SIP call is a finding by EPA under section 110(a)(2)(H) of the Clean Air Act that the SIP is substantially inadequate to achieve an ambient standard, and thus amounts to a revocation (for certain purposes) of EPA's approval of the SIP and the attainment demonstration. Since publishing this notice, the review of data from air quality monitors in the State have revealed additional exceedances of the standard during 1987, 1988 and 1989. On May 25, 1988, EPA sent a letter

to John H. Sununu, Governor of New Hampshire, pursuant to section 110(a)(2)(H) of the Clean Air Act (CAA) as amended notifying him that the New Hampshire SIP was substantially inadequate to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the New Hampshire portion of the Boston-Lawrence-Salem Consolidated Metropolitan Statistical Area (CMSA), and in the New Hampshire portion of the Portsmouth-Dover-Rochester Metropolitan Statistical Area (MSA) plus the remaining portion of Strafford County. On November 8, 1989, EPA sent a letter to Judd Gregg, Governor of New Hampshire, pursuant to section 110(a)(2)(H) of the CAA as amended notifying him that the New Hampshire SIP was substantially inadequate to achieve the NAAQS for ozone in the Manchester MSA plus the remaining portion of Merrimack County and the remaining portions of Hillsboro and Rockingham Counties outside of the Boston-Lawrence-Salem CMSA. EPA requested the State to respond to the SIP calls in two phases—the first in the near future and the second following EPA's issuance of a final policy on how the States should correct their SIPs. The first phase of the response to the SIP call consists of (1) Correcting identified deficiencies in the existing SIP's VOC regulations, (2) adopting VOC regulations previously required or committed to but never adopted, and (3) updating the areas' base year emissions inventory.

On June 16, 1988, EPA sent a letter to the Director of New Hampshire's Department of Environmental Services' ARD outlining the corrections that needed to be made to New Hampshire's existing VOC regulations to eliminate the identified deficiencies and inconsistencies in the regulations as compared to EPA's national guidance. The revised VOC regulations submitted by New Hampshire on November 21, 1989 are in response to EPA's May 25, 1988, June 16, 1988, and November 8, 1989 letters.

Content of Revised Regulations

The New Hampshire ARD made the following changes to the regulations in Chapters Env-A 100, 800, 900, and 1200:

1. A definition of "Reasonably Available Control Technology" was adopted at Env-A 101.791.

2. The definition of "volatile organic compound" in Env-A 101.98 was amended to eliminate the vapor pressure cutoff.

3. Env-A 802.07 was amended to add EPA VOC test methods for surface coating and printing operations, fixed-roof storage tanks, gasoline loading terminals, petroleum refineries, cutback and emulsified asphalt, and solvent metal cleaning operations.

4. A methodology for obtaining approval of alternative methods was adopted at Env-A 804 and 1204.19.

5. Minor amendments were made in Env-A 901.02 entitled "General Recordkeeping Requirements" which require records on fuel utilization, process operations and emission data from various sources. Furthermore, VOC recordkeeping and continuous monitoring requirements were adopted in Env-A 901.021 for surface coating and printing operations, fixed-roof storage tanks, gasoline loading terminals, petroleum refineries, cutback and emulsified asphalt, and solvent metal cleaning operations.

6. VOC reporting requirements were adopted in Env-A 901.022 for surface coating and printing operations, fixed-roof storage tanks, gasoline loading terminals, petroleum refineries, cutback and emulsified asphalt, and solvent metal cleaning operations. Furthermore, requirements governing the destruction of records were adopted at Env-A 901.05.

7. The four new compounds EPA has listed as having negligible photochemical reactivity were added as exempt compounds in Env-A 1204.01, exempting them from VOC regulations for certain purposes. Furthermore, a statement was added in Env-A 1204.01 saying that exempt compounds cannot be included in any bubble allowed in Env-A 600.

8. Definitions of the following terms were added in Env-A 1204.02: (a) Coating; (b) coating line; (c) gasoline; (d) knife coating; (e) refinishing; (f) roll coating; and (g) rotogravure coating. Furthermore, the definition of "process category" in Env-A 1204.02 was deleted.

9. Minor amendments were made in Env-A 1204.03 entitled "Limits to Applicability" which states that if the combined emissions from all process operations in a facility equal or exceed 100 tons per year of VOC, the process is subject to the VOC regulations in Chapter Env-A 1200. This provision aggregates all lines and operations for each process.

10. Definitions of the following terms were added in Env-A 1204.04 (New Hampshire's can coating regulation): (a) End sealing compound; (b) exterior base coating; (c) interior base spray; (d) interior body spray; (e) overvarnish; (f) three-piece can side-seam spray; and (g) two-piece can exterior end coating.

11. Definitions of the following terms were added in Env-A 1204.05 (New Hampshire's paper, fabric, film and foil coating regulation): (a) Paper coating; and (b) fabric coating. A definition of vinyl coating was added in Env-A 1204.06 (New Hampshire's vinyl coating regulation).

12. Definitions of the following terms were added in Env-A 1204.07 (New Hampshire's metal furniture coating regulation): (a) Application area; and (b) metal furniture coating.

13. Definitions of the following terms were added in Env-A 1204.09 (New Hampshire's fixed-roof storage tank regulation): (a) Internal floating roof; and (b) true vapor pressure. Furthermore, various operational, monitoring and recordkeeping requirements from EPA's model regulation for fixed-roof storage tanks were added to Env-A 1204.09.

14. Definitions of the following terms were added in Env-A 1204.10 (New Hampshire's gasoline loading terminal regulation): (a) Bulk gasoline terminal; and (b) bulk gasoline plant. Furthermore, control technique and efficiency requirements as well as various operational requirements from EPA's model regulation for bulk gasoline terminals were added to Env-A 1204.10.

15. Definitions of the following terms were added in Env-A 1204.11 (New Hampshire's petroleum refinery regulation): (a) Accumulator; (b) condenser; (c) firebox; (d) forebays; (e) hot well; (f) petroleum refinery; (g) refinery fuel gas; (h) turnaround; (i) vacuum producing system; (j) vapor recovery system; and (k) waste water separator. Furthermore, various operational and recordkeeping requirements from EPA's model regulation for petroleum refineries were added to Env-A 1204.11.

16. Definitions of the following terms were added in Env-A 1204.12 (New Hampshire's cutback asphalt regulation): (a) Asphalt; (b) cutback asphalt; (c) emulsified asphalt; (d) medium curing cutback asphalt; and (e) penetrating prime coat. New Hampshire also limited the exception for the use of cutback asphalts in Env-A 1204.12(b)(3) to periods when the temperature is actually below 50°F.

17. Definitions of the following terms were added in Env-A 1204.13 (New Hampshire's solvent metal cleaning regulation): (a) Cold cleaning; (b) conveyorized degreasing; (c) freeboard height; (d) freeboard ratio; (e) open top

vapor degreasing; (f) solvent metal cleaning; and (g) refrigerated chiller. Furthermore, various operational requirements from EPA's model regulation for solvent metal cleaning were added to Env-A 1204.13.

18. Definitions of the following terms were added in Env-A 1204.14 (New Hampshire's miscellaneous metal parts and products coating regulation): (a) Air dried coating; (b) clean coating; (c) coating application system; (d) extreme environmental conditions; (e) extreme performance coatings; (f) heat sensitive material; (g) low solvent coating; (h) prime coat; (i) single coat; (j) topcoat; and (k) miscellaneous metal parts and products. Furthermore, the ARD clarified the applicability of the various emission limits in the regulation.

19. Definitions of the following terms were added in Env-A 1204.15 (New Hampshire's graphic arts regulation): (a) Flexographic printing; (b) packaging rotogravure printing; (c) publication rotogravure printing; (d) roll printing; and (e) rotogravure printing. Furthermore, additional emission limitations for low solvent inks and add-on control equipment, consistent with EPA guidance, were added to Env-A 1204.15.

20. Emission limitations in terms of pounds VOC/gallon of solids, equivalent to the corresponding limit in terms of pounds VOC/gallon of coating minus water, were added to each surface coating regulation (i.e., Env-A 1204.04, 1204.05, 1204.06, 1204.07, 1204.08, and 1204.14). Furthermore, a phrase was added to each surface coating regulation as well as the graphic arts regulation (i.e., 1204.015) which requires the applicable emission limitation to be met at all times.

21. Changes were incorporated into Env-A 1204.16 entitled "Alternative Control Methods" which require EPA approval for any facility utilizing an alternative compliance technique not specifically allowed by the regulations.

EPA's review of the SIP submittal indicates that New Hampshire has addressed all of the deficiencies and inconsistencies in the existing VOC regulations identified by EPA in its letters of May 25, 1988, June 16, 1988 and November 8, 1989. EPA has subsequently identified provisions in New Hampshire's VOC regulations which may be inconsistent with EPA guidance. EPA will work with ARD to address any such inconsistencies in the future. EPA is proposing to approve the New Hampshire SIP revisions containing the amendments in Chapters Env-A 100, 800, 900 and 1200 of New Hampshire's Administrative Rules Governing Air Pollution, which were submitted on November 21, 1989. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

EPA is proposing to approve the SIP revision of the revised VOC regulations for the State of New Hampshire. These revisions correct deficiencies in New Hampshire's VOC regulations identified to date by EPA.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642

Dated: June 4, 1990.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 90–13665 Filed 6–12–90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen Dkt. 90–56; DA 90–784]

Allocation of Spectrum for Mobile-Satellite Services in the 1530–1544 MHz and 1626.5–1645.5 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: At the request of the American Mobile Satellite Corporation, the Commission is extending the reply comment period in this proceeding from June 11, 1990, to July 9, 1990. This extension is being made so that complicated technical issues raised by the commenters may be fully addressed.

DATES: Reply comment period is extended to July 9, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Frequency Allocations Branch, Office of Engineering and Technology, (202) 653–8106.

SUPPLEMENTARY INFORMATION:

Order Granting Extension of Time

Adopted: June 4, 1990.
Released: June 6, 1990.
By the Chief Engineer:

1. The American Mobile Satellite Corporation (AMSC) has requested an extension of the reply comment period in the above proceeding. The current due date for reply comments is June 11, 1990. See Notice of Proposed Rule Making (Notice), GEN Docket No. 90–56, 5 FCC Rcd 1255 (1990). AMSC requests an extension to July 9, 1990.

2. As the basis for its request, AMSC cites the extensive technical arguments filed by two commenters. AMSC states that these comments address virtually every issue raised in the Notice, including the central issue of potential interference between the INMARSAT system currently operating in the subject bands and any future mobile satellite system(s) that might operate in these bands. According to AMSC, more time will be needed to fully address these comments and to provide the Commission with as complete a record as possible. Further, AMSC states that no other party to these proceeding objects to the extension of time.

3. The Commission desires as complete a record as possible prior to making a final decision in this matter.

The Commission believes that additional time for filing reply comments is appropriate in light of the nature of the comments filed and the complexity of the issues raised. Further, this extension of time will not impede our disposition of the proceeding. Accordingly, pursuant to authority found in section 4(i), 302, and 303 of the Communications Act of 1934, as amended, *It is ordered that* the reply period in this proceeding is extended to July 9, 1990.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 90-13619 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-284, RM-7224; RM-7301]

Radio Broadcasting Services; New Sharon and Albia, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on two mutually exclusive petitions for rule making. First Christian Reformed Church seeks the allotment of Channel 260C3 to New Sharon, Iowa, as the community's first local FM service. Channel 260C3 can be allotted to New Sharon in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.4 kilometers (10.8 miles) south to avoid a short-spacing to Station KFMH, Muscatine, Iowa, and Station KLYF, Des Moines, Iowa. The coordinates for this allotment are North Latitude 41-18-49 and West Longitude 92-40-20. H&H Broadcasting Corporation seeks the allotment of Channel 260C3 to Albia, Iowa, as its first local FM service. Channel 260C3 can be allotted to Albia, Iowa, without the imposition of a site restriction. The coordinates for Channel 260C3 at Albia are North Latitude 41-01-42 and West Longitude 92-48-12.

DATES: Comments must be filed on or before July 30, 1990, and reply comments on or before August 14, 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: Ronald Bogaards, Treasurer, First Christian Reformed Church, Corner Liberty and West Second, Box 44, Pella, Iowa 50219 (Petitioner for New Sharon) and David D. Oxenford, Esq., Matthew P. Zinn, Esq., Fisher, Wayland, Cooper & Leader, 1255—23rd Street NW., suite 800, Washington, DC 20037 (Counsel to H&H).

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. 90-284, adopted April 30, 1990, and released June 7, 1990. 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.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-13620 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 55, No. 114
Wednesday, June 13, 1990

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 8, 1990.

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

(1) Agency proposing the information collection; (2) title of the information collection; (3) form number(s), if applicable; (4) how often the information is requested; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Public Law 96–511 applies; (9) name and telephone number of the agency contact person.

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

Revision

• *Food and Nutrition Service*
Report of the Child and Adult Care Food Program
FNS–44
Monthly; Quarterly; Semi-annually
State or local governments; 1,584 responses; 4,752 hours; not applicable under 3504(h)
Alan Rich, (703) 756–3100

Extension

• *Economic Research Service*
Cotton Ginning Charges and Related Information
Annually
Businesses or other for-profit; 1,480 responses; 247 hours; not applicable under 3504(h)
Edward H. Glade, Jr., (202) 786–1840

New Collection

• *Food and Nutrition Service*
Impact Evaluation of Farmers' Market Coupon Demonstration Project
One time data collection
Individuals or households; Farms; Small businesses or organization; 3,140 responses; 537 hours; not applicable under 3504(h)
Carol Kelly, (703) 756–3133

• *Farmers Home Administration*
7 CFR 1940–S, Accountability Requirements of Persons Paid to Influence the Making of an FmHA Housing Loan and/or Grant
FmHA 1940–39, –40
Recordkeeping; On occasion; Quarterly
Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 1,350 responses; 2,508 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736.

Larry K. Roberson,
Acting Department Clearance Officer.

[FR Doc. 90–13671 Filed 6–12–90; 8:45 am]
BILLING CODE 3410-01-M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Correction notice.

SUMMARY: This is a correction to the notice with appeared in the March 14, 1990, **Federal Register** (55 FR 9476–9478). The notice stated that the newspaper providing notice of Wallowa-Whitman Forest Supervisor decisions was the Democrat Herald, Baker City, Oregon. The newspapers providing additional notice were: The Observer, La Grande, Oregon and Wallowa County Chieftain, Enterprise, Oregon. Newspaper providing notice of Hells Canyon National Recreation Area Ranger decisions was the Wallowa County Chieftain, Enterprise, Oregon. Newspapers providing additional notice was the Lewiston Morning Tribune, Lewiston, Idaho.

This correction will show that a notice of Wallowa-Whitman Forest Supervisor decisions would now be printed in the following newspapers:

Democratic Herald, Baker City, Oregon, for decisions occurring on the Baker, Pine, and Unity Ranger Districts;

The Observer, La Grande, Oregon, for decisions occurring on the La Grande Ranger District.

Wallowa County Chieftain, Enterprise, Oregon, for decisions occurring on the Wallowa Valley and Eagle Cap Ranger Districts.

Wallowa County Chieftain, Enterprise, Oregon, for decisions occurring on the Hells Canyon National Recreation Area in Oregon.

Lewiston Morning Tribune, Lewiston, Idaho, for decisions occurring on the Hells Canyon National Recreation Area in Idaho.

No newspapers would be listed for providing additional notice for Supervisor decisions.

This correction will show that a notice of Hells Canyon National Recreation Area Ranger decisions would now be printed in the following newspapers:

Wallowa County Chieftain, Enterprise, Oregon, for area ranger decisions occurring in Oregon.

Lewiston Morning Tribune, Lewiston, Idaho, for area ranger decisions occurring in Idaho.

No newspapers would be listed for providing additional notice for Hells Canyon National Recreation Area Ranger decisions.

FOR FURTHER INFORMATION CONTACT: Elton Thomas, Regional Appeals Coordinator, Pacific Northwest Region, P.O. Box 3623, Portland, OR 97208–3623, phone (503) 326–2322.

Dated: June 7, 1990.

Richard A. Ferraro,
Deputy Regional Forester.

[FR Doc. 90–13699 Filed 6–13–90; 8:45 am]
BILLING CODE 3410-11-M

Committee of State Foresters; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Committee of State Foresters will meet in Dry Branch,

Georgia, on July 13, 1990, from 8 a.m. to 12 p.m. The Committee is comprised of the seven members of the Executive Committee of the National Association of State Foresters. The purpose of the meeting is for the Committee to consult with the Secretary of Agriculture regarding the administration and application of various portions of the Cooperative Forestry Assistance Act of 1978. The Chief of the Forest Service will chair this meeting, which is open to public attendance; however, participation is limited to Forest Service personnel and Committee members. Persons who wish to bring cooperative forestry matters to the attention of the Committee may file written statements with the Executive Secretary of the Committee before or after the meeting.

DATES: The meeting will be held July 13, 1990.

ADDRESSES: The meeting will be held at the office of the Georgia Forestry Commission, 5845 Riggins Mill Road, Dry Branch, Georgia 31020–9699.

Send written comments to Allan J. West, Executive Secretary, Committee of State Foresters, c/o Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 447–6657.

FOR FURTHER INFORMATION CONTACT: Pam Godsey, Office of the Deputy Chief for State and Private Forestry, (202) 382–9043.

Dated: June 7, 1990.

Allan J. West,

Deputy Chief, State and Private Forestry.

[FR Doc. 90–13610 Filed 6–12–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Semiconductor Technical Advisory Committee; Closed Meeting

A meeting of the Semiconductor Technical Advisory Committee will be held, July 11, 1990, 9 a.m., Herbert C. Hoover Building, room 1092, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to semiconductors and related equipment or technology.

Agenda

General Session

1. Opening Remarks by the Chairman and Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Presentation by Semiconductor Equipment Manufacturers International on the CORE List.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs 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 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, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials or comments at least one week before the meeting to the address listed below:

Ms. Ruth D. Fitts, U.S. Department of Commerce/BXA, Office of Technology & Policy Analysis, 14th & Constitution Avenue, NW., room 4069A, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(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 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Dated: June 5, 1990.

Betty A. Ferrell,

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

[FR Doc. 90–13601 Filed 6–12–90; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 21–90]

Foreign-Trade Zone 65—Panama City, FL; Application for Extension, Berg Steel Pipe Corp., Zone Manufacturing Operation

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Panama City Port Authority, grantee of FTZ 65, Panama City, Florida, requesting an extension of authority on behalf of Berg Steel Pipe Corporation (BSPC) for its manufacturing operations at its steel pipe plant within FTZ 65. The application was formally filed on May 30, 1990.

The Board authorized the Port Authority to establish a foreign-trade zone in Panama City within its Port complex in 1981 (Board Order 171, 46 FR 8072, 1/26/81). The decision included authorization for BSPC's new steel pipe plant for five years, subject to extension. In 1987, the authority was extended to September 30, 1990 (Board Order 362, 52 FR 28713). The Port Authority is now requesting an indefinite extension.

BSPC is a producer of large diameter steel pipe with outer diameters of 24 to 72 inches, employing over 200 persons. In recent years, the plant has purchased over 65 percent of its carbon steel plate requirements from domestic sources. Some of the products are exported.

Zone procedures would exempt BSPC from duty payments on the foreign steel used in its exports. On its domestic sales, the company is able to choose the same duty rate available to importers of finished pipe (1.9%). The duty rate on steel plate is 6.0 percent The application indicates that the zone savings helps BSPC compete against imports of finished steel pipe and in foreign markets.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 99 SE. 5th Street, Miami, Florida 33131; and Colonel Larry S. Bonine, District Engineer, U.S. Army Engineer District Mobile, P.O. Box 2286, Mobile, Alabama 36628.

Comments concerning the proposed extension of authority are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address

below and postmarked on or before July 25, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 5321 W. Highway 98, Panama City, Florida 32401.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., room 2835, Washington, DC 20230.

Dated: June 6, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-13605 Filed 6-12-90; 8:45 am]
BILLING CODE 3510-DS-M

[Docket 22-90]

Foreign-Trade Zone—Akron-Canton, OH, Area Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Akron-Canton Regional Airport Authority, requesting authority to establish a general-purpose foreign-trade zone in the Akron-Canton, Ohio, area, within the Cleveland/Akron Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 1, 1990. The applicant is authorized to make the proposal under Ohio Revised Code, section 1743.11.

The proposed foreign-trade zone would be located within the 2121-acre Akron Canton Regional Airport on Lauby Road, North Canton, Ohio, some 10 miles south of Akron and 8 miles north of Canton. The land (3 parcels—110 acres) is owned by the Airport Authority, which plans to contract with a qualified operator for operation of the zone.

The application contains evidence of the need for zone services in the Akron-Canton area. Several firms have indicated an interest in using zone procedures for warehousing/distribution and testing such items as machinery and equipment, auto parts and accessories, plastics and plastics foam products, and saw blades and handsaws. No specific manufacturing approval is being sought at this time. Such requests would be made to the Board on a case-by-case basis. "

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of:

John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230;

John F. Nelson, District Director, U.S. Customs Service, North Central Region, 55 Erieview Plaza, Cleveland, Ohio 44114; and

Colonel Thomas E. Farewell, District Engineer, U.S. Army Engineer District Huntington, 502 8th Street, Huntington, West Virginia 25701-2070.

As part of its investigation, the examiners committee will hold a public hearing on June 28, 1990, beginning at 10 a.m. at the Stark Technical College, 6200 Frank Avenue, NW., room 1000, Canton, Ohio.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by June 21, 1990. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 30, 1990

A copy of the application is available for public inspection at each of the following locations:

U.S. Customs Service, 5590 Lauby Road, North Canton, Ohio 44720.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 6, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-13604 Filed 6-12-90; 8:45 am]
BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-331-601]

Certain Fresh Cut Flowers From Ecuador; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain fresh cut flowers from Ecuador. We preliminarily determine the total bounty or grant to be zero for two firms and 1.60 percent *ad valorem* for all other firms for the period October 27, 1986 through December 31, 1986, and zero for one firm and 2.77 percent *ad valorem* for all other firms for the period January 1, 1987 through December 31, 1987. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 1361) the final affirmative countervailing duty determination and countervailing duty order on certain fresh cut flowers from Ecuador. On January 28, 1988, the petitioner, the Floral Trade Council, requested an administrative review of the order. We published the initiation on March 2, 1988 (53 FR 6681). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has 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).

Imports covered by this review are shipments of Ecuadorian fresh cut miniature (spray) carnations, provided for during the review period under item 192.17 of the Tariff Schedules of the

United States (TSUS), and standard carnations, standard chrysanthemums and pompon chrysanthemums, provided for during the review period under item 192.21 of the TSUS. This merchandise is currently classifiable under HTS items 0603.10.30, 0603.10.70 and 0603.10.80. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive of the scope. Daisies are excluded from the scope of the countervailing duty order.

The review covers the period October 27, 1986 through December 31, 1987 and ten programs.

Analysis of Programs

(1) Tax Credit Certificates for Exports

Under the Agriculture and Livestock Development Law, the Government of Ecuador grants tax credit certificates (CATs) to companies that export non-traditional goods. Flower growers are eligible to receive a five percent tax credit. In certain instances, such as where access to foreign markets is especially difficult or new products are being introduced, the tax credit may increase to 12 percent. The actual tax credits are calculated as a percentage of the f.o.b. value of each export shipment and are expressed in sucres on the certificate, using the exchange rate in effect at the time the foreign currency derived from the export is delivered to the Central Bank. Once issued, the CATs may not be redeemed for a period of one year from the date of export. However, these certificates are negotiable and can be sold without any waiting period. Because the CATs are available only to exporters, we preliminarily determine that they are countervailable.

The tax credits are earned on an export-by-export basis at a uniform tax rate. Because the tax credit is not subject to alteration depending on the firm's ultimate tax liability, we measure the benefit based on the date of export.

The Ecuadorian government suspended this program effective August 12, 1986. We verified that the CATs recieved during the period of review were based on exports made prior to August 12, 1986, and that no CATs were issued on exports made on or after that date. Therefore, we preliminarily determine the benefit from this program to be zero for the period October 27, 1986 through December 31, 1986 and zero for the period January 1, 1987 through December 31, 1987.

(2) Loans under the Fund for the Development of Exportable Production

The Fund for the Development of Exportable Production ("FDEP"), under the Fondos Financieros program established by decree on April 12, 1973, provides short- and long-term loans to exporters to finance investments in new, or expansion of existing, companies that gear their production to exportation of non-traditional goods. Such loans are provided for up to seven years with grace periods of up to two years. In all instances, loan recipients must self-finance at least ten percent of the project. Where a loan greater than 3,000,000 sucres is sought, the recipient must self-finance at least 20 percent of the project. Because these loans are available only to exporters, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates.

a. Short-term FDEP Loans

The Department considers a short-term loan to mean a loan with a term of one year or less. One flower exporter received a fixed-rate working capital FDEP loan of 180 days for the cultivation and exportation of flowers that matured and on which interest was due during the review period. According to our short-term loan methodology, the benefit from a short-term loan arises at the time an interest payment is due.

Until August 1986, commercial credit for working capital was available in Ecuador at a maximum fixed rate of 23 percent. The maximum interest rate banks could charge for these commercial loans was set by the Monetary Board. Effective August 12, 1986, commercial rates became floating rates. Because information on floating rates for 180-day loans was not available for deriving a commercial benchmark during the review period, we are using as the best information available the rates for loans of up to two years, considered to be short-term in Ecuador, as published in IL&T Ecuador, International Corp., November 1987.

To calculate the benefit, we compared the rate of interest charged on this short-term FDEP loan with an average of the published rates charged on short-term commercial loans of up to two years during the review period and allocated the benefit from this loan over this company's total exports. We then weight-averaged the result over each company's share of exports of the subject merchandise to the United States, excluding one firm with a significantly different benefit, in accordance with 19 CFR 355.20(d). On this basis, we preliminarily determine the benefit from this loan to be zero for the period October 27, 1986 through December 31, 1986, and zero for Flores del Ecuador, S.A., and 1.25 percent *ad valorem* for all other firms for the period January 1, 1987 through December 31, 1987.

b. Long-term Loans

Four firms had fixed-rate FDEP loans with terms exceeding one year and with principal outstanding during the review period. Ordinarily, for long-term, fixed-rate loans we use as a benchmark other long-term, fixed-rate loans received at rates by the firms in the same year. As our benchmark for fixed-rate loans of one to two years, we are using the individual company's commercial interest rate for fixed-rate loans of one to two years, where such loans exist. For any company that did not receive one- to two-year commercial loans in the year they received the FDEP loans, we used as best information available the rates in the IL&T Ecuador for loans of one to two years.

Long-term commercial loans exceeding two years are uncommon in Ecuador. The predominant alternative source of financing available to the agricultural sector is financing under the Bonos de Fomento loan program. In our final determination on Certain Fresh Cut Flowers from Ecuador (52 FR 1361; January 13, 1987), we determined that Bonos de Fomento loans are not limited to a specific enterprise or industry, or group of enterprises or industries. We are, therefore, using the Bonos de Fomento fixed rates as our benchmark for long-term FDEP loans of two years or more.

To calculate the benefit, we found the difference between the annual amounts of principal and interest the firms actually paid and the anual amounts of principal and interest the firms would have paid if they had received the loans at our benchmark rates. We then calculated the "grant equivalent" of each loan by determining the present value (at the time the preferential loan was made) of these annual payment differentials that would occur during the life of the loan. Using our declining balance methodology with the long-term benchmarks as the discount rate, we allocated the grant equivalents over the life of each loan to yield the annual benefits. We then allocated the benefits from the loans over each company's total exports and weight-averaged the result by each company's share of exports of the subject merchandise to the United States, excluding one firm with a significantly different benefit. On this basis, we preliminarily determine

the benefit from long-term FDEP to be zero for Flores del Ecuador, S.A., and Empagri, S.A., and 1.60 percent *ad valorem* for all other firms for the period October 27, 1986 through December 31, 1986, and zero for Flores del Ecuador, S.A. and 1.34 percent *ad valorem* for all other firms for the period January 1, 1987 through December 31, 1987.

(3) FOPEX Export Credit

The Fund for the Promotion of Exports ("FOPEX") is a line of financing of the National Finance Corporation, a governmental financing source responsible for industrial development financing operations. FOPEX provides both short- and long-term credit. Because FOPEX loans are available only for export-related purposes, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates.

a. Short-term FOPEX Export Credit

Under FOPEX, the government grants short-term loans to promote the export of non-traditional goods through the financing of export transactions. Such loans are provided for up to 180 days, with interest due at maturity.

Two companies received short-term FOPEX loans in 1987 with interest due in 1988. Because no interest was due during the period of review, we preliminarily determine the benefit from this program to be zero for the period October 27, 1986 through December 31, 1986 and zero for the period January 1, 1987 through December 31, 1987.

b. Long-term FOPEX Loans

Flower exporters are eligible to receive loans of two years or more to finance fixed assets and invest in the expansion or modernization of existing firms in agriculture, agro-industry, and industrial sectors whose sales are destined for export. Interest is due every calendar quarter.

One firm received a long-term, variable-rate FOPEX loan with interest payments due in 1987. The loan was received in three disbursements in that year. We treated this variable-rate loan as a series of short-term loans.

Effective August 12, 1986, Monetary Board Regulation No. 463–87 authorized lending institutions to lend at variable interest rates on all loans of two years or more. To calculate the benefit from the long-term FOPEX loans, we used the Bonos de Fomento interest rate as our benchmark. We compared the benchmark rates to the preferential interest rates in effect for each FOPEX loan interest payment made during the review period and allocated the benefit over the company's exports to all markets. We than weight-averaged the results by each company's share of exports of the subject merchandise to the United States, excluding one firm with a significantly different benefit. On this basis, we preliminarily determine the benefit from this program to be zero for the period October 27, 1986 through December 31, 1986, and zero for Flores del Ecuador, S.A. and 0.18 percent *ad valorem* for all other firms for the period January 1, 1987 through December 31, 1987.

(4) Other Programs

We also examined the following programs and preliminarily determine that flower exporters did not use them:

1. Tax Deductions for New Investment.
2. Tax Holidays.
3. Tax Exemptions for Transfer of Real Estate.
4. Sales and Income Tax Exemptions.
5. Government Refinancing of Private Debt.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be zero for Flores del Ecuador, S.A., and Empagri, S.A., and 1.60 percent *ad valorem* for all other firms for the period October 27, 1986 through December 31, 1986, and zero for Flores del Ecuador, S.A. and 2.77 percent *ad valorem* for all other firms for the period January 1, 1987 through December 31, 1987.

Section 707 of the Tariff Act provides that the difference between the amount of a cash deposit, or the amount of any bond or security, for an estimated countervailing duty in the preliminary determination in the investigation and the duty determined under a countervailing duty order shall be disregarded to the extent that the estimated duty is lower than the duty determined under the order, which was published on January 13, 1987. The rate in our preliminary determination (51 FR 37931; October 27, 1986) was 1.32 percent *ad valorem*.

Therefore, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from Flores del Ecuador, S.A., and Empagri, S.A., and to assess countervailing duties of 1.32 percent of the f.o.b. invoice price on shipments of this merchandise from all other firms entered, or withdrawn from warehouse, for consumption on or after October 27, 1986 and exported on or before December 31, 1986. Further, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from Flores del Ecuador, S.A. and to assess countervailing duties of 1.32 percent of the f.o.b. invoice price on shipments of this merchandise from all other firms exported on or after January 1, 1987 and on or before January 12, 1987. The Department further intends to instruct the Customs Serivce to liquidate, without regard to countervailing duties, shipments of this merchandise from Flores del Ecuador, S.A. and to assess countervailing duties of 2.77 percent of the f.o.b. invoice price on shipments of this merchandise from all other firms exported on or after January 13, 1987 and on or before December 31, 1987.

As provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties on shipments of this merchandise from Flores del Ecuador, S.A. and to collect a cash deposit of 2.77 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Parties to the proceeding may request disclosure of the calculations methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with § 355.38(e) of the Commerce regulations. Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing. 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 19 CFR 355.22.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

Dated: June 4, 1990.

[FR Doc. 90–13606 Filed 6–12–90; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 90521-0101]

RIN No. 0693-AA70

Proposed Federal Information Processing Standard (FIPS); POSIX Shell and Utility Application Interface for Computer Operating System Environments

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: This proposed Federal Information Processing Standard (FIPS) will adopt Draft 9 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for POSIX Shell and Utility Application Interface for Computer Operating System Environments (IEEE 1003.2/POSIX Shell and Utilities) on an interim basis. IEEE 1003.2/Draft 9 defines a command language interpreter and a set of utility programs. It is for use by computing professionals involved in system and application software development and implementation is part of a series of specifications needed for application portability. This proposed standard addresses the operating systems functional areas of the Applications Portability Profile that was announced in FIPS 151-1, POSIX. This proposed FIPS supersedes the Proposed FIPS for POSIX Shell and Tools: Shell and Application Utility Interface for Computer Operating System Environments announced in the **Federal Register** (54 FR 24375) of June 7, 1989.

Prior to the submission of this proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

The proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the technical specifications (IEEE 1003.2/Draft 9) from the IEEE Service Center, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855-1331, telephone 1-800-678-4333, FAX No 201-981-9667.

DATES: Comments on this proposed FIPS must be received on or before September 11, 1990.

ADDRESSES: Written comments concerning the proposed FIPS should be sent to: Director, National Computer Systems Laboratory, ATTN: Proposed FIPS for POSIX Shell and Utilities, Technology Building, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. D. Richard Kuhn, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975-3337.

Dated: June 6, 1990.

John W. Lyons,

Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

(date)

Announcing the Standard for: POSIX Shell and Utility Application Interface for Computer Operating System Environments

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100-235.

Name of Standard. POSIX Shell and Utility Application Interface for Computer Operating System Environments.

Category of Standard. Software Standard, Operating Systems.

Explanation. This publication announces the adoption of Draft 9 of the Institute of Electrical and Electronics Engineers (IEEE) Standard for Shell and Utility Application Interface for Computer Operating System Environments (IEEE 1003.2/POSIX Shell and Utility Application Interface for Computer Operating System Environments) as a Federal Information Processing Standard (FIPS) on an interim basis. This standard is not compulsory and binding for Federal agency use. IEEE 1003.2/Draft 9 defines a command language interpreter and a set of utility programs. This standard is for use by computing professionals involved in system and application software development and implementation and is part of a series of specifications needed for application portability. This standard addresses the operating systems functional area of the Applications Portability Profile that was announced in FIPS 151-1 (POSIX). When the final version of IEEE 1003.2 is completed, this standard will be revised to adopt the approved specifications.

Approving Authority. Secretary of Commerce.

Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology, National Computer Systems Laboratory.

Cross Index. The Institute of Electrical and Electronics Engineers Standard for Shell and Utility Application Interface for Computer Operating System Environments, IEEE 1003.2/Draft 9 (POSIX Shell and Utility Application Interface for Computer Operating System Environments).

Related Documents. a. Federal Information Resources Management Regulation 201-39, Acquisition of Federal Information Processing Resources by Contracting.

b. FIPS 151-1, POSIX: Portable Operating System Interface for Computer Environments.

Objectives. This FIPS permits Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of this FIPS are:

a. Promote portability of computer application programs at the source code level.

b. Simplify computer program documentation by the use of a standard portable system interface design.

c. Reduce staff hours in porting computer programs to different vendor systems and architectures.

d. Increase portability of acquired skills, resulting in reduced personnel training costs.

e. Maximize the return on investment in generating or purchasing computer programs by insuring operating system compatibility.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard specifications.

Applicability. The FIPS should be used for command language interpreters and utilities that are either developed or acquired for Government use where POSIX-like interfaces are required. This FIPS is applicable to the entire range of computer hardward, e.g.:

a. Micro-computer systems.
b. Mini-computer systems.
c. Workstations.
d. Mainframes.

Specifications. The specifications for this FIPS are the specifications contained in the Institute of Electrical and Electronics Engineers Standard for Shell and Utility Application Interface for Computer Operating System Environments, IEEE 1003.2/Draft 9 (Shell and Utility Application Interface for Computer Operating System Environments) as modified below. IEEE 1003.2/Draft 9 defines a command language interpreter and a set of utility programs. IEEE 1003.2/Draft 9 refers to and is a complement to IEEE Standard 1003.1–1988, POSIX.

Draft 9 of IEEE 1003.2 has not been approved as an IEEE standard. It is anticipated that the final version of IEEE 1003.2 will modify definitions of features and utilities specified in Draft 9. To minimize the impact of changes between Draft 9 and the final version of IEEE Standard 1003.2 certain features and utilities are not required by this FIPS. This FIPS makes the following modifications to IEEE Standard 1003.2, Draft 9:

1. Support for regular expressions is not required for LC_RESPONSE (2.6.1).

2. The shell specifications (chapter 3) are modified as follows:

a. Precedence of && and || may be equal;

b. Arithemtic expressions, $[expr] are not required;

c. The implementation is not required to support § 3.8.7.

d. Section 3.13 (BNF for the Shell) may be ignored.

e. Functions are not required.

f. Function option "−f" for the unset, readonly and export commands is not required;

g. The "local" command (3.15.9) is not required.

h. If no arguments are given for export (3.15.8), the shell is required to write names of exported variables to standard output, but is not required to write their values.

i. If no arguments are given for readonly (3.15.10), the shell is required to write names of variables with the readonly attribute to standard output, but is not required to write their values.

j. Add '?' to the list of pattern matching characters that do not match a '/' or a '.' as the first characters of a path component.

3. The awk utility (4.1, and the expr utility (4.23) are required to support regular expressions but are not required to support extended regular expressions.

4. The bc utility (4.3) is not required to support the syntax specified by the BNF in § 4.3.7.

5. The −c option of the cat utility (4.4) is not required.

6. The cksum utility (4.9) is not required.

7. The command utility (4.12) shall be implemented as a special builtin, but is not required to be provided as a standalone utility.

8. The create utility (4.14) is not required.

9. The -print operand of the find utility (4.25) is not assumed unless it is explicitly specified. (see lines 3738–3739).

10. For the expr utility (4.23), the precedence of a parenthesized expression (lines 3497–3499) shall be greater than that of expr1:expr2 (lines 3518–3529) and less than that of integer–operand (lines 3530–3531).

11. The −b option of the fold utility (4.26) is not required.

12. The hexdump utility (4.31) is not required.

13. The locale utility (4.36) is not required.

14. The localedef utility (4.37) is not required.

15. The sendto utility (4.55) is not required.

16. The "−s" option of the tr utility (4.64) is not required to operate as specified in IEEE 1003.2/Draft 9.

17. The wordexp/wordfree functions (B.9, C Language Bindings Option) are not required.

18. The yacc utility (A.3, C Language Development Utilities Option) is required to process LALR(1) grammars, but is not required to process at LR (1) grammars.

Recommendations. Users of this standard should be aware that it does not require the Shell and Utility Application Inerface for Computer Operating System Environments interface to be implemented on a FIPS 151–1 conforming implementation. Users should also be aware that certain utilities and functions are optional in IEEE Standard 1003.2. To provide the greatest support for application portability, it is recommended that an implementation conforming to this FIPS also provide the following features:

1. A FIPS 151–1 conforming applications interface.

2. Software Development Utilities Option (chapter 6), when software will be developed on the systems being acquired.

3. C Language Development Utilities Option (Annex A), where software will be developed in C on the systems being acquired.

4. C Language Bindings Option (Annex B).

5. FORTRAN Development Utilities Option (Annex C), where software will be developed in FORTRAN on the systems being acquired.

Implementation. This standard is effective 6 months after publication of the final document in the **Federal Register**. The other elements identified in the Appendix should be considered in planning for future procurements.

a. Acquisition of a Conforming Portable Shell and Utility Application Interface. Organizations developing applications which are to be acquired after the publication date of this standard and which have applications portability as a requirement should consider the use of this FIPS. Conformance to this FIPS should be considered whether the operating system environments are:

1. Developed internally,

2. Acquired as part of an ADP system procurement,

3. Acquired by separate procurement,

4. Used under an ADP leasing arrangement, or

5. Specified for use in contracts for programming services.

b. Interpretation of the FIPS for Shell and Utility Application Interface. NIST provides for the resolution of questions regarding the FIPS specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this FIPS should be addressed to: Director, National Computer Systems Laboratory, Attn: Interpretation for POSIX Shell and Utilities, National Institute of Standards and Technology, Gaithersburg, MD 20899.

c. Validation of Conforming Operating Systems Environments. NIST is developing cooperatively with industry a validation suite for measuring conformance to this standard. This suite will be required for testing conformance of POSIX Shell and Utility implementations. These testing requirements will be announced at a future date.

[FR Doc 90–13647 Filed 6–12–90; 8:45 am]
BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Gulf of Mexico Fishery Management Council

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

ACTION: Notice of public hearings, change of date for receiving comments.

SUMMARY: This document changes the closing date for receiving comments by the Gulf of Mexico Fishery Management Council (GMFMC) on proposed Amendment 1 to the Coral and Coral Reefs of the Gulf of Mexico and South Atlantic Fishery Management Plan that was published May 17, 1990 (55 FR 20509). All other information, as published, remains the same.

DATE: The GMFMC will accept written comments through July 3, 1990.

FOR FURTHER INFORMATION CONTACT: Terry Leary, GMFMC, (813) 228-2815.

Dated: June 7, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-13642 Filed 6-12-90; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold a Fishermen's Forum on June 18, 1990, at 2 p.m., at the Ala Moana Hotel, Garden Lanai, 410 Atkinson, Honolulu, HI. The Council will take public comments during the forum and also during the Council's public meeting, scheduled for June 18 and 20, also at the Ala Moana Hotel. The public also may submit written responses to the Council at the Council's address (below).

Topics to be discussed at the forum will include: (1) Establishing overfishing definitions for the Precious Corals and Bottomfish Fishery Management Plans' amendments; (2) the status of the fisheries in the Western Pacific; (3) recommendations to the Council by the Pelagics Plan Monitoring Team regarding federal permits and logbook requirements for longliners; (4) gear conflicts in Hawaiian waters; (5) limiting access in the Northwestern Hawaiian Islands lobster fishery and (6) other issues.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: June 7, 1990.

David S. Crestin,

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

[FR Doc. 90-13608 Filed 6-12-90; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council and its Standing Committees will hold public meetings on June 18-20, 1990, at the Ala Moana Hotel, Garden Lanai, 410 Atkinson, Honolulu, HI. On June 18 and 20 the Council will begin meeting at 9 a.m. On June 19 the Council's Committees will begin meeting at 8 a.m.

At its 69th meeting, the Council will hear fisheries reports from islanders and government fisheries representatives from American Samoa, Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands. The status of fishery management plans (FMPs) covering crustaceans, bottomfish, pelagics, and precious corals will be discussed.

The Council also will discuss, and take action as appropriate, on the following: (1) The bottomfish draft annual report; (2) the bottomfish draft overfishing amendment; (3) the precious corals draft amendment # 2, including a discussion of overfishing; (4) a report on the potential for developing a limited access program in the crustacean fisheries; (5) a draft report on Hawaiian Native rights; (6) Federal permit and logbook requirements for longliners; (7) a cut-off date, in the event that entry into the longline fishery is limited, taking into consideration current and past participants in the fishery; (8) measures for protected species; (9) the status of a proposal to make reporting of all catches of billfish and associated species, a Federal government requirement; (10) long-range planning; (11) administrative matters, and other business.

Reports from the Council's Standing Committees also will be discussed (fishery rights of indigenous people; ecosystems and the habitat, enforcement, executive, budget, and program reports).

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: June 7, 1990.

David S. Crestin,

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

[FR Doc. 90-13609 Filed 6-12-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

June 6, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as recent consultations held between the Governments of the United States and the Federative Republic of Brazil have not resulted in a mutually satisfactory solution for Categories 351/651, the United States Government has decided to control imports in these categories for the prorated period May 24, 1990 through March 31, 1991.

The United States remains committed to finding a solution concerning Categories 351/651. Should such a solution be reached in further consultations with the Government of the Federative Republic of Brazil, further notice will be published in the **Federal Register.**

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 54 FR 50797, published on December 11, 1989). Also see 55 FR 12401, published on April 3, 1990.

Dated: June 6, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 6, 1990.

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 March 27, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the period which began on April 1, 1990 and extends through March 31, 1991.

Effective on June 13, 1990 the directive of March 27, 1990 is amended to amend the current restraint period for Categories 351 and 651 to end on May 23, 1990 and to establish a limit of 108,295 dozen for merged Categories 351/651 for the new period beginning on May 24, 1990 and extending through March 31, 1991. Textile products in Categories 351/651 shall remain subject to the group limit.

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,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-13602 Filed 6-12-90; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Arab Emirates

June 6, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: June 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On March 31, 1990, the Government of the United States requested consultations with the Government of the United Arab Emirates regarding textile products in Categories 351/651, produced or manufactured in the United Arab Emirates.

The United States Government has decided to establish a twelve-month limit on Categories 351/651 for the period March 31, 1990 through March 30, 1991.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the United Arab Emirates, further notice will be published in the **Federal Register.**

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 54 FR 50797, published on December 11, 1989). Also see 55 FR 14849, published on April 19, 1990.

Dated: June 6, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 6, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 13, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in the United Arab Emirates and exported during the period which began on March 31, 1990 and extends through March 30, 1991, in excess of 37,619 dozen.[1]

[1] The limit has not been adjusted to account for any imports exported after March 31, 1990.

Textile products in Categories 351/651 which have been exported to the United States prior to March 31, 1990 shall not be subject to the limit established in this directive.

Textile products in Categories 351/651 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Import charges will be provided as data become available.

The Committeee for the Implementation of Textile Agreements has determined that this action falls with the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-13603 Filed 6-12-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Raystown Lake Reallocation in Huntingdon County, PA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Baltimore District, U.S. Army Corps of Engineers is investigating the feasibility of reallocating existing flood control storage and/or conservation storage to water supply storage at Raystown Lake. Raystown Lake is located on the Raystown Branch of the Juniata River in Huntingdon County, Pennsylvania. A feasibility study of the proposed action is being conducted under authority of the Water Supply Act of 1958, the Flood Control Act of 1970, and the Water Resources Development Act of 1986. The Susquehanna River Basin Commission (SRBC) is the non-Federal sponsor for the feasibility phase of the reallocation study.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Ms. Claire O'Neill, Project Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-PL-B, P.O. Box 1715, Baltimore, Maryland 21203-1715, telephone (301) 962-4958.

SUPPLEMENTARY INFORMATION: 1. Raystown Lake is located on the Raystown Branch about 5.5 miles

upstream from its confluence with the Juniata River and 92 miles upstream from the confluence of the Juniata and the Susquehanna River. It is located in south-central Pennsylvania in Huntingdon County, near the Borough of Huntingdon. The dam was completed in 1973, and it is operated by the Corps of Engineers. The dam controls 960 square miles of drainage and is authorized to provide flood control, recreation, as well as, conservation and mitigation of fisheries and wildlife. Raystown Lake extends 27 miles, covers 8,300 acres, and is maintained at an elevation of 786 feet msl throughout the year. The 21,000 acres of project lands provide a diversity of habitats including steeply-sloped oak-hickory forests, ravines and meadows. Wetlands have become established in low-lying coves due to the constant lake level. This setting provides a variety of recreational opportunities at 13 public use areas developed along the lake and downstream of the dam on the Raystown Branch. Facilities include a resort lodge, restaurants, marinas, campgrounds, picnic areas, boat launches and hiking trails. A 2,470-acre area at the Backbone Ridge embayment is designated as mitigation land and is managed by the Pennsylvania Game Commission.

2. The State of Maryland has expressed concerns regarding low flows in the Susquehanna River downstream of the Conowingo Dam. Low flow concerns include water supply, fisheries resources, and water quality. The proposed action consists of reallocating the existing flood control and/or conservation storage to water supply storage. The water supply storage may be purchased by downstream municipal and industrial users to satisfy demand.

3. The Raystown Lake Reallocation Feasibility Study will investigate a range of storage reallocation alternatives including:

(a) No action.

(b) Reallocation of the present conservation storage to water supply. No increase in pool elevation is proposed in this alternative, but water supply releases with some lake drawdowns are expected to occur during low flow periods. A maximum drawdown of 150,000 acre-feet (20 vertical feet) and intermediate levels such as 100,000 acre-feet, 50,000 acre-feet, and 25,000 acre-feet will be investigated during the study.

(c) Reallocation of the flood control storage and conservation storage to water supply. This alternative calls for an increase in the pool elevation to a maximum of 2 feet, with water supply releases and some lake drawdowns expected to occur during low flow periods. A maximum drawdown of 167,000 acre-feet (22 vertical feet) and intermediate levels such as 100,000 acre-feet, 50,000 acre-feet, and 25,000 acre-feet will be investigated during the study. At the maximum increase in elevation, the lake will have an additional 190 acres of surface area.

The feasibility study will evaluate the beneficial and adverse impacts of storage reallocation and water supply releases.

4. The Baltimore District is preparing a Draft Environmental Impact Statement (DEIS) which will describe the impacts of the proposed action on the environmental, cultural, and recreational resources in the study area, as well as the existing level of flood protection. The overall public interest will also be addressed. If applicable, the DEIS will also apply guidelines issued by the Environmental Protection Agency, under authority of Section 404(b)(1) of the Clean Water Act of 1977 (Public Law 95–217).

5. The public involvement program will include coordination and meetings with interested private individuals and organizations, as well as concerned Federal, State, and local agencies. A public notice requesting comment on the proposed project and DEIS will be provided to appropriate agencies and the public. A scoping meeting is not planned at this time. The Baltimore District invites potentially affected Federal, State, and local agencies, and other interested organizations and parties to participate in this study. Agencies that will be involved in the feasibility study and EIS process include, but are not limited to, the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, U.S. Geological Survey, U.S. Soil Conservation Service, National Park Service, Pennsylvania Department of Environmental Resources, Pennsylvania Fish Commission, Pennsylvania Game Commission, Pennsylvania Historical and Museum Commission, the Susquehanna River Basin Commission, and the Maryland Department of Natural Resources.

6. The DEIS is tentatively scheduled to be available for public review in November 1992.

Frank R. Finch,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 90–13639 Filed 6–12–90; 8:45 am]

BILLING CODE 3710–41–M

Corps of Engineers, Department of the Army, 3710–FS

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Dredging of the Oakland Inner Harbor, Phase I, Alameda County, CA, Regulatory Permit Application No. 17817E35A

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Port of Oakland has requested a modification of Regulatory Permit No. 17817E35A. The existing permit authorizes the Port of Oakland to dredge the Oakland Inner Harbor to −38 feet MLLW and to dredge a 1,100 feet diameter turning circle within the Inner Harbor. This modification would include new disposal alternatives discussed under Supplementary Information of this Notice. The permit application will be processed by the Regulatory Branch of the San Francisco District, and the scoping process and preparation of the Draft EIS will be conducted by the Environmental Branch of Planning/Engineering Division of the San Francisco District.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the draft EIS may be directed to Mr. Roderick Chisholm at the Corps (Telephone (415) 744–3032), or Ms. Loretta Meyer at the Port (415) 272–1181). Questions about processing of the permit application may be directed to Peter Straub, Regulatory Branch (Telephone (415) 744–3325).

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps of Engineers (Corps) has received an application for modification of a Department of the Army permit from the Port of Oakland (Port). The existing permit authorizes the Port to deepen by dredging the Oakland Inner Harbor Channel to −38 feet MLLW, and to dredge a 1,100 feet diameter turning circle within the Inner Harbor at the eastern terminus of the project area. Under the existing permit, the Port may dispose of the dredged material at an unconfined ocean disposal site approximately 12 nautical miles offshore of the San Mateo County Coast. The application for permit modification seeks to modify the disposal location. A number of locations and uses are under consideration for disposal of the dredged material. The permit application will be processed by the Regulatory Branch of the San Francisco District, Corps of Engineers pursuant to

section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and potentially section 404 of the Clean Water Act of 1977 (33 U.S.C. 1344) and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401) depending upon the selected disposal option.

The purpose of the proposed project is to provide an adequate channel and turning circle of sufficient width and depth for deep-draft third generation as well as C-10 (fourth generation) containerships that began using the Oakland Inner Harbor in early June, 1988.

In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Corps has determined that the proposed action may have a significant impact on the quality of the human environment and therefore requires the preparation of an Environmental Impact Statement (EIS). A combined EIS/EIR (Environmental Impact Report) will be prepared with the Corps as the Federal lead agency and the Port as the lead agency for the EIR.

2. Alternatives

The project alternatives under consideration area:

a. Proposed Dredging Action

The project consists of dredging the Inner Harbor Channel and a 1,100 feet diameter turning circle to a depth of −38 feet MLLW, plus one (1) foot of overdepth dredging. Approximately 440,000 cubic yards of sediments would be removed. The dredging portion of the project is already permitted by the Corps. The sediments would be disposed by one or more of the following actions:

(1) Use of the dredged material for creation of wetlands on subsided land in Sonoma County (Sonoma Baylands) near the mouth of the Petaluma River;

(2) Use of the material to create impermeable layers between landfill deposits and groundwaters and surface waters at the Redwood Sanitary Landfill in Marin County;

(3) Use of the material to reinforce existing levees on Chipps Island in Solano County;

(4) Disposal of the material on upland property owned by the Port in Alameda County;

(5) Disposal at a confined aquatic disposal site in San Francisco Bay in Alameda County;

(6) Disposal at the Alcatraz aquatic dredged material disposal site in Central San Francisco Bay in San Francisco County;

(7) Use of the material for levee reinforcement in the San Joaquin-Sacramento River Delta. Disposal of the material behind existing levees on Twitchell Island in Sacramento County and Lower Jones Tract in San Joaquin County, was the subject of a Supplemental Environmental Impact Report prepared by the Port. This disposal alternative has been set aside due to the time and costs that would be associated with complying with permit conditions of the Central Valley Regional Water Quality Control Board and the respective counties.

(8) Disposal at an ocean disposal site, including sites referred to as B1B and 1M. Disposal at the B1B site has been permitted by the Corps with respect to portions of the material, but the California State Superior Court has entered a preliminary injunction restraining the Port from proceeding with disposal at the permitted site until the Port applies and secures from the California Coastal Commission a determination of consistency under the Coastal Zone Management Act. Due to the urgency of completing the Phase I dredging project, the public controversy surrounding disposal at the B1B site, and the uncertainties of the consistency determination process, the Port is considering implementation of other disposal options;

(9) Other actions that are identified as feasible for disposal during the public scoping process.

b. No Action Plan

Under this plan, which is equivalent to permit denial by the Corps, no action could be taken by the Port to deepen the Inner Harbor Channel and turning circle, except in accordance with the existing Corps permit.

3. Scoping Process

Pursuant to the National Environmental Policy Act, as amended, agency planning for federal of federally permitted projects must include a "scoping" process. Scoping primarily involves determining the scope of issues to be addressed, and identifying the significant issues for in-depth analysis in the draft EIS. The scoping process includes public participation to integrate information regarding public needs and concerns into the environmental document.

The Corps and the Port will hold a public scoping meeting on June 27, 1990 at 7 p.m. at the Port of Oakland Board Room, 530 Water Street, Oakland, CA 94604. A formal presentation will precede the request for public comment. Representatives from the Corps of Engineers and the Port will be available at this meeting to receive comments from the public regarding issues of concern that should be addressed in the environmental document.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, the scoping comments should clearly describe specific environmental issues or topics which the commentor believes the document should address. Written statements should be mailed no later than July 11, 1990 to the District Engineer, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105.

a. Significant Issues

The following issues have been identified as significant and they will be analyzed in the draft EIS:

(1) Surface and ground water quality
(2) Air quality
(3) Biological resources
(4) Commercial and sport fisheries
(5) Commercial navigation
(6) Other uses of the potential disposal sites
(7) Sediment quality

b. Environmental Requirements

Environmental review and other consultation requirements applicable to the proposed action include:

(1) National Environmental Policy Act, as amended
(2) Marine Protection, Research and Sanctuaries Act
(3) Clean Water Act, as amended
(4) Clean Air Act, as amended
(5) Endangered Species Act, as amended
(6) Fish and Wildlife Coordination Act
(7) Coastal Zone Management Act
(8) California Environmental Quality Act

4. Availability of EIS

The Draft EIS will be available for public review in February 1991.

Stanley G. Phernambucq,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 90-13638 Filed 6-12-90; 8:45 am]

BILLING CODE 3710-FS-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 90-1]

Qualifications and Training of Reactor Plant Operators and Supervisors for the Savannah River Site, SC

AGENCY: Defense Nuclear Facilities, Safety Board.

ACTION: Notice of public hearing.

PURPOSE: The Board invites any interested persons or groups to present any comments, technical information, or data concerning the qualification and training of reactor plant operators and supervisors at the Savannah River Site, South Carolina.

SUMMARY: The Defense Nuclear Facilities Safety Board will hold a hearing to receive public comments on its Recommendation 90-1, and the Secretary of Energy's response, pertaining to the qualifications and training of reactor plant operators and supervisors for the Savannah River reactors. The Board's Recommendation, and the Secretary of Energy's response, are published in the Federal Register issues of February 28, 1990, (55 FR 7022-7023) and April 13, 1990, (55 FR 13939-13943).

This hearing is independently authorized by 42 U.S.C. 2286d(b)(4) and 42 U.S.C. 2286b.

DATES: The public hearing will be held on June 28, 1990, beginning at 5:30 p.m. and ending at 10 p.m. unless concluded earlier.

ADDRESSES: The public hearing will be held at The Conference Center (municipal auditorium), 214 Park Avenue SW., Aiken, South Carolina. The entrance to the facility is located at 215 The Alley. Requests to speak at the hearing are to be submitted to Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 600 E Street, NW., suite 675, Washington, DC 20004. Copies of the Recommendation and response may be reviewed in DOE's depository library public reading room at the Gregg-Granite Library, 171 University Parkway, University of South Carolina, Aiken, SC, 29801, and at other DOE depository libraries throughout the country.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager at 202/376-5083 (FTS 376-5083).

SUPPLEMENTARY INFORMATION: Any individual who has an interest in the Recommendation or the response referred to in the Summary section of this notice, or who is a representative of a group which has such interest, is invited to comment. Interested persons may request an opportunity to make an oral presentation at the hearing. The Secretary of Energy is being requested to send a representative(s) and provide information regarding the Secretary's response to the Board's recommendation.

All requests to speak at the hearing shall be submitted in writing, shall describe the nature and scope of the oral presentation, and shall be transmitted in time to assure receipt by the General Manager by 5 p.m. on June 26, 1990. The length of the oral statement shall be limited to 10 minutes.

Anyone who wishes to comment may do so in writing, either in lieu of, or in addition to, making an oral presentation. Any written submittals must be received by the Board no later than June 26, 1990. The Board members may question witnesses to the extent deemed appropriate. The Board will hold the record open until July 12, 1990, for the receipt of additional materials. A transcript of the hearing will be made available by the Board for inspection by the public at Defense Nuclear Facilities Safety Board's Washington office and at the DOE's depository library public reading room at the Gregg-Granite Library, 171 University Parkway, University of South Carolina, Aiken, SC, 29801.

The Board specifically reserves its right to further schedule and otherwise regulate the course of the hearing, to recess, reconvene, postpone, or adjourn the hearing, and otherwise exercise its powers under the Atomic Energy Act of 1954, as amended.

Dated: June 8, 1990.

John T. Conway,

Chairman, Defense Nuclear Facilities Safety Board.

[FR Doc. 90-13607 Filed 6-12-90; 8:45 am]

BILLING CODE 6820-KD-M

DEPARTMENT OF ENERGY

Energy Information Administration

Petroleum Marketing Division (PMD) Survey Forms

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice concerning extension and proposed changes to the Petroleum Marketing Program survey forms and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revision, and/or extension to the:

Refiners' Monthly Cost Report (Form EIA-14)
Domestic Crude Oil First Purchase Report (Form EIA-182) (monthly)
Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report (Form EIA-782A)
Resellers'/Retailers' Monthly Petroleum Product Sales Report (Form EIA-782B)
Monthly Report of Petroleum Products Sold Into States for Consumption (Form EIA-782C)
Annual Fuel Oil and Kerosene Sales Report (Form EIA-821)
Monthly Foreign Crude Oil Acquisition Report (Form EIA-856)
Petroleum Products Sales Identification Survey (Form EIA-863) (triennial)

DATES: Written comments must be submitted within 30 days of June 13, 1990. 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 contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Dr. John S. Cook, Director, Petroleum Marketing Division, Energy Information Administration, Department of Energy, Mail Stop 2H-058, EI-43, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORM AND INSTRUCTIONS: Requests for additional information or copies of the forms and instructions should be directed to Ms. Claudia Hernandez at the address above or telephone (202) 586-6559.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Department of Energy (DOE) Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is obligated to carry out a central,

comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resource reserves, roduction, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Petroleum Marketing Program Surveys collect information on costs, sales, prices, and distribution of crude oil and petroleum products. The data are published in the Petroleum Marketing Monthly (PMM) and Petroleum Marketing Annual (PMA) as well as other EIA reports and publications.

II. Current Actions

In keeping with its mandated responsibilities, EIA proposes to extend for 3 years the petroleum marketing data collection forms. EIA also proposes modifications to the following forms to decrease respondent burden, increase reporting accuracy, and reduce ambiguity in the instructions. The proposed changes are summarized below:

1. Refiners'/Gas Plant Operators' Monthly Petroleum Product Sales Report (Form EIA-782A).

a. The requirement to submit revisions will be changed to read "Resubmissions of prior months' reports are required if it is found that previously reported price or volume data are in error by more than three percent (3%)."

2. Resellers'/Retailers' Monthly Petroleum Product Sales Report (Form EIA-782B)

a. The reqirement to submit revisions will be changed to read "Resubmissions of prior months' reports are required if it is found that previously reported price or volume data are in error by more than three percent (3%)."

3. Monthly Report of Petroleum Products Sold into States for Consumption (Form EIA-782C)

a. The requirement to submit revisions will be changed to read "Resubmissions of prior months' reports are required if it is found that previously reported volume data are in error by more than three percent (3%)."

4. Annual Fuel Oil and Kerosene Sales Report (Form EIA-821)

a. The requirement to report railroad use of residual fuel oil will be deleted.

5. Monthly Foreign Crude Oil Acquisition Report (Form EIA-856)

a. The requirement to submit revisions will be changed to read "Resubmission of prior months' reports are required if it is found that previously reported price or volume data are in error by more than five percent (5%)."

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extensions and/or revisions within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses. When providing comments, please indicate to which form(s) each comment applies.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for these collections are estimated to average:

Form	Burden hours per response
EIA-14	2.37
EIA-182	4.00
EIA-782A	14.40
EIA-782B	2.30
EIA-782C	4.00
EIA-821	3.10
EIA-856	6.50
EIA-863	1.00

How much time, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form(s)?

E. What is the estimated cost of completing this form(s), including the direct and indirect costs associated with the data collection? Direct cost should include all costs, such as administrative costs directly attributable to providing this information.

F. How can the form(s) be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a poetntial user:

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purposes would you use the data? Be specific.

C. How could the form(s) be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in the petroleum marketing surveys.

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval of these data surveys and will become a matter of public record.

Authority: Sections 5(a), 5(b), 13(b), and 52 of Public Law 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a, and section 205 of Public Law 95-91, Department of Energy Organization Act, as amended, 42 U.S.C. 7135.

Issued in Washington, DC, June 8, 1990.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 90-13670 Filed 6-12-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-393-000, et al.]

Public Service Electric & Gas Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 6, 1990.

Take notice that the following filings have been made with the Commission:

1. Public Service Electric and Gas Co.

[Docket No. ER90-393-000]

Take notice that on May 24, 1990, Public Service Electric and Gas Company (PS), on behalf of the signatories to the Lower Delaware Valley Transmission System Agreement (LDV Agreement) filed a Supplemental Agreement, new Schedule 15 and revised Schedules 1, 3, 4, 6, 7, 10, 12, 13 and 14 supplementing the LDV Agreement. PS states that the parties to this Agreement are:

Atlantic City Electric Company
Delmarva Power & Light Company
Jersey Central Power & Light Company
Philadelphia Electric Company
Public Service Electric and Gas Company

PS states that all of the parties to the LDV Agreement have approved the Supplemental Agreement, the new Schedule, the revised Schedules and the filing by PS.

PS states that the reason for filing is two-fold; (1) to recognize the joint ownership of the reconstructed river crossing of the Hope Creek-Keeney 500 kV line and (2) to recognize the interconnection of the transmission

facilities installed by the owners of the Hope Creek Nuclear Generating Station with the facilities of the LDV Transmission System.

PS states that this filing has been sent to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware and Virginia for their information. The parties request that this filing be effective March 1, 1987, the date that sharing of the river crossing commenced. For that reason, the parties request a waiver of the filing requirements.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. UtiliCorp United, Inc.

[Docket No. ES90-33-000]

Take notice that on June 1, 1990, UtiliCorp United Inc. ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission") pursuant to section 204 of the Federal Power Act seeking authority to issue up to and including 1 million shares of common stock, par value $1.00 per share, pursuant to the UtiliCorp United Inc. Restated Savings Plan and for exemption from the competitive bidding and negotiated placement requirements.

Comment date: June 28, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Soyland Power Cooperative, Inc.

[Docket No. ER90-396-000]

Take notice that on May 23, 1990, Soyland Power Cooperative, Inc. tendered for filing an Offer of Settlement between Soyland and Central Illinois Public Service Company in the above referenced docket.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Electric Power Co.

[Docket No. ER90-360-000]

Take notice that on May 29, 1990, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an amendment of its filing in the above-referenced proceeding. The amendment is a letter from Wisconsin Electric to Wisconsin Public Power Inc. System (WPPI) that explains Wisconsin Electric's initial position in the now-settled contract dispute. The letter is furnished at the request of the FERC Staff.

Wisconsin Electric respectfully requests an effective date of June 1, 1990, the same as in the original submission. Wisconsin Electric is authorized to state that WPPI joins in the requested effective date.

Copies of the filing have been served on WPPI, and the Public Service Commission of Wisconsin.

Comment date: June 21, 1990, in accordance with Standard Paragraph E end of this notice.

5. Puget Sound Power & Light Co.

[Docket No. ER90-387-000]

Take notice that on May 24, 1990, Puget Sound Power & Light Company (Puget) tendered for filing the following documents:

1. The Energy Adjustment Clause (ECAC) ASC adjustment demonstrated on Schedule 4 of Appendix to the Residential Purchase and Exchange Agreement between Puget and Bonneville Power Administration (BPA).
2. A cover letter and supplemental supporting schedule to BPA.
3. BPA report dated April 25, 1990, pertaining to the above mentioned ASC filing.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Canal Electric Co.

[Docket No. ER90-392-000]

Take notice that on May 23, 1990, Canal Electric Company (Canal) tendered for filing a Notice of Termination of Supplements 14 and 15 to Rate Schedule FERC No. 21, Rate Schedule FERC No. 32 and Supplement No. 1 to Rate Schedule FERC No. 32.

Canal requests that Supplement 14 to Rate Schedule FERC No. 21 and Rate Schedule FERC No. 32 be terminated effective April 30, 1990, and Supplement 15 to Rate Schedule FERC No. 21 and Supplement No. 1 to Rate Schedule FERC No. 32 be terminated effective February 28, 1990.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. Tucson Electric Power Co.

[Docket No. ER90-386-000]

Take notice that on May 24, 1990, Tucson Electric Power Company (Tucson) tendered for filing a Short Term Power Sale Agreement between Tucson and the Nevada Power Company.

Tucson requests an effectie date of June 1, 1990.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Co.

[Docket No. ER90-395-000]

Take notice that on May 29, 1990, Northeast Utilities Service Company (NUSCO) tendered for filing two transmission service agreements between Northeast Utlities Service Company (NUSCO, as agent for the Connecticut Light and Power Company and Western Massachusetts Electric Company), and (1) Westfield Gas and Electric Department and (2) Holyoke Gas and Electric Department, each dated November 1, 1988.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedules to become effective November 1, 1988, and to permit the agreements superseded by the instant rate schedules (FERC Rate Schedules Nos. CL&P 290 and 291 and WMECO 228 and 229 as supplemented) to be terminated effective October 31, 1987.

NUSCO states that copies of these rate schedules have been mailed or delivered to each of the parties.

NUSCO further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: June 21, 1990, ina ccordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Power & Light Co.

[Docket No. ER90-394-000]

Take notice that on May 25, 1990, Pennsylvania Power & Light Company (PP&L) tendered for filing a First Supplement dated April 2, 1990 (Supplement), to the Transmission Entitlement Sales Agreement (Agreement) between PP&L and Delmarva Power & Light Company (Delvarva) on file with the Commission as the Company's Rate schedule FERC No. 96. The Supplement modifies the Agreement to provide for PP&L's short-term sale to Delmarva of mutually agreed upon portions of PP&L's entitlement for the use of the Pennsylvania-New Jersey-Maryland (PJM) Interconnection's transmission system. Which is used to import energy from systems to the west of the PJM Interconnection, for the import of energy purchased from Monogahela Power Company, West Penn Poser Company and the Potomac Edison Company under an agreement with those companies dated january 4, 1984, as amended and supplemented, pursuant to an On Peak Program.

PP&L requests waiver of the notice requirements of section 205 of the Federal Power Act and § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of April 1, 1990.

PP&L states that a copy of its filing was served on Delmarva, the Pensylvania Public utility Commission, and the Delaware Public Service Commission.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. Northest Utilities Service Co.

[Docket No. ER90-391-000]

Take notice that on May 25, 1990, Northeast Utilities Service Company (NUSCO) as agent for the Connecticut Light and Power Company and Western Masachusetts Electric Company (collectively referred to as the NU Companies) tendered for filing a Transmission Service Agreement, between the NU Companies and Public Service Company of New Hampshire (PSNH), dated November 1, 1989.

NUSCO states that this Agreement provides for service to PSNH for the transmission of purchases of electric system capacity and associated energy.

NUSCO requests that the Commission waive its filing requirements to the extent necessary to permit the rate schedule to become effective as of November 1, 1989.

NUSCO states that a copy of the rate schdule has been mailed to PSNH.

NUSCO further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: June 21, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13582 Filed 16-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3894-039, et al.]

Arco Oil & Gas Co., Division of Atlantic Richfield Co., et al. Applications for Termination or Amendment of Certificates

June 6, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates [1] as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 25, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-3894-039, D, May 23, 1990	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	El Paso Natural Gas Company, New Mexico Federal Unit Leases, Lea County, New Mexico.	Assigned 9-1-89 to Elk Energy Corporation.
G-13299-008, D, May 8, 1990	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	ANR Pipeline Company, Laverne Field, Beaver and Harper Counties, Oklahoma.	Assigned 7-1-89 to Natural Gas Compression Corporation.
G-13299-009, D, May 8, 1990	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	ANR Pipeline Company, Laverne Field, Beaver and Harper Counties, Oklahoma.	Assigned 7-1-89 to Cabot Petroleum Corporation.
CI61-691-004, D, May 14, 1990.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	ANR Pipeline Company, Woodward Area, Woods, Dewey *et al.* Counties, Oklahoma.	Assigned 3-1-89 to Plains Resources Inc.
CI87-916-001, D, May 9, 1990	Texaco Inc., P.O. Box 52332, Houston, TX 77052.	Texaco Gas Marketing Inc., Bridgeline Gas Distribuion Co. and Neches Gas Distribution Co., Various Fields in Arkansas, Louisiana, Oklahoma and Texas.	Assigned 10-1-88 to Kaiser-Francis Oil Company.
CI90-105-000 (CI77-459), D, May 21, 1990.	Meredian Oil Inc. for Southland Royalty Company, P.O. Box 4239, Houston, TX 77210.	Panhandle Eastern Pipe Line Company, State 36 #1 and Jeffrey #1-X, Wells, Ellis County, Oklahoma.	Assigned 10-1-84 to Good Equipment Company.
CI90-106-000 (CI80-326), D, May 21, 1990.	Texaco Producing Inc., P.O. Box 52332, Houston, TX 77052.	Texas Gas Transmission Corporation, Carthage Field, Panola County, Texas.	Assigned 9-1-99 to Travis L. Booher
CI90-107-000 (CI90-27-000), D, May 21, 1990.	Marathon Oil Company, P.O. Box 3128, Houston, TX 77253.	United Gas Pipe Line Company, High Island Block 480, Offshore Texas.	Assigned 10-1-89 to Samedan Oil Corporation.
CI90-108-000 (G-6345), D, May 22, 1990.	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	Lone Star Gas Company, Katie Field, Garvin County, Oklahoma.	Assigned 5-1-90 to Fremont Energy Corporation.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession.

[FR Doc. 90-13583 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI79-104-002, et al.]

Columbia Gas Development Corp. et al.; Applications for Certificates and Abandonment of Service [1]

June 6, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 25, 1990, file with the Fedral Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell.

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
CI79-104-002 (CI75-540), E, C, May 23, 1990.	Columbia Gas Development Corporation, P.O. Box 1350, Houston, TX 77251-1350.	Columbia Gas Transmission Corporation, West Cameron Blocks 485 and 507, Offshore Louisiana.	Acreage acquired 8-1-89 from Forest Oil Corporation.
CI80-486-001, E, C, April 27, 1990.	Phillips Petroleum Company, 990-G Plaza Office Building, Bartlesville, OK 74004.	Columbia Gas Transmission Corporation, High Island Block A-561, Offshore Texas.	Acreage acquired 5-1-88 from Tesoro Petroleum Corporation.
CI81-121-003, B, May 2, 1990	Diamond Shamrock Offshore Partners Limited Partnership, 717 N. Harwood Street, Suite 3100, Dallas, TX 75201-6505.	Transcontinental Gas Pipe Line Corporation, High Island Block A-442, Offshore Louisiana.	Depleted. Well plugged and abandoned.
CI90-90-000 (CI67-14), E, April 27, 190.	Stephens Production Company, P.O. Box 2407, Fort Smith, AR 72902.	Arkla Energy Resources, a division of Arkla, Inc., Quay-Smith #1 Unit, Leflore County, Oklahoma.	Acreage acquired 2-1-90 from Amoco Production Company.
CI90-100-000, E, May 10, 1990.	OXY USA Inc., P.O. Box 300, Tulsa, OK 74102	Natural Gas Pipeline Company of America, Bass State Comm 22-1, Eddy County, New Mexico.	Acreage acquired 5-8-89 from Triton Oil & Gas Corporation.
CI90-109-000 (CI69-766), F, May 24, 1990.	Inexco Oil Company, 909 Poydras Street, P.O. Box 60350, New Orleans, LA 70160.	K N Energy, Inc., Madden Field, Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-110-000 (CI75-524), F, May 24, 1990.	Inexco Oil Company	Colorado Interstate Gas Company, Madden Field, Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-111-000, F, May 24, 1990	Inexco Oil Company	K N Energy, Inc., Madden Field, Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-112-000 (CI69-849), F, May 24, 1990.	Inexco Oil Company	Colorado Interstate Gas Company, Madden Field, Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-113-000 (CI69-849), F, May 24, 1990.	The Louisiana Land and Exploration Company, 909 Poydras Street, P.O. Box 60350, New Orleans, LA 70160.	Colorado Interstate Gas Company, Madden Field Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-114-000 (CI75-524), F, May 24, 1990.	The Louisiana Land and Exploration Company	Colorado Interstate Gas Company, Madden Field Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-115-000 (CI69-766), F, May 24, 1990.	The Louisiana Land and Exploration Company	K N Energy, Inc., Madden Field Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.
CI90-116-000, F, May 24, 1990	The Louisiana Land and Exploration Company	K N Energy, Inc. Madden Field Fremont County, Wyoming.	Acreage acquired 7-1-89 from BP Exploration, Inc.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession.

[FR Doc. 90-13584 Filed 6-12-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA90-1-61-000]

Bayou Interstate Pipeline System; Proposed Change in Rates

June 6, 1990.

Take notice that on June 1, 1990, Bayou Interstate Pipeline System ("Bayou") tendered for filing as part of its FERC Gas Tariff, original Volume No. 1 (Tariff), Seventeenth Revised Sheet No. 4 to be effective August 1, 1990.

The proposed tariff sheet is filed pursuant to the Purchased Gas Cost Adjustment provisions contained in section 15 of Bayou's tariff. Bayou states that a copy of the filing was mailed to Bayou's jurisdictional customers and interested 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. All such motions or protests must be filed on or before June 26, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13586 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR90-6-000]

Dow Intrastate Gas Co.; Petition for Rate Approval

June 6, 1990.

Take notice that on May 25, 1990, Dow Intrastate Gas Company (DIGCO) filed, pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.1328 per MMBtu plus 0.3% fuel in-kind for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978. DIGCO filed Exhibit B to its petition on May 29, 1990.

DIGCO's petition states that it is an intrastate pipeline in Louisiana within the meaning of section 2(16) of the NGPA. Its system was initially constructed in 1974 to connect Dow Chemical Company's consuming facilities in Plaquemine Parish to gas supplies in South Louisiana.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before June 26, 1990. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13587 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-120-000]

Gas Research Institute; Annual Application

June 6, 1990.

Take notice that on June 1, 1990, Gas Research Institute (GRI) filed an application requesting advance approval of its 1991-1995 Five-Year R&D Plan and 1991 R&D Program and the funding of its R&D activities for 1991 pursuant to the Natural Gas Act and the Commission's Regulations, particularly 18 CFR 154.38(d) (1989).

GRI's application seeks approval of its 1991 R&D Program and approval for the collection of $172,207,000 through jurisdiction rates and charges during the twelve (12) months ending December 31, 1991 to support GRI's R&D activities in 1991. The $172.2 million along with a draw-down during 1991 of its cash balance from $41.3 million to $17.7 million will provide GRI with the necessary cash to fund its 1991 R&D program. GRI proposes to increase its obligation from $183 million in 1990 to $200 million in 1991. Also, GRI proposes to increase its cash outlays from $183 million in 1990 to $195 million in 1991.

GRI also requests approval of its proposal to reprogram a total of up to $3.0 million in approved 1990 funding: Up to $1.8 million to its Metering and Operations project area and up to $1.2 million to its Gas Operations Environmental Research project area. For the future, GRI is requesting that it be granted the same self-executing reprogramming authority between program areas that it now has between project and program areas, i.e., 10% or $500,000, whichever is greater.

GRI states that the proposed unit cost of GRI's 1991 R&D Program is 1.42 cents per Dth (i.e., 1.46 cents per Mcf). This Annual R&D Funding Unit is proposed to be applied to the services included in GRI's Program Funding Services in 1990 which include jurisdictional, direct sale and intrastate volumes of GRI's members and which are estimated to be 12,144,199 MDth.

The Commission staff will analyze GRI's application and prepare a Commission Staff Report. This Staff Report will be served on all parties and filed with the Commission as a public document on July 30, 1990. Comments on the Staff Report, or other comments by all parties, except GRI, must be filed with the Commission on or before August 13, 1990. GRI's reply comments must be filed on or before August 27, 1990.

Any person desiring to be heard or to protest GRI's application, except for GRI members and state regulatory commissions, 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 the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 25, 1990. All comments and 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. 90-13588 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2478-000]

John E. Lobbia; Filing

June 6, 1990.

Take notice that on May 1, 1990, John E. Lobbia (Applicant tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Detroit Edison Company—Director Chief Executive Officer (effective May 1, 1990) President
Rouge Steel Company—Director
National Bank of Detroit—Director
NBD Bancorp, Inc.—Director

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 rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 21, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 90-13589 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-4-006]

Mid Louisiana Gas Co.; Compliance Filing Pursuant to Order No. 497-A

June 6, 1990.

Take notice that on May 30, 1990 Mid Louisiana Gas Company tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497-A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, First Revised Volume No. 1:

Third Revised Sheet No. 261
First Revised Sheet No. 26n
First Revised Sheet No. 26o
First Revised Sheet No. 26p
First Revised Sheet No. 26q
First Revised Sheet No. 26r
First Revised Sheet No. 26s
Third Revised Sheet No. 26t

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 Stret, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.211. All such motions or protests must be filed by June 21, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13580 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-190-002]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

June 6, 1990.

Take notice that on June 4, 1990, Northwest, Pipeline Corporation ("Northwest") tendered for filing and acceptance the tariff sheet listed below.

First Revised Volume No. 1

Substitute Third Revised Sheet No. 31
Original Sheet No. 31

Northwest states that the purpose of this filing is to restate the availability provision for Rate Schedule SGS-1 storage service in compliance with the Federal Energy Regulatory Commission ("Commission") Order Granting Rehearing, issued May 3, 1990 in the above docket. The existing availability provision is revised to provide that Rate Schedule SGS-1 storage service shall be available only to those existing customers who have contracted for Rate Schedule SGS-1 storage service, and which have received authorization under section 7(c) of the Natural Gas Act to receive service thereunder.

Northwest requests waiver of the Commission's regulations to permit Substitute Third Revised Sheet No. 31 to become effective February 1, 1989. Northwest states that a copy of this being is being mailed to all jurisdictional customers and affected state commissions.

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 June 13, 1990. 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. 90-13591 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-37-000]

Northwest Pipeline Corp., Proposed Change in Sales Rates Pursuant to Purchased Gas Cost Adjustment

June 6, 1990.

Take notice on June 1, 1990, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGA"), of its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of reflecting changes in Northwest's estimated cost of purchased gas for the three months ending September 30, 1990.

The current PGA adjustment for which notice is given herein, aggregates to a decrease of 5.83¢ per MMBtu in the commodity rate for all rate schedules affected by and subject to the PGA. The proposed change in Northeast's commodity rates for the third quarter of 1990 would decrease sales revenues by approximately $291,267. The instant filing also provides for an increase in the demand components of Northwest's gas sales rates to reflect changes to the estimated of Canadian demand rates and to reflect a revised Canadian exchange rate factor.

Northwest hereby tenders the following tariff sheets to be effective July 1, 1990:

First Revised Volume No. 1

Sixty-Seventh Revised Sheet No. 10
Second Revised Sheet No. 10.1

North states that a copy of this filing is being served on Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or 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 of Practice and Procedure. All such motions or protests should be filed on or before June 13, 1990. 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. 90-13592 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-4-38-000]

Ringwood Gathering Co., Proposed Changes in FERC Gas Tariff

June 6, 1990.

Take notice that on June 1, 1990, Ringwood Gathering Company (Ringwood), 4828 Loop Central Drive, Loop Central Three, suite 850, Houston, Texas 77081, filed a Second Original Sheet No. 4C to its FERC Gas Tariff and FERC Form No. 542-GPA pursuant to 18 CFR 154.308.

Ringwood states that a copy of this filing is being served upon Ringwood's jurisdictional customers and interested state commissions.

Ringwood's Quarterly PGA filing reflects an estimated $1.5078 per Mcf cost of gas, a current adjustment of zero per Mcf; a cumulative credit adjustment of $.4171 per Mcf; a surcharge adjustment of $.1746 per Mcf and a total sales rate of $2.0544 per Mcf.

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 June 13, 1990. 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. 90-13593 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-127-000]

Sea Robin Pipeline Co.; Filing

June 6, 1990.

Take Notice that on June 1, 1990, Sea Robin Pipeline Company (Sea Robin) filed a request for waiver of the quarterly purchased gas adjustment (PGA) filing requirements of § 154.308 of the Commission's regulations until such time as the Commission acts on the Stipulation and Agreement in Docket Nos. RP88-181 *et al.* (Settlement).

In support of this request, Sea Robin states that it has received written notice from its only two sales customers, Southern Natural Gas (Southern) and United Gas Pipe Line (United), of their intent to cancel their sales contracts upon expiration of the primary terms of those contracts on March 31, 1990; that it has filed an application with the Commission to abandon its sales obligations to United and Southern pursuant to Rate Schedules X-1, X-2, X-7 and X-8, and for authorization for United and Southern to abandon purchases of gas from Sea Robin (Docket No. CP90-494, proposed effective date of April 1, 1990;) that is has projected no sales to its customers and therefore, cannot mathematically compute a gas cost unit rate for this reporting period under the unit of sales methodology.

Sea Robin further states that its Settlement provides for, among other things, authorization to discontinue its purchased gas adjustment clause, effective April 1, 1990, and disposition of the Account No. 191 balances for the period ending April 1, 1990.

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 June 13, 1990.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13594 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-186-001]

Texas Eastern Transmission Corp.; Application

June 6, 1990.

Take notice that on May 31, 1990, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP90-186-001 an Amended Application pursuant to sections 7(b) and 7(c) of the Natural Gas Act requesting the issuance of a Commission's order: (1) Permitting and approving the abandonment of service under Texas Eastern's Rate Schedule WS; (2) granting a certificate of public convenience and necessary authorizing Texas Eastern, (a) to render a storage service under a new Rate Schedule SS-1 for customers converting from Rate Schedule WS service and (b) to render a sales service under a new Rate Schedule SCQ for customers converting from Rate Schedule WS; and (3) granting a blanket certificate of public convenience and necessity authorizing Texas Eastern to render self implementing, open access storage service under Rate Schedule SS-1 with pregranted abandonment for certain Service Agreements implemented pursuant to the blanket certificate authority, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern states that by Commission order issued September 1, 1960, in Docket Nos. G-18968 and G-18969 (24 FPC 364), Texas Eastern was authorized to construct and operate facilities necessary to store volumes of natural gas, purchased by Texas Eastern during off-peak periods, in its Leidy and Oakford Storage Fields for later withdrawal to provide firm deliveries during the period from November 16 through April 15 under Rate Schedule WS (Winter Service) to 23 customers in Maximum Daily Quantities (MDQ) totalling 340,724 Mcf. Subsequent Commission orders authorized increases in the MDQ of certain of the original WS customers and approved the addition of new WS customers. Texas Eastern is currently authorized to provide WS service to 25 customers up to a total MDQ of 597,358 Dekatherms (Dth).

Texas Eastern states that in April of 1988, the Commission eliminated the minimum commodity bill from the WS tariff.[1] The Commission's elimination of the commodity minimum bill from the WS tariff necessitated Texas Eastern's efforts to restructure the WS service. To this end, Texas Eastern sent termination letters to WS customers on November 15, 1988, indicating a desire to negotiate new service contracts to replace the terminated WS contracts.

Texas Eastern states that by the Stipulation and Agreement filed May 31, 1989, in Docket Nos. RP88-67, *et al.*, ("the May 31, 1989 Settlement"), the following issues were treated as contingent reserved issues in order to allow the WS customers and Texas Eastern to negotiate new service agreements to replace the WS service:

(i) Whether the current cost allocation and rate design of Texas Eastern's service under Rate Schedule WS are unreasonable and unduly preferential and, if so, whether and in what manner the cost allocation and rate design of the WS service and Texas Eastern's other services should be modified, and

(ii) The effect that any changes in rates for WS service had upon the rates charged pursuant to Texas Eastern's other sales and transportation rate schedules.

The May 31, 1989 Settlement also provided that the litigation in the Docket No. RP88-67 proceeding of the appropriateness of the rates for the existing WS service was to be held in abeyance until November 1, 1989, in order to permit Texas Eastern and its customers to submit a restructuring plan for the WS service, otherwise, the issues would be set for hearing.

Texas Eastern states that on October 31, 1989, it filed an application in Docket No. CP90-186-000 for authorization to abandon its existing service under Rate Schedule WS and for a certificate of public convenience and necessity authorizing the implementation of a replacement storage service under Rate Schedule SS-1 and a new sales service under Rate Schedule SCQ. The

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[1] Texas Eastern Transmission Corporation, 43 FERC ¶61,076 (1988).

Commission issued a notice of the filing with motions to intervene due December 11, 1989. Several WS customers and other third parties expressed concerns regarding the terms and conditions of Rate Schedules SS-1 and SCQ. On December 22, 1989, Texas Eastern filed a notice of partial withdrawal of Docket No. CP90-186-000 as it applied to the request for a certificate of public convenience and necessity but left standing its request for abandonment of existing service. Several WS customers filed in opposition to Texas Eastern's notice of partial withdrawal.[2]

Texas Eastern states that subsequent to the filing of the notice of partial withdrawal, Texas Eastern, the WS customers, other third party intervenors and Commission staff engaged in settlement negotiations in an effort to resolve all issues relating to the WS service in these cases. As a result of these discussions, a Joint Settlement is being submitted in the Docket Nos. RP88-67-000, *et al.*, proceeding as well as contemporaneously with this Amended Application and attached thereto as Exhibit Z-1, for Commission approval as representing a reasonable accommodation of the interests of the parties. The Joint Settlement contemplates, inter alia, that the Commission's order approving the Joint Settlement shall grant abandonment of the WS Rate Schedule and certificate authorizations for the SCQ and SS-1 Rate Schedules as requested in this Amended Application.

Texas Eastern states that as contemplated by the Joint Settlement, Texas Eastern requests authorization and approval to abandon, as of the Effective Tariff Date.[3] pursuant to section 7 of the Natural Gas Act ("NGA"), service under Rate Schedule WS to all WS Customers. The purchase quantities which are being abandoned are as follows:

Customer	WS contact quantities (Dth)	WS maximum daily quantity (Dthd)
Zone B		
Arkansas Louisiana Gas Company	37,350	623
Associated Natural Gas Company	999,900	16,665
City of Cairo, Illinois	18,720	312
Central Illinois Public Service Company	342,540	5,709
Consumers Gas Company	7,470	125
City of Kennett	121,230	2,021
City of Lawrenceburg	24,930	415
City of Lebanon	24,930	415
Mississippi Valley Gas Company	462,690	7,711
Union Electric Company	93,420	1,557
United Cities Gas Company	23,130	386
Zone C		
Indiana Gas Company, Inc.	213,750	3,563
City of Somerset, Kentucky	12,420	207
Zone D		
Algonquin Gas Transmission Company	11,135,160	185,586
The Brooklyn Union Gas Company	3,737,160	62,286
Borough of Chambersburg	162,000	2,700
Columbia Gas Transmission Corporation	702,720	11,713
Consolidated Edison Company of New York, Inc.	3,861,720	64,362
Elizabethtown Gas Company	52,290	872
Long Island Lighting Company	934,290	15,572
New Jersey Natural Gas Company	3,550,230	59,171
Allied Gas Company	322,920	5,382
Philadelphia Electric Company	2,616,030	43,601
Philadelphia Gas Works	2,647,080	44,118
Public Service Electric and Gas Company	3,737,160	62,286
Total	35,841,240	597,3589

Texas Eastern states that as contemplated by the Joint Settlement, Texas Eastern requests a certificate of public convenience and necessity authorizing Texas Eastern to render as of the Effective Tariff Date, pursuant to Rate Schedule SCQ and executed SCQ Service Agreements, a new sales services to the following customers of up to listed contractual qualities:

Customer	Summer contract quantity (Dth)
Zone B	
Arkansas Louisiana Gas Company	37,350
Central Illinois Public Service Company	171,270
City of Lebanon	24,930
Zone C	
Indiana Gas Company, Inc.	64,200
City of Somerset, Kentucky	12,420
Zone D	
Algonquin Gas Transmission Company[4]	1,258,470
The Brooklyn Union Gas Company	2,616,012
Borough of Chambersbury	162,000
Elizabethtown Gas Company	52,290
New Jersey Natural Gas Company	1,065,069

Rate Schedule SCQ provides for the firm sale of gas by Texas Eastern during the summer period, which gas will be injected into storage under Rate Schedule SS-1. The terms and conditions of service under Rate Schedule SCQ are more fully described in Rate Schedule SCQ attached hereto as appendix B to the Joint Settlement.

Texas Eastern states that as contemplated by the Joint Settlement, Texas Eastern requests a certificate of public convenience and necessity authorizing Texas Eastern as of the Effective Tariff Date to render firm injection, storage, withdrawal and delivery service to the following customers up to the listed contractual quantities, pursuant to the terms and conditions of Texas Eastern's Rate Schedule SS-1 and executed SS-1 Service Agreements in the form as set forth in appendix B to the Joint Settlement.

[2] On January 22, 1990 because Texas Eastern and its customers had not reached a resolution, the WS issued was set for hearing in the same procedural schedule as Docket No. RP88-67 (Phase 1).

[3] "Effective Tariff Date", as defined in Article IV of the Joint Settlement filed here with as Exhibit Z-1.

[4] Algonquin Gas Transmission Company's (Algonquin) nomination for service under Rate Schedules SCQ and SS-1 reflect the requests for service of its WS-1 Customers to whom Algonquin renders service under its Rate Schedule WS-1 based in part upon the service that Texas Eastern renders under Rate Schedule WS or upon approval of this Joint Settlement will render based upon Rate Schedules SCQ and SS-1. Algonquin and its WS-1 Customers are in the process of negotiating an appropriate restructuring of Rate Schedule WS-1 which is contemplated to be filed in the near future. It is currently contemplated by Texas Eastern, Algonquin and Algonquin's WS-1 Customers that certain of the WS-1 Customers will become direct customers of Texas Eastern under Rate Schedule SS-1 or SCQ through assignment by Algonquin of a protion of its contractual rights under Rate Schedule SCQ or SS-1, or both, directly to the WS-1 Customers. While Algonquin's restructuring proposal will be contingent in part upon approval of the Joint Settlement and this Amended Application, implementation of the Joint Settlement is not dependent upon approval of Algonquin's restructuring proposal.

Customer	Maximum daily withdrawal quantity (Dth)	Maximum storage quantity (Dth)	Non-SCQ storage quantity (Dth)	Non-SCQ daily injection quantity (Dth)
Zone B:				
Arkansas Louisiana Gas Company	623	37,350	0	0
Associated Natural Gas Company	16,665	999,900	999,900	5,140
City of Cairo	312	18,720	18,720	96
Central Illinois Public Service Company	5,709	342,540	171,270	880
City of Lebanon	415	24,930	0	0
Mississippi Valley Gas Company	7,711	462,690	462,690	2,378
Union Electric Company	1,557	93,420	93,420	480
United Cities Gas Company	386	23,130	23,130	119
Zone C:				
Indiana Gas Company, Inc	3,563	213,750	149,550	769
City of Somerset	207	12,420	0	0
Zone D:				
Algonquin Gas Transmission Company	[5] 185,586	11,135,160	9,876,690	50,768
The Brooklyn Union Gas Company	62,286	3,737,160	1,121,148	5,763
Borough of Chambersburg	2,700	162,000	0	0
Columbia Gas Transmission Corporation	11,713	702,720	702,720	3,612
Consolidated Edison Company of New York, Inc	64,362	3,861,720	3,861,720	19,850
Elizabethtown Gas Company	872	52,290	0	0
Long Island Lighting Company	15,572	934,290	934,290	4,802
New Jersey Natural Gas Company	59,171	3,550,230	2,485,161	12,774
Allied Gas Company	5,382	322,920	322,920	1,660
Philadelphia Electric Company	43,601	2,616,030	2,616,030	13,447
Philadelphia Gas Works	44,118	2,647,080	2,647,080	13,606
Public Service Electric and Gas Company	62,286	3,737,160	3,737,160	19,210

[5] See Footnote 4.

Rate Schedule SS–1 is an open access firm storage service. Rate Schedule SS–1 is the restructured storage service for Rate Schedule WS, the existing WS customers will have first priority to contract for this storage service through June 1, 1990. After June 1, the remaining storage capacity will be available on a first-come, first-served basis. The terms and conditions of service under Rate Schedule SS–1 are more fully described in Rate Schedule SS–1 attached as appendix B to the Joint Settlement.

Texas Eastern states that it and the parties to the Joint Settlement wish to insure continuity of service during the transition to the new services under Rate Schedules SS–1 and SCQ and the abandonment of service under Rate Schedule WS. Therefore, prior to the approval of the Joint Settlement, Texas Eastern will inject sufficient gas into storage to satisfy Texas Eastern's Rate Schedule WS certificate obligation in the event the Joint Settlement has not been approved by November 16, 1990. Upon approval of the Joint Settlement and this Amended Application, Texas Eastern requests the necessary certificate authorization to sell such injected gas to the WS Customers, in accordance with the provisions of Article I, section 9, of the Joint Settlement.

Texas Eastern states that for firm service rendered by Texas Eastern to each Buyer pursuant to Rate Schedule SS–1, the Buyer shall pay each month the sum of the following charges:

A. MDWQ: The Demand Charge rate multiplied by the MDWQ.

B. Space Charge: The Space Charge rate multiplied by one-twelfth (1/12) of the MSQ.

C. Injection Charge: The Injection Charge rate multiplied by the quantity of gas injected pursuant to Rate Schedule SS–1 for the month.

D. Withdrawal Charge: The applicable Withdrawal Charge rate multiplied by the quantity of gas withdrawn from storage, other than Authorized Overrun Withdrawal Quantities, pursuant to Rate Schedule SS–1 for the month.

E. AOQ Charge: The applicable authorized overrun charge rate multiplied by the quantity of Authorized Overrun Withdrawal Quantity delivered to Buyer for the month.

F. Commodity Sales Charge: The applicable commodity charge rate multiplied by the quantity of gas purchased by Buyer from Seller hereunder and delivered to Buyer for the month.

For Firm Service rendered by Texas Eastern to each Buyer pursuant to Rate Schedule SCQ, Buyer shall pay each month the sum of the following charges:

Capacity Reservation Charge: The Capacity Reservation rate multiplied by one-twelfth (1/12) of Summer Contract Quanity.

Commodity Charge: The applicable Commodity Charge rate multiplied by the quantity of gas purchased during the month by Buyer hereunder, as determined pursuant to § 2.2 and/or § 2.3 for subsequent injection into storage under Rate Schedule SS–1.

Texas Eastern states that the base rates applicable to Rate Schedules SCQ and SS–1 are set forth in appendix B to the Joint Settlement. The cost of service $75,479,098 underlying the base rates is equivalent to the cost of service allocated to Rate Schedule WS as approved by the Commission order accepting the May 31, 1989 Settlement.[6]

Texas Eastern also requests the issuance of a blanket certificate of public convenience and necessity authorizing Texas Eastern to offer to any party, to the extent sufficient capacity is available, self-implementing nondiscriminatory, open access storage service pursuant to Rate Schedule SS–1 with pregranted abandonment for service agreements implemented pursuant to the blanket certificate authority granted.

Texas Eastern states that by the Joint Settlement, Texas Eastern has agreed to not terminate sales service or storage service under Rate Schedules SCQ or SS–1, which is undertaken as a result of conversions from Rate Schedule WS or service received by Algonquin Gas Transmission Corporation's WS–1 Customers that receive service under Rate Schedules SS–1 and SCQ as contemplated by Article III of the Joint Settlement, prior to both the termination of the applicable SCQ and SS–1 service

[6] Texas Eastern Transmission Corporation, 50 FERC ¶ 61,217 (1990); *reh'g granted* April 25, 1990.

agreements and the receipt of a final nonappealable abandonment authorization for such service agreement applied for pursuant to Section (7b) of the NGA.

Texas Eastern also requests the issuance of a blanket certifiate of public convenience and necessity with pregranted abandonment pursuant to section 7 of the NGA authorizing Texas Eastern to implement a Buyer's election to reduce (to the extent of such reduction) or increase (to the extent of such increase) its contract quantities under Rate Schedule SCQ and Rate Schedule SS-1.[7]

Texas Eastern states that authorization of Texas Eastern's proposal herein will enable Texas Eastern to restructure the WS service to meet the changes that are taking place in the marketplace and the regulatory climate under which Texas Eastern must operate. This Amended Application represents a negotiated resolution of the competing interests and is supported by all customers under Rate Schedule WS, all customers under Algonquin's Rate Schedule WS-1, and other parties, as being in the public interest. Pursuant to this proposal, customers should be able to purchase gas at off-peak prices and store such gas for delivery during the peak winter period, thereby reducing costs to the consumers. In addition, the customers' ability under Rate Schedule SS-1 to tender "third party" gas supplies for storage injection will enhance the customers' ability to diversify its supply sources. The customers will also have the ability to utilize the storage service on an interruptible basis. Texas Eastern submits that its proposal herein will be beneficial to both Texas Eastern and its customers and therefore is required by the public convenience and necessity.

Texas Eastern further requests that this Amended Application be noticed on an expedited basis and that the deadline for interventions be established as contemporaneous with the deadline for filing initial comments on the Joint Settlement as filed in the Docket Nos. RP88-67, *et al.*, proceeding, which deadline is June 20, 1990.

Lastly Texas Eastern states that the prompt issuance by the Commission of an order approving the Joint Settlement and this Amended Application will significantly ease the transition period for both the Texas Eastern and the Buyers under Rate Schedule WS, SCQ and SS-1. The services requested in this Amended Application represent a negotiated Joint Settlement and failure of the Commission to authorize these services essentially as requested will allow signatories to the Joint Settlement to withdraw from the Joint Settlement.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1990, file with the Federal Energy Regulatory Commission, Washington DC., 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, furhter notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13585 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[7] *See* Article V, section 1, of the Joint Settlement.

[Docket No. RP90-125-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

June 6, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on June 1, 1990 Fifth Revised Sheet No. 250-A to its FERC Gas Tariff, Second Revised Volume No. 1. The tendered tariff sheet is proposed to be effective July 1, 1990.

The purpose of the instant filing is to request a waiver of § 154.305(i)(1)(ii)(B) of the Commission's regulations and revise the provisions of § 22.5(d) of the General Terms and Conditions of Transco's Volume No. 1 Tariff to provide that Transco's obligation to refund the credit balance in the refund subaccount shall be based solely on a determination that such credit balance equals or exceeds $2 million.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

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 June 13, 1990. 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 filed with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-13595 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-163-004]

Transcontinental Gas Pipe Line Corp. Tariff Filing

June 6, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on May 31, 1990 certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff, which tariff sheets are listed in appendix A attached to the filing. The proposed effective date of the revised tariff sheets is June 1, 1990.

The purpose of the instant filing is to reflect, effective June 1, 1990, the elimination of Fixed and Commodity Litigant Producer Settlement Payment (LPSP) charges which Transco collected over a one-year amortization period June 1, 1989 through May 31, 1990. In

that regard, by order issued May 31, 1989 in Docket Nos. RP89-163-000 *et al.*, the Commission approved Transco's proposal to collect approximately $20.4 million of LPSP amounts pursuant to the alternative passthrough mechanism of Order No. 500 and Section 33 of the General Terms and Conditions of Transco's Volume No. 1 Tariff. Because the expiration of the one-year amortization period is May 31, 1990, Transco is tendering herewith revised tariff sheets which eliminate such LPSP charges from rates and where appropriate, any references thereto, effective June 1, 1990.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions and other interested parties. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

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 June 13, 1990. 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. 90-13596 Filed 6-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PP-58-C]

Extension of Comment Period for Amendment of Electricity Export Authorization; Detroit Edison Co.

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice by the Department of Energy (DOE) of extension of the public comment period on Detroit Edison Company's application to amend its existing authorization to export electricity to Ontario Hydro.

SUMMARY: The DOE announces the extension of the period of time during which it will accept comments, requests to intervene, or protests on Detroit Edison Company's application to amend its existing authorization to export electricity to Ontario Hydro. The application seeks to eliminate the 4,000,000,000 kilowatt-hour (KWH) annual energy limit contained in the existing authorization issued by the Federal Power Commission on October 10, 1972, in Docket No. E-7206.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs (FE-52), Office of Fossil Energy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9624.

Lise Courtney M. Howe, Office of General Counsel (GC-41), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On March 30, 1990, The Detroit Edison Company filed on behalf of itself and Consumers Power Company (the Michigan Companies) an amendment to their existing electricity export authorization. The existing authorization, issued by the Federal Power Commission, allows the Michigan Companies to export to Ontario Hydro up to 4,000,000,000 KWH of electric energy annually at a maximum rate of 2,200,000,000 volt-amperes (2,200 MVA). The new application requested that DOE amend the existing authorization by removing the annual energy limit while leaving the 2,200 MVA capacity limitation unchanged. The DOE published a notice in the **Federal Register** on May 10, 1990, (55 FR 19652) announcing commencement of these proceedings and provided a period during which comments and protests would be accepted. This period was to have expired on June 11, 1990.

In order to facilitate non-adversarial dialogue between the Michigan Companies and persons or entities who have a potential interest in Docket No. PP-58-C, the applicant has requested, and DOE will provide, a 30-day extenstion of the comment period until July 11, 1990.

Issued in Washington, DC on June 8, 1990.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels and Programs, Fossil Energy.

[FR Doc. 90-13669 Filed 6-12-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3786-8]

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; where appropriate, it includes the actual data collection instruments.

DATES: Comments must be submitted on or before July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Electric Utility Steam Generating Units (subpart Da)—Information Requirements. (ICR #1058.03; OMB #2060-0023). This is a reinstatement of a previously approved collection.

Abstract: These standards of performance limit emissions of sulfur dioxide (SO_2), particulate matter (PM), and nitrogen oxide (NO_x) from new, modified, or reconstructed electric utility steam generating units capable of combusting more than 73 megawatts (MG) heat input (250 million BTU/hour) of fossil fuel. Owners or operators of electric utility steam generating units are required to install a continuous emission monitoring system (CEM), and they must kep records and notify EPA of any CEM malfunction. They must also notify EPA and keep records of any construction, modification and actual and predicted start-up dates of the units. They must submit to EPA quarterly reports documenting emission rate data for SO_2 and NO_x, and quarterly reports documenting equipment performance tests for the emission of PM, SO_2, and NO_x. The Agency uses these data to ensure compliance with the Clean Air Act, and when necessary, to take enforcement action against sources.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 16.25 hours per response for reporting,

and 182.5 hours for recordkeeping. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners/operators of electric utility steam generating units.

Estimated No. of Respondents: 64.

Estimated Total Annual Burden on Respondents: 15,841 hours.

Frequency of Collection: Quarterly.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street SW., Washington, DC 20460.

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

Dated: June 6, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-13668 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3787-3]

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 instruments.

DATES: Comments must be submitted on or before July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards for Fossil Fuel-Fired Steam Generating Units. (ICR #1052.03; OMB #2060-0026). This is a reinstatement of a previously approved collection.

Abstract: In compliance with 40 CFR part 60.7, owners or operators of fossil fuel-fired steam generating units must monitor the emission of sulfur dioxide (S02), nitrogen oxide (NOx), and particulate matter (PM). They must maintain records of start-ups, shutdown, or malfunction in the operation of an affected facility. They must maintain records of any period during which the continuous emission monitoring system (CEMS) is inoperative. They must submit emission data reports to EPA quarterly, and units using fuel sampling and analysis, must submit quarterly reports of excess emission of S02. The Agency uses these data to ensure continuous compliance with the Clean Air Act, and when necessary, for possible enforcement against a source.

Burden Statement: The annual public burden for this collection of information is estimated to average 1 hour per response for reporting, and 91.25 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners/operators of fossil fuel-fired steam generating units.

Estimated No. of Respondents: 660.

Estimated Total Annual Burden on Respondents: 62,865 hours.

Frequency of Collection: Quarterly.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street SW., Washington, DC 20460.

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: June 7, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-13666 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180828; FRL 3743-9]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 16 States as listed below. Two exemptions were granted to the Puerto Rico Department of Agriculture, and one to the United States Department Agriculture. Seven crisis exemptions were initiated by various States, and one by the United States Department of Agriculture. Also granted was one quarantine exemption, and also included is a quarantine exemption which was inadvertently omitted for the month of December. Most of these exemptions were issued during February and March and, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied an exemption request from the Oregon Department of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemption for its effective date.

FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Office of the State Chemist for the use of fenpropathrin on citrus to control citrus thrips; March 27, 1990, to June 15, 1990. A notice of solicitation of public comment was published in the **Federal Register** of February 14, 1990 (55 FR 5272); no comments were received. An emergency situation appears to exist. The toxicology data base for fenpropathrin will support the proposed use. The proposed use is not expected to pose an unacceptable risk to the environment. Reasonable progress is being made toward registration. (Jim Tompkins)

2. California Department of Food and Agriculture for the use of abamectin on strawberries to control spider mites; March 27, 1990, to March 20, 1991. (Jim Tompkins)

3. California Department of Food and Agriculture for the use of chlorpyrifos on wheat to control Russian wheat aphid; March 13, 1990, to June 15, 1990. (Robert Forrest)

4. Florida Department of Agriculture and Consumer Services for the use of malathion on sugar apple and atemoya to control annona seed borer; March 27, 1990, to December 31, 1990. (Jim Tompkins)

5. Florida Department of Agriculture and Consumer Services for the use of abamectin on strawberries to control spider mites; February 1, 1990, to June 1, 1990. (Jim Tompkins)

6. Idaho Department of Agriculture for the use of clopyralid on mint to control various weeds; March 13, 1990, to June 1, 1990. (Susan Stanton)

7. Massachusetts Department of Agriculture for the use of metalaxyl on cranberries to control root rot; March 19, 1990, to December 31, 1990. (Robert Forrest)

8. Minnesota Department of Agriculture for the use of tiller herbicide on hard red spring wheat to control green and yellow foxtail and wild oats; March 12, 1990, to July 15, 1990. (Susan Stanton)

9. Minnesota Department of Agriculture for the use of propiconazole on cultivated wild rice to control fungal brown spot, bipolaris oryzae; March 27, 1990, to August 31, 1990. (Jim Tompkins)

10. Montana Department of Agriculture for the use of tiller herbicide on hard red spring wheat to control green foxtail; March 12, 1990, to July 31, 1990. (Susan Stanton)

11. New Mexico Department of Agriculture for the use of chlorpyrifos to control Russian wheat aphids; February 7, 1990, to May 31, 1990. (Robert Forrest)

12. New York State Department of Environmental Conservation for the use of Pro-Gro (50% thiram; 30% carboxin) on onion seed to control onion smut; March 9, 1990, to May 31, 1990. (Susan Stanton)

13. North Dakota Department of Agriculture for the use of tiller herbicide on hard red spring wheat to control green and yellow foxtail; March 12, 1990, to July 15, 1990. (Susan Stanton)

14. Oregon Department of Agriculture for the use of clopyralid on mint to control various weeds; March 13, 1990, to May 15, 1990. (Susan Stanton)

15. Oregon Department of Agriculture for the use of fosetyl-aluminum (Aliette) on hops to control downy mildew; March 22, 1990, to September 1, 1990. (Susan Stanton)

16. Oregon Department of Agriculture for the use of oxyfluorfen on raspberries to suppress primocanes; March 26, 1990, to May 15, 1990. (Susan Stanton)

17. Oregon Department of Agriculture for the use chlorothalonil on hazelnuts to control eastern filbert blight; March 13, 1990, to May 31, 1990. (Susan Stanton)

18. Puerto Rico Department of Agriculture for the use of fenvalerate on pineapples to control *Batrachedra comosae* moth; February 7, 1990, to February 6, 1991. (Libby Pemberton)

19. Puerto Rico Department of Agriculture for the use of triadimefon on coffee to control coffee rust; February 26, 1990, to August 31, 1990. (Libby Pemberton)

20. Texas Department of Agriculture for the use of fenvalerate on kale, kohlrabi, and mustard greens to control cabbage loopers; February 22, 1990, to November 30, 1990. (Libby Pemberton)

21. Texas Department of Agriculture for the use of chlorpyrifos on wheat to control Russian wheat aphid; March 9, 1990, to May 31, 1990. (Robert Forrest)

22. Utah Department of Agriculture for the use of cypermethrin on onions to control thrips; March 19, 1990, to September 30, 1990. (Robert Forrest)

23. Utah Department of Agriculture for the use of carbaryl on barley to control cereal leaf beetles; March 9, 1990, to June 30, 1990. (Susan Stanton)

24. Virginia Department of Agriculture and Consumer Services for the use of clomazone on snapbeans, cucumbers, squash, and sweet potatoes to control annual broadleaf weeds; February 7, 1990, to September 30, 1990. (Libby Pemberton)

25. Washington Department of Agriculture for the use of oxyfluorfen on raspberries to suppress primocanes; March 26, 1990, to May 31, 1990. (Susan Stanton)

26. Washington Department of Agriculture for the use of clopyralid on mint to control various weeds; March 13, 1990, to June 1, 1990. (Susan Stanton)

27. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of Pro-Gro (50% thiram/30% carboxin) on onion seed to control onion smut; March 1, 1990, to May 31, 1990. (Susan Stanton)

28. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of mancozeb on cultivated American ginseng to control phytophthora cactorum Alternaria pax; March 16, 1990, to August 31, 1990. A notice of solicitation of public comment was published in Federal Register of February 14, 1990 (55 FR 5273); no comments were received. The exemption was granted on the basis that a majority of the ginseng crop could be damaged by infections of phytophthora and alternaria if an effective means of control is not available. The level of residue of EBDC and ETU expected in or on ginseng from the proposed use are not expected to pose an unacceptable risk to the public health or the environment. (Jim Tompkins)

29. United States Department of Agriculture for the use of methyl bromide on oranges to control quarantinable pests; February 22, 1990, to December 7, 1992. USDA had initiated a crisis exemption for this use. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. Florida Department of Agriculture and Consumer Services on February 26, 1990, for the use of iprodione on cabbage to control white mold. This program has ended. (Libby Pemberton)

2. Florida Department of Agriculture and Consumer Services on November 21, 1989, for the use of avermectin B_1 on celery to control leafminers. The need for this program is expected to last until July 31, 1990. (Libby Pemberton)

3. Kansas State Board of Agriculture on March 19, 1990, for the use of esfenvalerate on wheat, barley, oat, and rye to control army and pale western cutworms. The need for this program is expected to last until May 21, 1990. (Libby Pemberton)

4. Oregon Department of Agriculture on February 28, 1990, for the use of cyfluthrin on pears to control pear psylla. This program has ended. (Libby Pemberton)

5. Texas Department of Agriculture on March 2, 1990, for the use of esfenvalerate on winter wheat to control army cutworms. This program has ended. (Libby Pemberton)

6. Texas Department of Agriculture on February 13, 1990, for the use of DRC-1339 (3-chloro-p-toluidine hydrochloride) to ravens preying on newborn livestock. This program has ended. (Libby Pemberton)

7. Washington Department of Agriculture on February 26, 1990, for the use of cyfluthrin on apples/pears interplant to control pear psylla. This program has ended. (Libby Pemberton)

8. United States Department of Agriculture on February 22, 1990, for the use of methyl bromide on imported cucumbers to control weevils not currently established in the United States. Since it was anticipated that this program would be needed for more than 15 days, USDA is expected to request a specific exemption to continue it. This program will end on February 21, 1993. (Libby Pemberton)

EPA has granted quarantine exemptions to the:

1. California Department of Food and Agriculture for the use of malathion on allspice, bananas, chapote, chayote, cherimoya, custard apple, eugenia fruits, guava, kiwi, litchi, longan fruit, loquats, mulberry, olives, opuntia, persimmons, pineapple, pommelos, sapodilla, sapote, star apple, tomatillos, and tree tomatoes to control fruit flies; December 9, 1989, to December 8, 1992. (Susan Stanton)

2. Guam Department of Agriculture for the use of methyl bromide on cut flowers and greenery to control western flower thrips and cabbage aphids; February 21, 1990, to February 20, 1993. (Libby Pemberton)

EPA has denied a specific exemption request from the Oregon Department of Agriculture for the use of propachlor on onions to control various weeds. (Susan Stanton)

Authority: 7 U.S.C. 136.

Dated: May 23, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-13358 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1992 ITU World Administrative Radio Conference for Dealing With Frequency Allocations in Certain Parts of the Spectrum (92-WARC Advisory Committee)

June 8, 1990.

The FCC Industry Advisory Committee for the ITU 1992 World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum (92-WARC Advisory Committee) will meet between 2 p.m. and 5 p.m. on Wednesday, June 27, 1990, in room 856 at Commission premises located at 1919 M Street NW., Washington, DC.

The agenda for this second meeting of the Committee will be to discuss the agenda for the 1992 Conference including its timetable as established by the ITU Administrative Council, to receive status reports from each of the five informal working groups, to consider the first Interim Report due on June 30 under the Charter, and to plan the continuation of work of the Committee.

Designated Federal Official for the Committee is Walda Roseman, Office of International Communications, Federal Communications Commission, Washington, DC 20554, (202) 632-0935.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-13621 Filed 6-12-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Dennis Alter, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 27, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Dennis Alter*, Horsham, Pennsylvania; to retain 1.44 percent and to acquire an additional 14.36 percent of the voting shares of Boca Bancorp, Inc., Boca Raton, Florida, for a total of 25.60 percent, and thereby indirectly acquire Boca Bank, Boca Raton, Florida.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Craig J. Walker*, Denver, Colorado; to acquire 72.23 percent of the voting shares of Custer Bancorp, Westcliffe, Colorado, and thereby indirectly acquire Custer County Bank, Westcliffe, Colorado.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Larry A. Shehadey*, Fresno, California; to acquire 15 percent of the voting shares of Vallicorp Holdings, Inc., Fresno, California, and thereby indirectly acquire Bank of Fresno, Fresno, California, and Merced Bank of Commerce, N.A., Merced, California.

Board of Governors of the Federal Reserve System, June 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-13614 Filed 6-12-90; 8:45 am]

BILLING CODE 6210-01-M

The Bank of Tokyo, Ltd.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practice." 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 aggreived by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 2, 1990.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Bank of Tokyo, Ltd.*, Tokyo, Japan; to expand the list of commodities exchanges upon which its futures commission merchant subsidiary, BOT Futures, Inc., New York, New York, may provide futures commission merchant services pursuant to § 225.25(b)(18) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-13615 Filed 6-12-90; 8:45 am]

BILLING CODE 6210-01-M

Carolina First Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's

approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than July 2, 1990.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Carolina First Corporation*, Greenville, South Carolina; to acquire First Federal Savings and Loan Association of Georgetown, Georgetown, South Carolina, in owning and operating a savings and loan association, the activities of which include: accepting deposits; making and servicing mortgage, commercial, and consumer loans; issuing credit cards; lease financing or personal and real property; and acting as principal agent, for broker for insurance that is directly related to an extension of credit by the holding company organization, and limited to ensuring the repayment of the outstanding balance due on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor pursuant to § 225.25(b) (5), (8)(i), and (9) of the Board's Regulation Y.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63116:

1. *Universal Bancorp*, Bloomfield, Indiana; to retain 33.3 percent of the voting shares of Geneva Leasing Associates, Inc., St. Charles, Illinois, and thereby engage in leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-13616 Filed 6-12-90; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corporation, Charlotte, NC; Proposal To Engage in Certain Securities Related Activities Including Acting as Agent in Private Placement of All Types of Securities and Providing Securities Brokerage Investment Advisory Services on a Combined Basis

NCNB Corporation, Charlotte, North Carolina ("NCNB"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage through its wholly owned subsidiary, NCNB Capital Markets, Inc., Charlotte, North Carolina ("Company"), in the activities of providing securities brokerage and investment advisory services, both on a separate and combined basis; acting as agent in the private placement of all types of securities, including providing related advisory services; and buying and selling securities on the order of customers as a riskless principal. NCNB seeks approval to conduct these activities on a nationwide basis.

Company is currently authorized to: underwrite and deal in securities eligible to be underwritten and dealt in by U.S. member banks and underwrite and deal in, to a limited extent, municipal revenue bonds, 1-4 family mortgage-related securities, commercial paper, and consumer receivable-related securities. *NCNB Corporation*, 75 Federal Reserve Bulletin 520 (1989). Company is registered as a broker-dealer under the securities laws of the United States and certain states, and is a member of the National Association of Securities Dealers, Inc.

NCNB proposes to provide investment advisory services pursuant to 12 CFR 225.25(b)(4), and to provide securities brokerage services pursuant to 12 CFR 225.25(b)(15). In addition, NCNB proposes to provide investment advisory and brokerage services on a combined basis subject to all of the conditions of 12 CFR 225.25(b)(15), Bank of New England Corporation, 74 Federal Reserve Bulletin 700 (1988), and PNC Financial Corp, 75 Federal Reserve Bulletin 396 (1989) ("*PNC*"), including brokering and recommending to customers securities in which Company has a principal's position as permitted in *PNC* and Bankers Trust New York Corporation, 74 Federal Reserve Bulletin 695 (1988).

NCNB also seeks approval to act as agent in the private placement of all types of securities, and to act as riskless principal in buying and selling securities pursuant to the methods, terms and conditions set out in the Board's Orders in J.P. Morgan & Company, Incorporated, 76 Federal Reserve Bulletin 26 (1990) and Bankers Trust New York Corporation, 75 Federal Reserve Bulletin 829 (1990).

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "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 interest, or unsound banking practices." NCNB contends that approval of its proposal would result in increased competition, gains in efficiency, and increased convenience for its customers.

NCNB further contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Seagall Act prohibits the affiliation of a member bank with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. With regard to the proposed activities, NCNB states that these activities as previously approved by the Board do not constitute the underwriting, public sale or distribution of securities within the meaning of section 20 of the Glass-Steagall Act, and therefore are consistent with the Act.

In publishing the proposal for comment the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is

likely to meet the standards of the BHC Act or the Glass-Steagall Act.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than July 13, 1990.

Board of Governors of the Federal Reserve System, June 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-13617 Filed 6-12-90; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancorp, Inc. of Bullitt County; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 2, 1990.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Peoples Bancorp, Inc. of Bullitt County, Shepherdsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank of Bullitt County, Shepherdsville, Kentucky.

Board of Governors of the Federal Reserve System, June 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-13618 Filed 6-12-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[Dkt. C-2871]

American College of Radiology; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's 1977 consent order (42 FR 20287), by allowing respondent to participate in discussions concerning other organizations' development of new or alternative types of health care financing, including those using relative value scales.

DATES: Consent Order issued March 1, 1977. Modifying Order issued March 29, 1985.

FOR FURTHER INFORMATION CONTACT: Judith Moreland, FTC/S-3115, Washington, DC 20580, (202) 326-2776.

SUPPLEMENTARY INFORMATION: In the Matter of The American College of Radiology. The prohibited trade practices and/or corrective actions as set forth at 42 FR 20287, are changed.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Order Reopening and Modifying Final Order in Docket No. C-2871

Commissioners: James C. Miller III, Chairman, Patricia P. Bailey, George W. Douglas, Terry Calvani, Mary L. Azcuenaga.

By petition filed December 3, 1984, the American College of Radiology ("ACR") asked the Commission to reopen and modify the Commission order in Docket No. C-2871 entered by consent against ACR on March 1, 1977 ("Order"). ACR requested that the Commission modify the Order by (a) deleting Paragraph II(B) of the Order, which prohibits ACR from advising in favor of or against any relative value scale developed by third parties (except that ACR is permitted to provide historical data), and (b) inserting a provision identical to a provision contained in the Commission's Order in *Michigan Stae Medical Society*, Docket No. 9129, 101 F.T.C. 191 (1983) ("*Michigan State*") that would allow ACR more freedom to discuss issues relating to reimbursement with third-party payers and governmental entities. ACR's petition was placed on the public record and no comments were received.

Upon consideration of ACR's petition and other relevant information, the Commission finds that the public interest would be served by deleting paragraph II(B) of the Order and by inserting the relevant provision contained in the order in *Michigan State*. The Commission's order against the American College of Obstetricians and Gynecologists ("ACOG") in Docket No. 2855 is similar to the *ACR* order, and the Commission recently reopened and modified the *ACOG* order, finding that its restriction on ACOG's ability to discuss relative value scales with third-party payers and governmental entities had caused injury to ACOG and the public that outweighed any benefit that might be derived from the restriction. ACR's petition is based on ACOG's petition and the Commission has determined that its finding in ACOG is applicable to ACR. Accordingly, the Commission has modified the *ACR* order in the same manner as it modified the *ACOG* order. The modification is also consistent with the Commission's decision in *Michigan State*.

The Order continues to prohibit ACR from developing or circulating its own relative value guide for use by its members. In addition, although the Order no longer will prohibit ACR from discussing relative value scales with governmental entities and third-party payers, serious antitrust concerns would arise were ACR to negotiate or attempt to negotiate an agreement with any such party or engage in any type of coercive activity to effect such an agreement.

Accordingly, it is Ordered, that this matter be, and it hereby is, reopened and that the Order in Docket No. C-2871 be modified (1) to delete Paragraph II(B) and to redesignate Paragraphs II(C) and II(D) of the Order Paragraphs II(B) and II(C) respectively; (2) to renumber Paragraphs III, IV and V of the Order Paragraphs IV, V and VI respectively; and (3) to insert the following:

III

It is further ordered that this order shall not be construed to prevent ACR from:

A. Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government, executive agency, or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding.

B. Providing information or views, on its own behalf or on behalf of its

members, to third-party payers concerning any issue, including reimbursement.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 90-13656 Filed 6-12-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection concerning Limitation of Costs/Funds.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson, Office of Federal Acquisition Policy, (202) 501-3221 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697-7268.

SUPPLEMENTARY INFORMATION:

a. Purpose

Firms performing under Federal cost-reimbursement contracts are required to notify the contracting officer in writing whenever they have reason to believe that—

(1) The costs the contractors expect to incur under the contracts in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost of the contracts; or

(2) The total cost for the performance of the contracts will be greater or substantially less than estimated. As a part of the notification, the contractors must provide a revised estimate of total cost.

b. Annual reporting burden

The annual reporting burden is estimated as follows: Respondents, 63,456; responses per respondent, 1; total annual responses, 63,456; hours per response, .5; and total response burden hours, 31,728.

Obtaining copies of proposals

Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0074, Limitation of Costs/Funds.

Dated: June 4, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc 90-13700 Filed 6-12-90; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement No. 040]

National Institute for Occupational Safety and Health; Farm Family Health and Hazard Surveillance Cooperative Agreement Program

Introduction

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), announces the availability of funds for Fiscal Year 1990 cooperative agreements to conduct population-based farm family health and hazard studies.

Authority

This program is authorized under section 20(a)(1) (29 U.S.C. 669[a][1]) of the Occupational Safety and Health Act of 1970 and section 301(a) (42 U.S.C. 241[a]) of the Public Health Service Act, as amended.

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, and other public and private organizations, state and local health departments and agriculture departments, and small minority and/or women-owned businesses are eligible for these cooperative agreements.

Availability of Funds

Approximately $1.2 million is available in Fiscal Year 1990 to fund three to five applications. It is expected that the average award will be approximately $240,000. The awards are expected to begin on or about September 30, 1990, and are usually made for a 12-month budget period within a 3- to 5-year project period. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of the cooperative agreement is to assist applicant organizations in developing surveillance strategies and collecting surveillance data on farm-related health status and health hazards. Surveillance data will be used to develop disease prevention, health promotion, and hazard reduction strategies that will assist organizations, such as land grant universities and State and local governments, which have a long-standing relationship among farmers.

The NIOSH Farm Family Health and Hazard Surveillance (FFHHS) Cooperative Agreement Program has two primary objectives. The first objective of the program is to document the health status of agricultural workers and their families. The second objective of the program is to document work-related risk factors and conditions of exposure to potentially hazardous agents and events.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under 1. below and CDC/NIOSH will be responsible for conducting activities under 2. below.

The health and hazard surveillance activities require substantial CDC/NIOSH and state-level involvement and collaboration. The nature and extent of these activities are described as follows:

1. Recipient Activities

a. Review and access from available sources the agricultural and rural characteristics of the target population for purposes of conducting a farm family health and hazard assessment. Factors to consider include a description of (1) The demographics and characteristics of the agricultural base, along with the size of the rural population; (2) the health status of these populations, including occupational disease and injury; (3) the prevailing work activities, on and off the farm, of the agricultural populations, summarizing known and suspected workplace exposures and risks; and (4) the seasonal nature of agriculture activitries in the study population.

b. Define the target population for the study.

c. Develop a protocol for studying the target population. The health status component of the study may include, but is not limited to, the following subject or content areas: Basic health and demographic data; hearing loss; traumatic injuries; musculoskeletal overuse/strain and vibration-related conditions; respiratory conditions; dermatological conditions; infectious diseases; cancer; acute and chronic chemical toxicity; and mental health and stress-related disorders; and for these conditions the utilization of health care providers.

The work-related risk factors component of the study may include, but is not limited to, the following subject or content areas: inventory of environmental risk factors with a potential for agriculture-related exposure (e.g., solvents, pesticides, organic dusts, and physical and biological agents); inventory of agriculture-related processes (e.g., pesticide application, animal confinement tasks, crop planting and harvesting, and equipment operation); inventory of industrial type processes (e.g., welding, masonary, plastering, and electrical and equipment maintenance); inventory of protective equipment and devices used (e.g., respirators, hearing protection, roll protection on tractors, and machine guards); safety hazard issues (e.g., confined spaces, equipment guarding and shielding, tractor rollover protection, contact with electrical energy, manual materials handling); and the description of individuals' exposure to work-related risk factors on study sites. For some agricultural workers and their families, consideration should be given to the collection of off-farm employment work histories when inventorying work-related risk factors. Applicants are encouraged to consider innovative approaches for qualitative and quantitative assessment of all work-related risk factors (see 1c(3) below).

The protocol should include a discussion of the following:

(1) A sample frame should be defined to describe the "target" population. For purposes of this study, "agriculture" is defined broadly within the frame of the Standard Industrial Classification (SIC) system to include the following two-digit major groups that comprise Division A Agriculture, forestry, and fishing: Major group 01, Agricultural production—crops; Major group 02, Agricultural production livestock and animal specialties; Major group 07, Agricultural services; Major group 08, Forestry; and Major group 09, Fishing, hunting, and trapping. Prospective applicants should note that the SIC does not define Major Groups 03 to 06.

Applicants are permitted to be selective in defining a "target" population within this broader "agriculture" classification.

(2) Sampling plans should contain probability sampling methods for the selection of study participants from a defined population. The degree of precision for one or more key statistics should be explicitly stated and be compatible with the funds available or requested. If an applicant concludes that a nonprobability sampling proposal would be more efficient, the applicant may submit an alternate proposal in addition to the proposal for probability sampling. The alternative proposal should be fully justified and contain a separate cost proposal.

The sampling strategy should consider the following: stratification within the designated SIC range; heterogeneity of agricultural practices within the state; the seasonal nature of agricultural practices or processes within the state; optimization of study resources; procedures for non-surveyable or uncooperative farms; and procedures proposed to minimize observer or interview bias and differences.

Within scope farms or study sites should be described to permit stratification by size (e.g., gross sales) and commodity or product. Other off-farm employment, of the operator or family members, should be described to permit assessment of other occupational hazards. NIOSH assistance and resources will be made available to assist in these characterizations.

(3) Applicants are encouraged to select a subsample of within-scope farms or study sites for further assessment of health status and exposure to on-farm occupational hazards.

(a) *Health Status Component.* Depending on the target population and suspect hazards or exposures, additional information on health outcomes or effects may be collected by physical examination or procedures, such as pulmonary function testing for pulmonary conditions, hematologic or urinalysis for toxic chemical effects, and audiometry for noise-induced hearing loss. Innovative approaches for physical and health assessment are encouraged.

(b) *Hazard Component.* Depending on the target population and suspect hazards or exposures, additional information may be collected through on-site inspections providing qualitative or quantitative assessments of chemical hazards (e.g., exposure to pesticides, respiratory toxins, or carcinogenic agents), physical hazards (e.g., vibration, noise, and awkward positions and lifting), and safety hazards (e.g., confined spaces, equipment guarding and shielding, tractor rollover protection, contact with electrical energy, manual materials handling).

(4) Estimation procedures, including estimation of variances, should be specified. Procedures should include an algorithm for projecting the study data to the target population within the state.

(5) Data collection and processing procedures should include discussions of:

(a) Collection methods (personal interview, mail, telephone, etc.);

(b) Validation of study data, including "numerator" and "denominator" data;

(c) Methods to minimize "out-of-scope" farms, such as those that are no longer in business;

(d) Study scheduling, including seasonal queries;

(e) Methods to minimize non-response or response errors, especially for topics thought to be sensitive;

(f) Review and follow-up of questionnaires following initial interview;

(g) Methods for obtaining information from a sample of within scope farms or study sites;

(h) Data processing and management procedures, including data abstraction, coding, editing, and data base management; and

(i) Procedures for protecting the privacy of respondents, and safeguarding confidential information.

d. Develop a timetable for the applicant's conduct of the health status and hazard studies.

e. Collaborate with NIOSH staff, as necessary, in (a) developing and field testing study instruments and methods, and (b) training staff for the health status and hazard studies.

f. Collaborate with NIOSH, as necessary, in the analysis, interpretation, and dissemination of study data.

g. Collaborate with NIOSH in the evaluation of the completed health status and hazard studies.

2. CDC/NIOSH Activities

a. Standardize study protocols, including (a) The design of health and hazard data content modules for use in the grantee's health and hazard studies, and (b) the evaluation and inventory of environmental risk factors, and the work conditions of their exposure.

b. Refine lists of health problems or suspect hazards for which health and examinatoin modules are to be developed.

c. Asist in the indentification of training needs (a) To assess and inventory environmental risk factors, and (b) to recognize and evaluate occupational safety and health hazards.

d. Provide training in the inventory and recording of on-site observations of potential exposures to health and safety hazards, and to provide consultation during the training of personnel. Providing job exposure information to assist in the assessment of occupational hazards for off-farm employment of the operator or family members.

e. Facilitate protocol review by NIOSH, the National Center for Health Statistics, and other occupational safety and health experts.

f. Secure, if needed, protocol approval and clearances (a) Pursuant to the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 35), and implementing regulations 5 CFR Part 1320, "Controlling Paperwork Burdens on the Public," and (b) appropriate human subjects review.

g. Promote and facilitate collaboration, if appropriate, with agricultural safety and health researchers funded under NIOSH-sponsored surveillance and agricultural initiatives.

Projects funded through a cooperative agreement that involve collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.

Evaluation Criteria

The review of applications will be in accordance with PHS Grants Administration Manual, part 134, Objective Review of Grant Applications. An ad hoc committee will be convened to determine the technical and scientific merit of the application. Applicants meeting the program requirements as outlined in this announcement will be evaluated and ranked for funding using the following criteria:

1. Relevance of the proposal to the scope and objectives provided in the Request for Assistance (15%);

2. Technical merit and originality of the proposed approach to the problems in the measurement and identification of health conditions and health hazards within agricultural populations (15%);

3. Training, experience, and competence of the proposed Project Director(s) and staff. The Project Director must be a recognized scientist and technical expert, and must assume and provide assurances of major time commitment to the project (15%);

4. Adequacy of the methodology and approach (15%);

5. Suitability of the facilities (10%);

6. Nature and extent of collaboration among or participation from (1) Official public health agencies, (2) state departments of agriculture and agricultural extension programs; and (3) public or private organizations, institutions, universities, or colleges. Letters of support and memoranda of understanding may be used to document the presence of multi-agency collaboration or participation. The objective review will gauge the nature and extent of collaboration of participation. (15%)

7. Overall balance between the "health" and "hazard" components of the proposed studies (15%); and

8. Appropriateness and justification of the requested budget relative to the work proposed (Not Scored);

Executive Order 12372 Review

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.262.

Application Submission and Deadline

The original and two copies of the Form PHS-5161-1 (Revised 3/89), must be submitted to Henry S. Cassell III, Grants Management Officer, Centers for Disease Control, Grants Management Office Branch, Procurement and Grants Management Office, 255 East Paces Ferry Road NE., room 415, Mail Stop E-14, Atlanta, Georgia 30305, on or before July 20, 1990.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures and an application package may be obtained by writing to Donna Rushin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 415, Mail Stop E-14, Atlanta, Georgia 30305, or by calling (404) 842-1630 or FTS 236-1630.

Technical Assistance pertaining to the Farm Family Health and Hazard Surveillance Cooperative Agreement Program may be obtained from Todd M. Frazier, Chief, Surveillance Branch, Division of Surveillance, Hazard Evaluations and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, 4676 Columbia Parkway, Mail Stop R17, Cincinnati, Ohio, 45226, (513) 841-4303 or FTS 684-4303.

Technical Information available from NIOSH information and library resources may be obtained from Vivian Morgan, Chief, Technical Information Branch, Division of Standards Development and Technology Transfer (DSDTT), National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, 4676 Columbia Parkway, Mail Stop C18, Cincinnati, Ohio 45226, (513) 533-8326 or FTS 684-8326, or the NIOSH "800" number, 1-800-35NIOSH.

Please refer to Announcement Number 040 when requesting information and submitting an application.

Dated: June 7, 1990.

Larry W. Sparks,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 90-13703 Filed 6-12-90; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 88A-0213]

Advisory Opinion; Preemption; Hearing Aids; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a response to a request for reconsideration of FDA's advisory opinion issued on December 21, 1988, concluding that § 346.250.1, Revised Statutes of Missouri (RSMo 1986) is not directly related to the safety or effectiveness of hearing aids and, therefore, is not a requirement with respect to a device within the meaning of section 521 of the Federal Food, Drug,

and Cosmetic Act (the act) and is not preempted by the act.

DATES: Comments on the new advisory opinion may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the advisory opinion and the request for reconsideration to the Office of Standards and Regulations, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The advisory opinion, request for reconsideration, and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: On April 25, 1989, the Lloyd Hearing Aid Corp., 128 Kishwaukee St., Rockford, IL 61104, submitted a request for reconsideration of FDA's advisory opinion, issued on December 21, 1988, concluding that § 346.250.1, RSMo 1986 is not preempted by section 521(a) (21 U.S.C. 360k(a)) of the act. Section 346.250.1, RSMo 1986 prohibits the sale of a hearing aid through the mail directly to a consumer without prior fitting or testing by a licensed hearing aid fitter or dealer.

Section 521(a) of the act provides that no State or local government may establish or continue in effect any requirement with respect to the safety or effectiveness of a device or to any other requirement applicable to the device under the act if such requirement is different from or in addition to a requirement applicable to the device under the act.

FDA has again reviewed § 346.250.1, RSMo 1986 and has determined that it is not directly related to the safety or effectiveness of hearing aids. Therefore, it is not a requirement with respect to a device within the meaning of section 521 of the act and is not preempted.

The Lloyd Hearing Aid Corp. also stated that FDA's advisory opinion of December 21, 1988 is inconsistent with another FDA advisory opinion of June 3, 1981, concerning certain hearing aid requirements in Florida. FDA believes that the two advisory opinions are not inconsistent. The Florida statute contains specific requirements related directly to the testing of hearing aids, while § 346.250.1, RSMo 1986 prohibits mail-order sales without prior fitting and testing by a hearing aid fitter or licensed dealer.

Pursuant to 21 CFR 10.85 and 808.5, FDA is now issuing a new advisory opinion affirming its earlier advisory opinion on the same subject. Comments will be considered in determining if changes in the policy are warranted.

Dated: June 6, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-13648 Filed 6-12-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90D-0194]

Compliance Policy Guide for Radioimmunoassay (RIA) Analysis of Hair To Detect the Presence of Drugs of Abuse; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide (CPG) 7124.06 "RIA Analysis of Hair to Detect the Presence of Drugs of Abuse." This CPG relates to RIA in vitro test procedures for the detection of drugs of abuse by hair analysis. It does not apply to mass spectrometer analysis of hair samples. The CPG states that the apparatus and reagents associated with tests for drugs of abuse are medical devices and that RIA in vitro diagnostic devices (IVD's) for testing a specimen of hair to detect the use of drugs of abuse are devices intended for a new use and are adulterated and misbranded unless FDA has approved an application for premarket approval (PMA) for the device for that use, under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

ADDRESSES: Compliance Policy Guide (CPG) 7124.06 "RIA Analysis of Hair to Detect the Presence of Drugs of Abuse" may be ordered from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Orders must reference NTIS order number 90-214479 and include payment of $8 for each copy of the document. Payment may be made by check, money order, charge card (American Express, Visa, or Mastercard), or billing arrangements made with NTIS. Charge card orders must include the charge card account number and expiration date. For telephone orders or further information on placing an order, call NTIS at 703-487-4650. CPG 7124.06 is available for public examination in the Dockets Management Branch (HFA-3050), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Eric Latish, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-323), 1390 Piccard Dr., Rockville, MD 20850, 301-427-1116.

SUPPLEMENTARY INFORMATION: In this CPG, analysis of hair refers to RIA in vitro test procedures for the detection of use of drugs of abuse by hair analysis.

The procedure is represented as capable of identifying, from the RIA analysis of a hair sample, a person's use of specific drugs of abuse over time, dating from the present back for months to possibly years. Over the past several years, a number of experts, including FDA scientists, have reviewed the published literature on hair analysis testing for drugs of abuse and have concluded that the RIA test currently is unproven.

FDA's review of agency records shows that there is no FDA regulated RIA product on the market that has been demonstrated to be effective in testing hair for the presence of drugs of abuse nor has any manufacturer submitted evidence to support the marketing of any new product for this purpose.

It is FDA's view that RIA hair analysis for the presence of drugs of abuse currently is an unproven procedure unsupported by the scientific literature or well-controlled studies and clinical trials. The consensus of scientific opinion is that hair analysis by RIA for the presence of drugs of abuse is unreliable and is not generally recognized by qualified experts as effective.

Accordingly, in FDA's view, a RIA in vitro diagnostic device, intended to test a specimen of a person's hair to detect whether the person has used a drugs of abuse, that is introduced into commercial distribution without an approved PMA, is adulterated and misbranded.

Interested persons may submit to the Dockets Management Branch (address above) written comments at any time. Two copies of any comments should be submitted except that individuals may submit one copy. Comments are to be

identified with the docket number in the heading of this document.

The statements made herein are not intended to create or confer any rights, privileges, or benefits on or for any private person, but are intended merely for internal guidance.

This notice is issued under 21 CFR 10.85.

Dated: May 31, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-13649 Filed 6-12-90; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Supplemental Security Income Modernization Project; Meeting

AGENCY: Social Security Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: The Social Security Administration (SSA) announces a meeting on the Supplemental Security Income (SSI) Modernization Project (the Project). This notice also describes the proposed agenda, purpose, and structure of the Project.

DATES: June 21, 1990, 9:30 a.m. to 5 p.m.; June 22, 1990, 9 a.m. to 5 p.m.

ADDRESSES: June 21, 1990: Hubert H. Humphrey Building, room 703A, 200 Independence Avenue, Washington, DC 20201; June 22, 1990: Social Security Administration Headquarters, Altmeyer Building, Multipurpose Room, 6401 Security Boulevard, Baltimore, MD 21235. (Enter and obtain a visitor parking at the Security Boulevard main entrance if parking on Social Security Administration property.)

FOR FURTHER INFORMATION CONTACT: SSI Modernization Project Staff, rm. 300, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-3571.

SUPPLEMENTARY INFORMATION: SSA will be undertaking a comprehensive examination of the SSI program, reviewing its fundamental structure and purpose. The SSI program has been in operation over 16 years. The purpose of the Project is to determine if the SSI program is meeting and will continue to meet the needs of the population it is intended to serve in an efficient and caring manner, recognizing the constraints in the current fiscal climate.

The first phase of this Project is intended to create a dialogue that provides a full examination of how well the SSI program serves the needy aged, blind, and disabled.

To begin this dialogue, the Commissioner of Social Security will involve 26 people who are experts in the SSI program and/or related public policy areas. The experts include a wide range of representatives, of the aged, blind, and disabled from private and nonprofit organizations and Federal and State government as well as former SSA staff. Like members of the public attending this meeting, the experts will be able to express their individual views and concerns about the SSI program. Dr. Arthur S. Flemming, former Secretary of Health, Education, and Welfare, will chair the meeting. The purpose of this initial dialogue is to exchange ideas and existing information about the program. This exchange will facilitate the sharing of ideas among attendees' constituencies, including advocacy groups, state and local government and academicians. The outcome will be a more informed public that has an interest in bringing individually produced innovative ideas for change in the SSI program to the Modernization Project.

The meeting is open to the public to the extent that space is available. Public officials, representatives of professional and advocacy organizations, concerned citizens, and SSI applicants and recipients may speak and submit written comments on the issues to be discussed. (This is the first in a series of meetings to be held in Washington, DC and elsewhere throughout the country. Each of these meetings will also be open to the public. All meetings will be announced in the **Federal Register**. If you are interested in the Project but cannot attend the meeting on June 21 and 22, 1990, please call the project staff at (301) 965-3571 so we may notify you of future meetings.)

There will be a public comment portion of the meeting beginning in the afternoon of June 21, 1990 (in Washington, DC). A second public comment session will be held in Baltimore, on June 22, 1990, in the morning. In order to ensure that as many speakers as possible are given the opportunity in the time allotted for public comment, each person will be limited to a miximum of 10 minutes. Because of the time limitation, individuals are requested to present comments in their order of importance. A written copy of comments should be prepared and presented to us, preferably in advance of the meeting. To ensure our full understanding and consideration of all of each speaker's concerns, we welcome written comments that provide a detailed and elaborative discussion of the subjects presented orally, as well as further written comments on other issues not presented orally. Persons unable to attend the meeting also may submit written comments. Written comments will receive the same consideration as oral comments.

To request to speak, please telephone the Project Staff, at (301) 965-3571, and provide the following: (1) Name; (2) business or residence address; (3) telephone number (including area code) during normal working hours; (4) capacity in which presentation will be made; i.e., public official, representative of an organization, or citizen; and (5) time of day desired. To guarantee an opportunity to speak, requests must be received by June 19, 1990. Late requests to speak will be honored, if time permits.

A transcript of the meeting will be available at an at-cost basis. Transcripts may be ordered from the Project Staff. The transcript and all written submissions will become part of the record of these meetings.

(Catalog of Federal Domestic Assistance Programs No. 13.807-Supplemental Security Income)

Dated: June 7, 1990.

Peter D. Spencer,

Director, SSI Modernization Projects Staff.

[FR Doc. 90-13654 Filed 6-12-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-00-4120-14]

Cheyenne, Wyoming 82003

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Notice.

SUMMARY: In accordance with the Powder River Operational Guidelines for Coal Leasing-By-Application, that were approved by the Powder River Regional Coal Team on April 3, 1990, the Bureau of Land Management (BLM) is announcing that five coal lease applications have been received to date in the Wyoming portion of the Powder River Region. Input and issues concerning these applications should be identified within the next thirty (30) days.

FOR FURTHER INFORMATION CONTACT: Don Brabson, Powder River Project Manager, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003; telephone (307) 775-6257 or FTS 329-6257.

SUPPLEMENTARY INFORMATION: Five coal lease applications have been filed and

are pending in the Wyoming portion of the decertified Powder River Coal Region. Four of these were identified and discussed at the Powder River Regional Coal Team meeting on April 3, 1990. These four applications are referred to as case file number WYW117924 from Kerr-McGee Coal Corporation in T. 44 N., R. 70 W. (all or parts of sections 33, 34, and 35); case file number WYW118907 from Thunder Basin Coal Company in T. 43 N., R. 70 W. (all or parts of sections 18, 19, 30, 31, 32, and 33); case file number WYW119555 from Powder River Coal Company in T. 41 N., R. 70 W. (all or parts of sections 3, 4, and 5); and case file number WYW119554 from Powder River Coal Company in T. 41 N., R. 70 W. (all or parts of sections 5, 6, 8, and 17). In addition, a fifth lease application (case file number WYW120327) from Cordero Mining Company in T. 46 N., R. 71 W. (all or parts of section 11), was filed for maintenance coal. These case files may be viewed in the fourth floor public room of the Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming.

Within thirty (30) days after the publication of this notice in the **Federal Register**, any imputs or issues that the public cares to address should be made to the State Director (925), Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, WY 82003. The Bureau is particularly interested in comments concerning environmental factors and any alternative tract delineations that would facilitate competition and coal resource recovery. Although other opportunities for public input will follow in the processing of these applications, it is most appropriate that public concerns are addressed at this early stage. Therefore, public imputs are now encouraged.

F. William Eikenberry,

Associate State Director.

[FR Doc. 90-13612 Filed 6-12-90; 8:45 am]

BILLING CODE 4120-14-M

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Public Review Period for Draft Statement for Management

In accordance with the National Park Service Planning Guidelines in the preparation of Statements for Management, notice is hereby given that the National Park Service is releasing a draft Statement for Management for Cape Code National Seashore.

This document provided an up-to-date inventory of the park's condition and an analysis of issues. It does not involve any prescriptive discussions on future management and use of the park, but it provides a format for evaluating conditions and identifying major issues and information voids. The Statement for Management is used by park management to determine the nature and extent of required plans and studies to be programmed for completion in the future. Requests for copies, written comments or recommendations concerning the draft Statement for Management are welcomed, and should be sent to the address below.

The draft Statement for Management will be available to the public on June 22, 1990. Written comments must be received by July 23, 1990.

Comments should be addressed to the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

Dated: June 6, 1990.

Gerald D. Patten,

Regional Director.

[FR Doc. 90-13710 Filed 6-12-90; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-307]

Certain Catalyst Components and Catalysts for the Polymerization of Olefins; Commission Determination To Grant an Application for Interlocutory Appeal and To Affirm an Order Finding That Complainants Lack Standing

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission determined to grant an application for interlocutory appeal of the presiding administrative law judge's (ALJ's) Order No. 12 finding that complainants Himont Inc. and Himont U.S.A., Inc. (collectively Himont) lack standing to assert the patent rights raised in the complaint unless the patent owner, Montedison S.p.A., joins the investigation as a party, and ordering that the investigation be dismissed unless Montedison does so join. The Commission determined to affirm the ALJ's order.

ADDRESSES: Copies of the Commission's order, the opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E. Street SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: George Thompson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; telephone 202-252-1090.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On March 22, 1990, the presiding ALJ issued an order (Order No. 12) concerning respondent Fina Oil and Chemical Company's (Fina) motion to terminate the investigation because complainants Himont lack standing independently to assert the patent rights at issue in the investigation. The ALJ found that Himont lacked standing, but held his order in abeyance pending a decision by Montedison, the parent company of Himont and owner of the patents at issue, on whether it would voluntarily join the investigation as a complainant. If Montedison did not so join, the investigation was to be terminated.

On April 11, 1990, in response to a motion by Himont, the ALJ certified for interlocutory appeal to the Commission the question of Himont's standing under section 337 to independently assert the patent rights at issue. The ALJ found that the issue of Himont's standing raised a controlling question of law and policy as to which there is substantial ground for difference of opinion, and that an immediate appeal of this issue may materially advance the ultimate termination of this investigation.

The Commission determined to grant the application for interlocutory appeal and determined that under section 337, Himont does not have standing independently to prosecute the alleged patent rights in this investigation, and that unless Montedison joins the investigation, the investigation must be terminated. Accordingly, the Commission affirmed Order No. 12.

An opinion providing the Commission's reasons for taking this action will be issued separately.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rule 210.70(b) (19 CFR 210.70(b)).

By order of the Commission.

Issued: June 7, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-13679 Filed 6-12-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-312]

Designation of Additional Commission Investigative Attorney

In the Matter of Certain Dynamic Random Access Memories, Static Random Access Memories, Components Thereof and Products Containing Same

Before Janet D. Saxon, Chief Administrative Law Judge

Notice is hereby given that, as of this date, Linda C. Odom, Esq., of the Office of Unfair Import Investigation, will be a Commission Investigative Attorney in the above-captioned matter in addition to Thomas L. Jarvis, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: June 4, 1990.

Lynn I. Levine,

Director, U.S. International Trade Commission, Office of Unfair Import Investigations, 500 E Street SW., room 401, Washington, DC 20436, (202) 252-1560.

[FR Doc. 90-13680 Filed 6-12-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-310]

Certain Pyrethroid and Pyrethroid-Based Insecticides; Commission Determination Not To Review Initial Determination Terminating Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) in the above-captioned investigation terminating the investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1098.

SUPPLEMENTARY INFORMATION: On May 8, 1990, all of the private parties in the investigation filed a joint motion to terminate the investigation on the basis of a settlement agreement. On May 16, 1990, the presiding ALJ issued an ID (Order No. 3) terminating the investigation on the basis of the settlement agreement. No petitions for review, or agency or public comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

By order of the Commission.

Issued: June 7, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-13681 Filed 6-12-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30305 (Sub-No. 1)]

Blue Mountain and Reading Railroad Co. Modified Rail Certificate

On May 14, 1990, a notice was filed by Blue Mountain and Reading Railroad Company (RM&R) for a modified certificate of public convenience and necessity under 49 CFR 1150.23.

BM&R currently operates under a Second Supplemental Modified Rail Certificate, issued August 23, 1984, over a line of railroad acquired by the Commonwealth of Pennsylvania in 1983.

BM&R and the Pennsylvania Department of Transportation have entered into agreements for BM&R's operation of the following three additional rail lines: (1) Between Topton (milepost 0.17) and Kutztown (milepost 4.29), in Berks County, (the Kutztown Industrial Track); (2) between Pennsburg (milepost 22.38) and Emmaus Junction (milepost 38.23), in Montgomery and Lehigh Counties, (the Perkiomen Branch); and (3) between Pottstown (milepost 0.0) and Boyertown (milepost 8.6), in Berks and Montgomery Counties (the Colebrookdale Industrial Track). The three lines were acquired by the Commonwealth in 1982 and formerly operated by Anthracite Railway, Inc. They connect with Consolidated Rail Corporation at Topton, Emmaus, and Pottstown.

This notice must be served on the Association of American Railroads (Car Service Division), as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: June 7, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-13674 Filed 6-12-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

American Telephone and Telegraph Co.; International Business Machines Corp.; and Massachusetts Institute of Technology

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), American Telephone and Telegraph Company, on behalf of itself, International Business Machines Corporation ("IBM"), and Massachusetts Institute of Technology ("MIT") on January 16, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a new area of activity. The notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specific circumstances.

On August 17, 1989, AT&T, IBM, and MIT filed their original notification pursuant to Section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the Federal Register pursuant to section 6(b) of the Act on September 18, 1989 (54 FR 38459).

On October 20, 1989, the parties entered into an agreement formally implementing the Consortium for Superconducting Electronics, the purpose of which is to plan and execute a balanced and cohesive program of research and development leading to applications of superconducting electronics. A principal focus will be on thin-film devices in areas such as high speed and high frequency circuits and sensitive instrumentation.

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 90-13704 Filed 6-12-90; 8:45 am]
BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Semiconductor Research Corp.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("Act"), the Semiconductor Research Corporation ("SRC"), on May 16, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following companies have been added as affiliate members of SRC: Analogy, Inc.; Intersonics, Inc.; QuanScan, Inc.; and XMR, Inc. No other changes have been made in either the membership or planned activities of SRC.

On January 7, 1985, SRC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 30, 1985, 50 FR 4281. The most recent notification of SRC membership changes published in the **Federal Register** with a then current and complete membership list was filed by SRC on October 25, 1989, and published by the Department on November 29, 1989, 54 FR 49123-24. A subsequent notification filed on February 20, 1990, was published on April 5, 1990, 55 FR 12750, disclosing only membership changes.

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 90-13705 Filed 6-12-90; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency indentification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., room N-1301, Washington DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
Job Training for the Homeless Demo Program (JTHDP)
ETA 9028

Quarterly

State or local governments; Non-profit organizations
184 respondents; 1,840 total hours; 10 hrs. per response; 1 form

The information provided by this collection from grantees will permit DOL to meet Federal responsibilities for program administration, management and oversight; respond to public and Congressional inquiries; and insure that we have statutorily-required information.

Revision

Bureau of Labor Statistics.
U.S. Import Product Information.
1220-0026.

Quarterly

Form No.	Affected public	Respondents	Frequency	Per response
BLS 3007B	Small, medium, and large business firms.	2000	Annual	45 minutes.
BLS 3008	Small, medium, and large business firms.	2000	Annual	15 minutes.
BLS 3007C	Small, medium, and large business firms.	8394	Quarterly	25.2 minutes.
BLS 3007E	Small, medium, and large business firms.	50	Quarterly	25.2 minutes.
				16,186 total hours.

The International Price Program indexes, one of the nation's primary economic indicators, are used as: measures of price movements in international product prices; indicators of inflationary trends in the economy;

sources of information used to determine U.S. monetary, fiscal, trade, and commercial policies. They are also used to deflate the Gross National Product.

U.S. Export Product Information
1220–0025

Quarterly

Form No.	Affected public	Respondents	Frequency	Per response
BLS 2894B	Small Medium, and large business firms.	2000	Annual	45 minutes.
BLS 3008	Small Medium, and large business firms.	2000	Annual	15 minutes.
BLS 2894C	Small Medium, and large business firms.	6065	Quarterly	23.4 minutes.
				11,461 total hours.

The International Price Program indexes, one of the nation's primary economic indicators, are used as: measures of price movements in international product prices; indicators of inflationary trends in the economy; sources of information used to determine U.S. monetary, fiscal, trade, and commercial policies. They are also used to deflate the Gross National Product.

Signed at Washington, DC this 8th day of June, 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90–13711 Filed 6–12–90; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA-W-23,970]

Etienne Aigner, Edison, NJ; Negative Determination Regarding Application for Reconsideration

By an application dated April 25, 1990 administrative reconsideration was requested for the subject petition for trade adjustment assistance. The denial notice was signed on April 3, 1990 and published in the **Federal Register** on April 27, 1990 (55 FR 17837).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request was filed by a person who was not an employee of the subject firm. Section 90.18(a) of the Code of Federal Regulations (CFR) states that a worker, group of workers, recognized union or authorized representative of such worker or group aggrieved by the determination may file an application for reconsideration. A person who is not an employee of the firm or is not a part of the worker group does not have the required standing to file for administrative reconsideration.

However, the Department, on its own motion, reviewed its determination. The investigation findings show that the Edison plant produced handbags with difficult construction which were generally higer fashion and sample handbags for its salesmen's lines.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The decision to close Edison and shift production to other domestic facilities was made in early 1989. Production of handbags at Edison ceased in June 1989. The transfer of Edison's production of ladies' handbags to other domestic facilities in early 1989 would not provide a basis for certification notwithstanding imports of some non-high fashion ladies' handbags in February 1990.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 5th day of June 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90–13712 Filed 6–12–90; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-23,937]

Harvey Industries, Inc., Athens, TX; Negative Determination Regarding Application for Reconsideration

By an application dated May 3, 1990, Local #376 of the United Furniture Workers of America (UFWA) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on April 6, 1990 and published in the **Federal Register** on April 27, 1990 (55 FR 17837).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances;

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union submitted names of additional customers which reduced their orders from Harvey Industries.

Investigation findings show that the Harvey workers produce TVs, stereos and combination units. TVs accounted for the predominant portion of production.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The Department's survey which accounted for a predominant portion of the firm's 1989 sales showed that none of the customers imported. Customers with reduced purchases from Harvey increased their dometic purchases in 1989 compared to 1988.

The names of the customers submitted by the union either reduced their purchases from Harvey after the

Department's determination was issued or transferred their orders from Harvey to one of their own domestic plants.

Further, under the Trade Act of 1974, only increased imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision can be considered. Parts for TVs, stereos and combos are not like or directly competitive with the finished articles produced at Harvey Industries. This issue was addressed in *United Shoe Workers of America, AFL–CIO* v. *Bedell*, 506 F3d 174, (DC Cir. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, TV, stereo and combo parts incorporated in the finished article (TVs, stereos or combination units) cannot be considered like or directly competitive with the finished article—TVs, stereos, or combination units.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC., this 5th day of June 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90–13713 Filed 6–12–90; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 1990

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,213; National Sea Products, Inc., Rockland, ME

TA-W-24,224; V.J. Fashions, Inc., Union City, NJ

TA-W-24,205; Cottage Tailor, Inc., Worcester, MA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,255; Invader Boats, Inc., Giddings, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,219; Sekiu River Shake, Sekiu, WA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24,202; Anchor Motor Freight, Inc., Linden, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,266; Peter Pan Industries, Lakewood, NJ

The workers' firm does not produce an articles as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,214; Nortex International, Philadelphia, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,238; Amoco Production Co., Africa & Middle East Region Houston, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,238; Amoco Production Co., Europe, Latin America & Far East Region, Houston, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,209; Kardiex Systems, Inc., Reno, OH

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24,241; Climax Molybdenum Co., Empire, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,057; General Motor Corp., Inland Fisher Guide, Syracuse, NY

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-24,254; Grant Hardware Co., West Nyack, NY

A certification was issued covering all workers separated on or after March 21, 1989.

TA-W-24,201; Alcatel Network Systems, Portsmouth, RI

Certification was issued covering all workers separated on or after March 20, 1989.

TA-W-24,124; Irvin Industries, Plant #2, Richmond, KY

A certification was issued covering all workers separated on or after January 1, 1990.

TA–W–24,210; Keene Corp., Metal Products Div., Parkersburg, WV

A certification was issued covering all workers separated on or after January 1, 1990 and before May 25, 1990.

TA–W–24,211; L.E. Smith Glass Co., Mount Pleasant, PA

A certification was issued covering all worker separation on or after December 1, 1989.

TA–W–24,251; Gay Mode, Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after March 29, 1989.

TA–W–24,229; A&T Dress, Inc., Lodi, NJ

A certification was issued covering all workers separated on or after March 20, 1989.

TA–W–24,271; Sunshine Shake Co., Inc., Forks, WA

A certification was issued covering all workers separated on or after March 26, 1989.

TA–W–24,212; Ladies Sportswear, Kearny, NJ

A certification was issued covering all workers separated on or after March 21, 1989 and before April 16, 1990.

TA–W–24,175; Cricketeer Manufacturing Co., Harrodsburg, KY

A certification was issued covering all workers separated on or after March 2, 1989.

TA–W–24,233; Amoco Production Co., Headquartered in Chicago, IL

A certification was issued covering all workers separated on or after March 30, 1989.

TA–W–24,234; Amoco Production Co., Tulsa Research Center, Tulsa, OK

A certification was issued covering all workers separated on or after March 30, 1989.

TA–W–24,235; Amoco Production Co. Houston Region, Headquartered In Houston, TX & Operating At Various Locations In The Following States:

TA–W–24,235A; TX

TA–W–24,235B; NM

A–W–24,235C; MI

A certification was issued covering all workers separated on or after June 6, 1989.

TA–W–24,236; Amoco Production Co., New Orleans Region, Headquarted in New Orleans, LA & Operating at Various Locations In the Following States:

TA–W–24,236A; LA

TA–W–24,236B; MS

TA–W–24,236C; PA

TA–W–24,236D; AL

A certification was issued covering all workers separated on or after June 6, 1989.

TA-W-24,237; Amoco Production Co., Denver Region, Headquarted in Denver, Colorado & Operating at Various Locations In The Following States:
TA-W-24,237; AK
TA-W-24,237B; WY
TA-W-24,237C; CO
TA-W-24,237D; NM
TA-W-24,237E; OK
TA-W-24,237F; UT
TA-W-24,237G; ND
TA-W-24,237H; SD
TA-W-24,237I; NE
TA-W-24,237J; KS

A certification was issued covering all workers separated on or after June 6, 1989.

I hereby certify that the aforementioned determinations were issued during the month of May 1990. Copies of these determinations are available for inspection in room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: June 8, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-13714 Filed 6-12-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,226]

WI Forest Products Cashmere, WA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, and investigation was initiated on April 2, 1990 in respnse to a petition filed by the Western Council of Industrial Workers on April 2, 1990 on behalf of workers at WI Forest Products, Cashmere, Washington.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 6th day of June, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-13715 Filed 6-12-90; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Meeting: Visual Arts Advisory Panel

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 Visual Arts Advisory Panel (Special Projects/Challenge III Section) to the National Council on the Arts will be held on June 28, 1990, from 9 a.m.-6 p.m. and on June 29 from 9 a.m.-4:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 29 from 3:30 p.m.-4:30 p.m. The topic will be policy issues and guidelines recommendations.

The remaining portions of this meeting on June 28 from 9 a.m.-6 p.m. and on June 29 from 9 a.m.-3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

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: June 6, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-13611 Filed 6-12-90; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 15, 1990 through May 31, 1990. The last biweekly notice was published on May 30, 1990 (55 FR 21958).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be

examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 13 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Nuclear Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: January 31, 1990

Description of amendments request: The amendments to the Technical Specifications would (1) reduce the residual heat removal (RHR) minimum flowrate during refueling operations, (2) remove the RHR autoclosure interlock on the RHR system suction isolation valves, and (3) allow one safety injection pump to be available for injection purposes if normal heat removal capability were lost.

Basis for proposed no significant hazards consideration determination: The staff has evaluated these proposed amendments and determined that it involves no significant hazards consideration. According to 10 CFR 50.92, a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

Minimum RHR Flowrate

1. Operation of Byron/Braidwood Unit Nos. 1 and 2, in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

A reduction in RHR flow during mid-loop operation will potentially impact those transients explicitly analyzed in Modes 5 and 6. The only event analyzed for these modes in Chapter 15 of the Byron/Braidwood UFSAR is the malfunction of the CVCS that results in a decrease in boron concentration in the reactor coolant. The CVCS malfunction event can be impacted by a reduction in RHR flow in the following two areas: (1) a reduction in explicit RHR flowrate assumptions, and (2) the vessel mixing assumption during a boron dilution. The Mode 5 and 6 analyses do not assume an explicit RHR flow value, and the RHR flowrates are assumed to be sufficient to provide adequate vessel circulation to prevent boron stratification and support the boron dilution transient mixing assumptions.

In addition, since a CVCS malfunction event in Mode 6 is prevented by administrative controls which isolate the RCS from any potential source of unborated water, only the Mode 5 analysis could be impacted. However, it has been determined that a reduced RHR flow of 1000 gpm or greater would not invalidate the Byron accident analysis assumptions. Therefore, the current Mode 5 analysis remains valid.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Acceptable RHR flowrates that are consistent with the plant conditions would be specified in the plant procedures. The RHR flowrates would be such that: (1) the RHR would be capable of decay heat removal to control the RCS temperature, (2) the reactor coolant temperature rise through the core would not exceed reactor vessel internals delta T limits, (3) the reactor coolant would be mixed to prevent significant boron stratification from occurring, (4) the pressure drop across the RHR flowrate control valve would not result in cavitation, and (5) inadvertent boron dilution events could be identified and terminated by operator action prior to the reactor returning critical.

Thus, a reduction in RHR would not increase the probability of a CVCS malfunction event and the possibility of an accident which is different than any already evaluated in the UFSAR would not be created.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

Currently, the Byron/Braidwood Technical Specifications do not specify RHR flowrate requirements for operation in Mode 5. Mode 6 operations, however, require a minimum RHR flowrate of 2800 gpm (Surveillance Requirements 4.9.8.1 and 4.9.8.2). The Technical Specifications place limitations on the RHR during mid-loop operation by specifying a minimum flow requirement for the purpose of decay heat removal and the number of RHR trains which must be operable. They do not, however, contain restrictions based on minimizing air entrainment in the RHR as a result of vortexing which may occur during mid-loop operation under certain conditions.

The fuel cladding (fission product barrier) is protected in Modes 5 and 6 by providing cooling and maintaining core shutdown. Adequate decay heat removal is provided to address the cooling requirements, and sufficient mixing ensures that the boron dilution analyses remain valid. Therefore, the amount of time available to identify and terminate a boron dilution event is unaffected.

Thus, a reduced RHR flowrate during mid-loop operation does not involve a significant reduction in a margin of safety.

Removal of the Autoclosure Interlock

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The RHR suction relief valves are used as a means of cold overpressure protection. The cold overpressure protection system is designed to ensure the limits of Appendix G to 10 CFR Part 50 are not exceeded when one or more of the RCS cold legs are less than or equal to 350° F. Transient analyses were performed to determine the worst case mass input and heat input events (refer to UFSAR, Section 5.2.2.11.2). Removal of the autoclosure interlock (ACI) does not impact the transient analyses. However, removal of the ACI helps ensure that the RHR suction relief valves are available to mitigate potential overpressure transients. Additionally, removing the ACI reduces the potential for inadvertent isolation of the RHR system which can cause a Low Temperature Overpressure (LTOP) transient (reduced letdown combined with a loss of decay heat removal) while also isolating an overpressure mitigation path. Therefore, removal of the ACI does not involve an increase in the probability or the consequences of an accident previously evaluated. In fact, removal of the ACI has a positive impact on LTOP mitigation.

Analyses were also performed to confirm that one RHR relief valve has the capability of maintaining the RHR system maximum pressure within code limits (refer to UFSAR, Section 5.4.7.2.3). Removal of the ACI does not affect this analyses. Should a peak pressure occur while the RHR system suction isolation valves are open, the pressure effect on the low pressure RHR system would be mitigated by the RHR suction relief valves. The deletion of the ACI feature has no effect on the ability of the RHR system to survive pressure transients when the RHR system is connected to the RCS, since the RHR suction isolation valves are slow acting and no credit is taken for their actuation. Therefore, removal of the ACI will not involve an increase in the probability or consequence of an accident previously evaluated.

The impact of the ACI to Event V, LOCA outside containment, frequency was also considered. Analysis demonstrates that the probability of the occurrence or consequences of an accident are not increased. The dominant failure mode is rupture of the valve disc in each of the two series motor-operated valves (MOVs) in the RHR suction line when closed during normal power operation. This failure mode is independent of the ACI. Another less influential contributor to Event V frequency was found to be rupture of one valve while the other valve has failed open. The results demonstrate that, in this case, removal of the ACI is beneficial when compared to retaining it.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously considered.

The effect of an overpressure transient will not change due to the removal of the ACI. The RHR suction relief valves were designed to maintain the RHR system pressure within design limits. Although the ACI isolates the RCS from the RHR suction relief valves on high RCS pressure, overpressure protection of the RHR system is provided by the RHR suction relief valves not by the slow acting suction isolation valves. The purpose of the interlocks is to assure double isolation between the RHR system and the RCS when the plant is at normal operating conditions. The interlock prevents the possibility of an Event V due to operator error.

Removal of the ACI will not place the plant in any new or unanalyzed condition. Therefore, this change will not create the possibility of a new or different kind of

accident from any accident previously considered.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

Analyses were performed to demonstrate the impact of removal of the ACI on Event V frequency, RHR system reliability and overpressure transients. The analyses performed compared the results with and without the ACI. However, the results were contingent upon providing an alarm to alert the operator that a RCS-RHR series suction isolation valve(s) is not fully closed and that double isolation is not being maintained. The modification will not impact the opening circuitry, nor will it effect the MOV position indication in the control room. The setpoint for the alarm will be within the range of the open permissive setpoint pressure and the RHR system design pressure minus the RHR pump head pressure. Operating procedures will be revised to direct the operator to take the necessary actions to close the open valve (if it is not closed), or if this is not possible, to return to the safe shutdown mode of operation. The analyses performed indicates an overall increase in safety due to the removal of the ACI, implementation of the modification, and procedural changes.

Analyses performed indicates that the reliability of the RHR system is unchanged during RHR initiation and that it is improved during short and long term cooling as a result of the deletion of the ACI. Therefore, the margin of safety has actually increased.

Safety Injection Pump Operability in Modes 5 and 6

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of the occurrence of an accident is not increased since proposed Technical Specification 3/4.5.4.1 requires that all SI pumps be demonstrated inoperable in MODE 5 with pressurizer level greater than 5 percent and in MODE 6 with pressurizer level greater than 5 percent and the reactor vessel head resting on the reactor vessel flange due to cold overpressure protection concerns. In addition, proposed Technical Specification 3/4.5.4.2 requires the availability of at least one SI pump or an RCS hot side vent in MODE 5 and MODE 6 with pressurizer level less than or equal to 5 percent to mitigate the consequences of a loss of decay heat removal event during mid-loop operations. The availability of an SI pump under these circumstances does not present a concern regarding cold overpressure protection since sufficient air volume exists which allows the operator time to mitigate the transient. This is in contrast to the analyzed cold overpressure transients, in which the RCS is assumed to be water solid at the onset of the event. To prevent an SI pump from inadvertently being started by a signal, but allow them to be manually started from the control room, surveillance requirements include verifying that the motor circuit breakers are racked in and open with the control switch in the "pull out" position. Therefore, the occurrence of an accident previously analyzed in the Final and Updated Safety Analysis Reports is not increased.

The consequences of an accident as previously analyzed in the Updated and Final Safety Analysis Reports are not increased. However, the availability of at least one SI pump provides for the mitigation of the effects of a loss of decay heat removal event during mid-loop operations. It has subsequently been demonstrated that for some cases, i.e. the combination of inadequate RCS venting and the existence of a cold leg opening, operation of at least one safety injection pump is required to prevent the core from uncovering. The option to vent the RCS and use gravity feed from the RWST has been analyzed and will have no impact on the probability or consequences of a previously analyzed accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously considered.

The provisions of these Technical Specification changes are for the purpose of mitigating the consequences of a loss of decay heat removal during mid-loop operations. Operation of at least one SI pump is required in some cases to prevent the core from uncovering as supported by the performance of thermal hydraulic analysis. The only new configuration allowed by this specification is the potential of having an SI pump available in Modes 5 and 6. The potential overpressurization accident has been analyzed and accounted for in the specification by requiring pressurizer level to be less than 5 percent if an SI pump is available. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously considered.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

Operation of the SI pumps under these circumstances is not a cold overpressure concern because of the amount of air volume which exists in the RCS which would allow the operator time to mitigate the transient. This is in contrast to the analyzed mass addition transient which assumed a water solid RCS. To prevent the pumps from being inadvertently starting by a signal, surveillance requirements require verifying that the circuit breakers are racked in and open with the control switch in the "pull out" position. Having either an SI pump available or gravity feed from the RWST will help mitigate the consequences of a loss of decay heat removal event. Therefore, the margin of safety is not significantly reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: For Byron Station, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood Station, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Richard F. Dudley

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Nuclear Station, Unit Nos. 1 and 2, Ogle County, Illinois; and Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: April 26, 1990

Description of amendments request: The amendments would revise Technical Specification 3/4.6.3, Containment Isolation Valves, to delete the requirement for Type C leakage testing for specified Steam Generator blowdown isolation valves and to insert a requirement for the Type C leakage test for the 1/2 SI8968 safety injection valves.

Basis for proposed no significant hazards consideration determination: The staff has evaluated these proposed amendments and determined that it involves no significant hazards consideration. According to 10 CFR 50.92, a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed amendment makes the following changes to Technical Specification 3/4.6.3:

1. Deletes the requirement for Type C leakage testing for valves 1/2 SD002A through H and 1/2 SD005A through D by inclusion of an "*" after the above mentioned valves which references the note "*Not subject to Type C leakage tests."

2. Deletes the inclusion of an "*" by the 1/2 SI8968 valves. Thus, Type C leakage testing requirements for the 1/2 SI8968 valves are indicated in the Technical Specification.

1. The probability of an occurrence or the consequence of an accident or malfunction of equipment important to safety as previously evaluated in the UFSAR is not significantly increased for the reasons as follows.

The deletion of the requirement for Type C leakage testing of the steam generator blowdown system (SD) valves is not an initiating condition for any

accident analysis in the UFSAR. There are two accident analyses that consider steam generator (SG) blowdown in their analysis. In the first, for the Main Steamline Rupture accident analysis in the UFSAR Table 15.1-2, the SD blowdown valves autoclosure feature is required in the accident analysis not for the mitigation, but as an assumption for the analysis. Since the SD valves will still be tested for autoclosure and stroke time when a phase A containment isolation signal is present, the above accident analysis assumption concerning SG blowdown isolation remains satisfied with the change. In the second, for the Steam Generator Tube Rupture (SGTR) accident analysis, Table 15.6-5 lists under parameters used in the SGTR analysis the initial condition of 15 gpm blowdown per SG prior to the accident and no SG blowdown during the accident. No blowdown is the most conservative assumption for the analysis to maximize the potential radiological release to the environment since all the primary to secondary leakage (radiological isotopes) would remain in the ruptured SG and would not be removed by blowdown. Thus, the proposed change would have no effect on this accident analysis since the most conservative assumption (no blowdown) was used in the analysis and the change would not affect this (any leakage past the blowdown isolation valves would decrease the inventory of radiosotopes left in the ruptured steam generator that would be available for release).

The SG blowdown system is not considered in the mitigation of any accident. With regard to the UFSAR Section 15.2 accident analyses for decreased heat sink, the auxiliary feedwater system is the means of mitigation of the accidents. Isolation of SG blowdown conserves the SG secondary side water but does not mitigate the consequence of any accident as described in the UFSAR. There is no increase, significant or otherwise, in the consequences of an accident previously evaluated in the UFSAR.

Since the secondary side of the SG is considered a closed system, meeting the requirements of NUREG-0800 6.2.4.II.6.o, the proposed change would not increase, significantly or otherwise, the probability of a leakage path to the environment. Thus, the 10 CFR 100 limits would not be significantly affected for any accident analysis. Technical Specification limits on primary to secondary leakage and on both primary and secondary radiation levels would continue to ensure that in the event of an accident the offsite dose limit would remain within a small fraction of the 10 CFR 100 limits. In the event of a SGTR with some leakage past the SD valves, there would be no effect on the radiological release in the analysis since the most conservative assumption of no blowdown was used in the analysis. Any leakage past the blowdown valves would be into a blowdown system designed to handle the liquid. The blowdown demineralizer outlet radiation monitor would alarm if leakage occurred. Various auxiliary building area radiation monitors would alarm on elevated radiation levels in the Auxiliary Building in the event of leakage from the SD system piping to the Auxiliary Building. As designed, the negative pressure in the Auxiliary Building and the Charcoal Booster fans and filters would ensure that the radiation would not be released to the environment. Since any leakage would be expected to be a small amount and localized in the Auxiliary Building no adverse consequences would result. There would be no significant effect on any accident analysis.

Thus, for the above reasons, the proposed change of deletion of Type C testing for the SD valves does not significantly increase the probability of an occurrence or the consequence of an accident, or malfunction of equipment important to safety as previously evaluated in the UFSAR.

The inclusion of Type C testing for the SI8968 valves is a change of an editorial nature and merely corrects the Technical Specification to make it consistent with the UFSAR. The SI8968 valves have always required Type C testing per 10 CFR 50 Appendix J, and the testing has always been done. For this reason, the change does not significantly increase the probability of an occurrence or the consequence of an accident, or malfunction of equipment important to safety as previously evaluated in the UFSAR.

2. The possibility for an accident or malfunction of a different type than any previously evaluated in the UFSAR is not created.

The SD system is Category 1 Safety Class B piping up to and including the isolation valves, and has manual isolation valves. With respect to the accident analysis in Section 15.2 of the UFSAR, where there is a decrease in the heat removal by the secondary system, SG blowdown isolation is not required to mitigate any of the accidents in the analysis. Auxiliary feedwater initiation mitigates the accidents. The amount of leakage is insignificant with respect to the total SG secondary water mass. Though the SD isolation valves do autoclose on a phase A containment isolation signal to conserve SG secondary side mass, this not required to mitigate the effects of any accident in the UFSAR. No other accident or malfunction would be created. Thus, the possibility for an accident or malfunction of a different type than any previously created in the UFSAR is not created. The change to include the Type C leakage test for SI8968 valves does not create the possibility for an accident or malfunction of a different type than any previously analyzed, since the change is of an editorial nature and reflects the type of testing already done since it has been required.

3. The margin of safety as defined in the basis for any Technical Specification is not significantly reduced.

Pursuant to NUREG-0800 6.2.4.II.6.o the SG secondary is a closed system and therefore does not meet the 10 CFR 50 Appendix J criteria for Type C leakage testing. That is, no direct path would exist from containment to the outside atmosphere which might result in a radiological release to the environment and as such, satisfies its containment isolation function without Type C testing requirements. Technical Specification limits on primary to secondary leakage and both primary and secondary radiation limits ensure that in the event of an accident (in particular, a SGTR), the offsite dose limits would be only a small portion of the 10 CFR 100 limits. The containment isolation function of the SD valves is to conserve the SG secondary side mass in the event of an accident. Surveillances to verify autoclosure and stroke time ensure that the SD valves are functionally operable. The bases for containment isolation valves Technical Specification 3/4.6.3 is that, "the operability of the containment isolation valves ensures that the containment atmosphere will be isolated from the outside environment in the event of a release of radioactive material to the containment atmosphere or pressurization of the containment." (Technical Specification 3/4.6.3 - Bases page B 3/4 6-4). This would be satisfied with the proposed change. Thus, the margin of safety as defined in the bases for any Technical Specification is not significantly reduced.

The change to require Type C testing for the SI8968 valves is of an editorial nature and does not reduce the margin of safety as defined in the basis for any Technical Specification.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the

licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: For Byron Station, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood Station, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Richard F. Dudley

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendment request: January 16, 1990.

Description of amendment request: The proposed changes include thirteen instrumentation tables for each unit to incorporate enhancements from the BWR Standard Technical Specifications (STS) which result in consistency of table format and technical content. The corresponding Technical Specification (TS) sections were modified, where appropriate, to reflect changes to the tables.

The rewrite of the Technical Specification tables implements the terminology of the STS of surveillance frequency notations and uses the Dresden specific terminology of operational modes. In order to define this terminology in the Dresden Technical Specifications, new Tables 1.1 and 1.2 to define surveillance frequency notations and operational modes, respectively, were added. Table 1.1 on surveillance frequency notations contains the STS time frames for surveillance frequencies and their abbreviated notations. Table 1.2 on operational modes implements those STS requirements that are applicable to Dresden and also incorporates Dresden specific operating allowances. The terminology contained in Tables 1.1 and 1.2 has been incorporated into the revised instrumentation tables, as appropriate. Action statements have replaced notes, where appropriate, and new action statements have been added, where needed, to address new operational modes included in the tables. The table actions and notations have been updated with STS requirements and operational modes identified in Table 1.2 have been incorporated into as many of the present requirements as possible. The significant changes to each of the instrumentation tables are discussed below.

Table 3.11 - Hot and cold shutdown operational mode requirements for reactor protection instrumentation have been addressed. Flux biased Average Power Range Monitor (APRM), High Flux Trip, Turbine Stop Valve Closure and Generator Load Rejection functions have been deleted in the startup/hot standby modes. Table notations are being added to address channel out-of-service surveillances, Intermediate Range Monitor (IRM) bypasses, and exceptions for operability of the scram discharge volume. A proposed action with the mainsteam line radiation monitors inoperable will require a power reduction to the startup condition with the mainsteam line isolation valves closed within 8 hours compared to present actions which require a power reduction to the hot standby condition within 5 hours.

Table 4.1.1 - Changes to functional testing frequency for some instruments and the inclusion of additional tests for the APRM trip functions of High Flux and Inoperative are being made to (1) exclude operability of the high pressure trip function with the head removed, (2) exclude operability of the scram discharge volume when control rods are removed, and (3) allow entry into a reactor condition to perform required testing.

Table 4.1.2 - Testing frequency for the IRM high flux trip function is being changed from every shutdown to a startup after a refueling outage. Table notes are being added to (1) reflect that in-core neutron detectors cannot be calibrated per se, (2) exclude operability of the high reactor pressure trip function when the reactor head is removed, (3) exclude operability during refueling from the high water level in the scram discharge volume trip function when control rods are removed, and (4) allow entry into a reactor condition to perform required testing.

Table 3.2.1 - Addition of a new column in the table to correlate isolation instrumentation signals with the respective valve groups. A change to the tolerance of the reactor low-low water level initiation setpoint is being added. Change to proposed actions are being made to (1) allow an additional 12 hours to reach hot shutdown before going to cold shutdown in the next 24 hours for those functions currently covered by present Action A in the table, (2) allow 8 hours to reach startup with the associated isolation valves closed or allow 12 hours to reach hot shutdown and cold shutdown in the next 24 hours for functions currently covered by present Action B in the table, and (3) the addition of a requirement to close the affected isolation valves within one 1 hour for functions currently covered by Actions C and D in the table. New table notations are now being added to allow a channel to be inoperable for up to 2 hours without declaring the channel inoperable and to determine which valves are in each valve group. The high pressure coolant injection steam supply line-low pressure, and the drywell isolation on high radiation are being added to the trip functions in this table.

Table 3.2.2 - The minimum number of operable channels per trip system columns for the control rod block function is being changed to the minimum number of operable channels per trip function. New action statements, that ensure operability of instrumentation when needed or requires inoperable instrumentation to be placed in the safe or tripped condition, when necessary to protect the rod block function, are being added. Table notations that state when the rod block monitor channels may be bypassed and when the scram discharge volume trip function is required operable in the refuel mode are being added. Present Note 7, which allows exceptions for operability during low power physics testing, is being deleted.

Table 3.2.4 - A footnote which requires flow rates to be determined by appropriate pump curves is being deleted since the method need not be specified in the TS and also is no longer utilized.

Table 3.2.5 - Action statements, that will allow releases to continue with the mid- and high-range Stationary Particulate Iodine Noble Gas (SPING) monitor inoperable without taking grab samples as long as the SPING low range monitors are operable, are being added. Present Note 1 is being deleted and new footnotes are being added which specify operability of the instrumentation.

Table 3.2.6 - Columns for instrumentation readout location and instrumentation range for the Post-Accident Monitoring Instrumentation table are being deleted.

Table 4.2.1 - The surveillance requirements for containment monitoring are being deleted to eliminate redundancy. Testing requirements are being added to the table to include the functional test frequency prior to plant startup for the APRM downscale and flow variable and the Rod Block Monitor (RBM) upscale and downscale functions. Drywell High Radiation monitor surveillance requirements are being added. Table notes are being added which include the following: (1) require applicable

functional testing within 24 hours prior to startup if not performed within the previous 7 days, (2) will not require scram discharge volume level switch testing during refueling with control rods removed, (3) will require RBM operability only at or over 30% rated thermal power, (4) will require undervoltage and degraded voltage monitoring of emergency buses during cold shutdown and refueling only under certain conditions, (5) will only require certain Emergency Core Cooling System (ECCS) functions to be operable during cold shutdowns and refueling when associated systems are required to be operable, (6) will exclude channel calibration of neutron detectors, and (7) will add operability requirements for the refueling floor radiation monitors.

Table 4.2.2 - A surveillance frequency is added for the source checks for the radioactive liquid effluent monitoring instrumentation.

Table 4.2.4 - The minimum analysis frequencies for chemical elements associated with post-accident monitoring has been changed to the frequency at which they are actually performed. Specification 2.1.G contains a setpoint of 850 psig for the low-pressure initiation of main steamline isolation valve closure. The proposed change will reduce the setpoint to 825 psig.

In addition, numerous administrative changes have been proposed, to include the following: (1) clarifications, (2) deletion of information not required to be in the TS and not used by the reactor operators, (3) table and instrumentation title changes, (4) deletion of redundant information, (5) incorporation of notes into the tables and (6) deletion of references to the Mobile Volume Reduction System which is not used.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

I. Does not involve a significant increase in the probability or consequences of an accident previously evaluated because:

A. New Tables 1.1 and 1.2 add definitions for Surveillance Frequency notations and Operational Modes. These tables implement commonly used terminology and testing intervals from the STS and operating STS BWRs. The term "Mode" used at Dresden is identical to the term "Operational Condition" used in the STS. These tables provide definitions where none currently exist in the Dresden Technical Specifications. The addition of these tables does not affect the probability of any accident previously evaluated since no accident precursors are involved. Since the addition of these tables will provide clarification to the user, there is no significant increase in the consequences of an accident previously evaluated.

B.1 The changes to the instrumentation tables in the Technical Specifications are needed to provide clarification of terminology, to provide consistent application of requirements throughout the Technical Specifications, and to provide a more usable format for presentation of the table material. The rewrite of the instrumentation tables retains the necessary requirements that are specific to Dresden while endorsing provisions from the STS and later operating BWRs using STS. These changes do not alter any established setpoints (except for 850 psig low pressure in RUN, discussed in subsection C below) or assumptions of the accident analysis and are proposed as an improvement over the present table presentation. Any changes to present surveillance intervals are made to add requirements from the STS or later plants or to place Table Note requirements in the applicable column in the new Table format. The present Minimum Number of Operable Channels per Trip System requirements are maintained in the table rewrite except as indicated in Table 3.2.3. Since the necessary requirements are maintained by the proposed change, there is no significant increase in the probability or consequences of an accident previously evaluated.

B.2 The clarification that the APRM Rod Block function should not apply in the Refuel mode cannot increase the probability of occurrence of a previously defined accident since the function of the APRM rod block is not required to mitigate the events of any Refuel mode accident. Removing any requirement for the APRM rod block function in Refuel will not change any precursors described in the Rod Drop Accident or Refueling Accident analyses.

B.3 The clarifications to RBM operability requirements do not have any adverse accident impact since they do not alter the present requirement to have at least one RBM operable or rod withdrawal blocked when greater than 30% power.

B.4 The addition of the Drywell High Radiation Isolation function to the Technical Specifications cannot adversely affect an accident previously defined. Equipment modifications are not required nor are setpoint changes needed to make this proposed change. Because the addition of this isolation function to the Technical Specifications will specify the LCOs, actions, and surveillance requirements for a function which has already existed and been procedurally controlled in the past, there can be no increase in accident probability or consequences due to this change.

B.5 The elimination of the upper tolerance of the Reactor Low Low Water (RLLWL) Primary Containment Isolation (PCIS) and ECCS initiation setpoint is strictly administrative and cannot increase the probability or consequences of an accident. The setpoint will remain at greater than or equal to 84 inches above the top of active fuel. Therefore no reduction in the level of safety will occur as a result of the proposed change.

B.6 The removal of section C from Table 4.2.1 and the relocation of Section D of Table 4.2.1 to section 3/4.6.E is strictly administrative and cannot adversely affect an accident previously defined. The proposed change will eliminate the redundant surveillance requirements for the Containment Pressure and Level Instrumentation and will present all of the operability requirements for the Main Steam Safety and Relief Valves in one TS section. The LCOs and SRs for the containment instrumentation are listed in Tables 3.2.6 and 4.2.4.

B.7 The proposed changes to Section 3/4.8 are editorial. Increasing the frequency of analysis for tritium, gross alpha, Sr-89, Sr-90 and Fe-55 on Continuous Liquid Releases will reflect the actual time it takes to process these samples. On line radiation monitors are set to alarm on the most limiting quantity, and daily grab sample isotopic analysis (in the event of monitor failures) will provide sufficient information to determine whether or not to continue or shutdown discharge.

C. The proposed change in the reactor coolant low pressure setpoint of 850 psig for initiation of main steamline isolation valve closure affects only one transient or accident analysis previously evaluated. This transient is a turbine pressure regulator failure which would cause the control and/or bypass valves to open. As evaluated by ANF and CECo-NFS, the proposed change in the setpoint to 825 psig, will still provide a 40 psi safety margin for high power operation at low pressure as determined in Technical Specification 1.1.B. The reduction of 25 psig in the MSIV isolation trip will lower the saturation temperature by only 3° so that the total change in saturation temperature during a pressure regulator failure transient is about 17° F. This change removes excess conservatism in the accident analysis without significantly affecting any accident precursors or parameters used to bound the analysis. This change will help to enhance plant reliability and safety by reducing the probability of an inadvertent reactor isolation and subsequent removal of the primary heat sink respectively. Since the assumptions of the accident analysis are preserved by this change, there is no significant increase in the probability or consequences of an accident previously evaluated.

D. The change in the terminology of the Turbine Control Valve Fast Closure Scram to Loss of EHC Oil Pressure Scram is strictly an

administrative change that can have no effect on any accident analysis.

II. Does not create the possibility of a new or different kind of accident from any previously evaluated because:

A. The addition of new Tables 1.1 and 1.2 will help to clarify present requirements and will implement terminology and testing interval definitions that are in common use at operating STS BWR plants. The use of this terminology and testing interval definitions at Dresden will provide similar improvement in understanding of the affected requirements as to other plants that have implemented these requirements. These new, standard definitions do not create the possibility of a new or different kind of accident from any previously evaluated.

B.1 The rewrite of the instrumentation tables takes advantage of formats developed for the STS in order to improve presentation and readability of material. All necessary requirements are retained in the new tables as well as some additional requirements from the STS. These changes will improve the ability to access and use the information in the tables without introducing any requirements that can create the possibility of a new or different kind of accident.

B.2 Removing any requirements for APRM Rod Block Function in Refuel cannot lead to the creation of any new accidents. Modifications to the APRM are not required to implement the proposed change. The APRM will not be required operable during plant conditions other than those for which the APRM system was designed. No new operational conditions will be created with the APRM Rod Block function removed from the Refuel mode.

B.3 The proposed RBM related changes do not change the times the RBM is needed. They strengthen and clarify when the RBM must be operable.

B.4 The addition of the Drywell High Radiation Primary Containment Isolation function to the Technical Specifications will not increase the probability of the occurrence of new accidents. No new equipment is needed to implement the proposed change nor are any design changes required of the existing system.

B.5 The tolerance change to the RLLWL PCIS and ECCS initiation setpoint does not create the possibility of a new accident. The existence of the upper tolerance is based on an operational consideration only, i.e. the prevention of spurious actuation of the PCIS and ECCS during normal expected transients. There is no basis in any safety analysis for the upper tolerance.

B.6 The proposed deletion of Section C and relocation of Section D from Table 4.2.1 will have no effect on the function of the effected instrumentation. No new instrumentation is being added nor is any being deleted from the Technical Specifications therefore the possibility of a new kind of accident is not created.

B.7 Decreasing the required frequency of tritium, gross alpha, Sr-90, Sr-89, Fe-55 will not create the possibility of a new or different kind of accident as isotopic analysis will be used to determine continuance of discharge in the event of loss of the on line monitor.

C. The proposed change in the reactor coolant low pressure initiation of main steamline isolation valve closure to 825 psig only removes some of the conservatism from the present setpoint of 850 psig. This change does not affect assumptions in the present accident analysis and does not introduce any new modes of plant operation. This setpoint can only affect the pressure regulator failure transient, as discussed in the first standard above, and thus there is no possibility of a new or different kind of accident from any previously evaluated.

D. The proposed change in terminology for the Turbine Control Valve Fast Closure Scram is strictly an administrative change that can have no affect on any accident analysis.

III. Does not involve a significant reduction in the margin of safety because:

A. The inclusion of Tables 1.1 and 1.2 in the Dresden Technical Specifications adds material that will provide clarification of terminology and allow consistent interpretation of requirements. This change will implement standard industry accepted testing intervals and terminology at Dresden and will not significantly reduce the availability of systems or equipment required operable by the technical specifications in order to preserve accident analysis assumptions. Therefore, this change does not involve a significant reduction in the margin of safety.

B.1 The proposed rewrite of the instrumentation tables provides an improvement over present technical specification requirements. The adoption of a standard format for presentation of material will help to improve readability and the ability to locate necessary requirements. The standardization of terminology will help to improve interpretation of requirements. Present trip setpoints are maintained (except for the change discussed in Subsection C below) as well as Minimum Operable Channels per Trip System requirements, (except as indicated in Table 3.2.3). New Actions and Table Notes are incorporated where needed by using STS and operating STS BWR requirements. These additions have been evaluated for use at Dresden and have been found to maintain operability of systems and equipment required to preserve accident analysis assumptions. The changes to surveillance intervals are proposed to help ensure operability of equipment in their required modes of operation. Present Technical Specification action requirements, in some cases, allow 8 hours to reach the STARTUP mode of operation with equipment inoperable. The 8 hour time is necessary to allow an orderly shutdown from an all rods out, full power condition. Thus, in order to provide consistency in the Action provisions, the 8 hour allowance is implemented throughout the instrumentation tables. The proposed changes provide clarification of requirements and consistent application of requirements, and thus do not involve a reduction in a margin of safety as evaluated for use at Dresden.

B.2 Clarifying the mode requirements for the APRM rod block will not change the margin of safety. Requiring this function in the Refuel mode would force the APRM to be operable during a mode in which the flux levels are well below the design basis range of the APRM. This change does not reduce the margin of safety since the IRMs are required operable during the refuel mode. A 1-out-of-8 once rod block function and a 1-out-of-4 taken twice scram function are provided by the IRMs. The APRM rod block in Refuel is a redundant function and its removal will not reduce the margin of safety.

B.3 The proposed RBM related changes are primarily clarification statements which cannot affect any margins to safety.

B.4 The addition of the Drywell High Radiation Primary Containment Isolation function to the Technical Specifications will not affect the margin of safety. Design or setpoint changes are not required to implement the proposed changes. This revision to the Primary Containment Isolation LCO and SR Tables is necessary to meet the requirements of NUREG-0737 Topic II.E.4.2.7.

B.5 The tolerance change to the RLLWL and PCIS initiation setpoint will not reduce the margin of safety since the nominal setpoint will not be changed. However the added flexibility will allow the setpoint to be set slightly higher. This will reduce the probability of reportable events and allow operation at a slightly higher level of safety.

B.6 The margin of safety is not affected by the removal of Section C and relocation of Section D from Table 4.2.1 since functional performance of the effected instrumentation is not being changed.

B.7 Changing the frequency of analysis on Liquid Effluents for tritium, Sr-90, Sn-89, and Fe-55 to reflect the actual analysis times will not reduce the margin of safety because isotopic analysis of grab samples are performed which are adequate to determine the reactivity release and whether or not to shutdown the system.

C. The change in the setpoint for reactor coolant low pressure initiation of main steamline isolation valve closure from 850 to 825 psig removes excess conservatism in the analysis while maintaining the assumptions of the analysis. The setpoint is provided to (1) protect against fast reactor depressurization and resulting rapid cooldown of the vessel and (2) to prevent high power operation at low pressure. As evaluated by ANF and CECo-NFS, neither of these functions will be significantly affected by the proposed change. The reduction of the trip level setting by 25 psi will still provide a 40 psi safety margin for high power operation at low pressure since as stated in Technical Specification Bases 1.1, the core thermal power limit for reactor pressures below 800 psia is 25% and this limit is conservative. This small change in the degree of conservatism is offset by the benefits of the change since the probability of an inadvertent reactor isolation and subsequent removal of the primary heat sink is reduced. A similar change has previously been approved for Quad Cities Units 1 and 2. Since the assumptions of the accident analysis are preserved by the proposed change, there is no significant reduction in a margin of safety.

D. The change in the terminology for the Turbine Control Valve Fast Closure Scram is an administrative change that cannot affect any margin of safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Acting Project Director: Richard F. Dudley

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendment request: April 18, 1990

Description of amendment request: The licensee has requested a change to the Technical Specifications to modify the surveillance frequency for the functional testing of the Reactor Protection System Electrical Protection Assemblies (EPAs) from once every six months to whenever the plants are in a cold shutdown condition for more than 24 hours.

Basis for proposed no significant hazards consideration determination: The proposed change to the Technical Specifications has been evaluated against the standards of 10 CFR 50.92 and has been determined to not involve a significant hazards consideration because:

1. The proposed change removes the requirement to perform EPA surveillance testing at power and revises the surveillance test frequency for the EPAs to reflect that in use at recently licensed boiling water reactors. The proposed change does not involve any relaxation of established safety limits, limiting safety system settings or limiting conditions for operations.

The licensee has provided operational test data supporting the determination that the EPAs are highly reliable and have not failed either during testing or when called upon to actuate since their initial installation at Dresden. Therefore, the proposed change does not increase either the probability or consequences of a previously evaluated accident.

2. The proposed amendment changes the surveillance test frequency of the EPAs only and does not involve a change in the design or function of the Reactor Protection System or the electrical protection assemblies. Also, no changes are made to any safety limits, limiting safety system settings, or limiting conditions for operation. Therefore, the proposed change does not create any new or different kind of accident than previously evaluated.

3. The proposed amendment changes the surveillance test frequency of the EPAs only and does not involve a change in safety limits, limiting safety system settings, or limiting conditions for operation. Operational test data indicates that the EPAs are highly reliable and that reduction of the surveillance frequency will not affect the operational availability of the EPAs. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Acting Project Director: Richard F. Dudley

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: January 26, 1990

Description of amendment request: The proposed changes to the Technical Specifications, requested in response to NRC Generic Letter 89-01, incorporates programmatic controls for radiological effluent technical specifications (RETS) in the administrative controls section and relocates procedural details of RETS to the offsite dose calculation manual and the process control program.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

Based on the staff review, the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because relocating the Radiological Effluent Technical Specifications (RETS) to the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP) is strictly an administrative change that does not reduce or modify any existing safety requirement or procedure; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident scenario is created and no previously evaluated accident scenario is changed by relocating procedural requirements from one controlled document to another; or

(3) Involve a significant reduction in a margin of safety because no modification of any plan structure, system, component or operating procedure is associated with this administrative change so all safety margins remain unchanged.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards consideration.

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NRC Acting Project Director: Richard F. Dudley

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: January 25 and May 11, 1990 (Reference LAR 90-01)

Description of amendment request: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to allow operation with one of the three pressurizer code safety valves (PSVs) inoperable and disabled so that it cannot open. Specific TS changes would include: (1) addition of a new Action Statement a. to TS 3.4.2.2 that would allow continued operation with one PSV inoperable provided that, within 24

hours, the inoperable valve is disabled so that it is incapable of opening and that one power operated relief valve (PORV) is operable in the automatic opening mode with its associated block valve open, (2) revision of present Action Statement a. of TS 3.4.2.2 to make it Action Statement b. and require a plant shutdown with two PSVs inoperable, (3) change the present Action Statement b. to Action Statement c., and (4) revise TS Bases 3/4.4.2 to reflect the revisions to TS 3.4.2.2. In addition, PG&E has committed to repair or replace an inoperable and disabled PSV during the first outage of sufficient duration following valve disabling. Repair or replacement of a PSV would require the unit to be in Mode 5 for at least 7 days.

The requested change would be used if a leaking PSV causes a loss of loop seal. Disabling a leaking valve promotes safety in a situation where loss of loop seal may cause a downward shift in the valve lift pressure and bring the lift point close to normal operating pressure. The downward shift in valve lift pressure increases the potential for inadvertent opening of the valve and potential failure to close, which could result in a small break loss-of-coolant-accident (LOCA). Continued operation with a disabled valve poses no adverse safety consequences because adequate overpressure protection capability is provided by the remaining operable PSVs.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee, in its submittals of January 25 and May 11, 1990, evaluated the proposed change against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The PSVs are designed to mitigate overpressurization transients in the Reactor Coolant System (RCS). A safety evaluation for plant operation with two of three PSVs operable (one PSV inoperable and disabled) has been performed. The results show the RCS overpressure limits of the two limiting accidents previously analyzed, Loss of External Load and/or Turbine Trip and Reactor Coolant Pump Locked Rotor, are not exceeded for the case of operation with two PSVs. The proposed change reduces the potential for RCS depressurization resulting from spurious leaking safety valve actuation.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not affect the method by which any safety-related system performs its function. The two PSVs will operate in the same manner and provide the same characteristic valve response as prior to the proposed change. The potential consequences of two valve operation have been addressed in the safety evaluation and demonstrated to be acceptable.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

A safety evaluation for operation with one PSV inoperable and disabled demonstrated that the RCS overpressure limits of the two limiting accidents previously analyzed, Loss of External Load and/or Turbine Trip and Reactor Coolant Pump Locked Rotor, are not exceeded for plant operation with two PSVs. In addition, the requirement for one operable PORV in automatic mode with its associated block valve open as a condition for operation with one disabled PSV provides additional pressure relieving capability. This provides additional conservatism since the PORV relief capacity is not included in the accident analysis evaluation.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the proposed change and the licensee's no significant hazards consideration determination and finds them acceptable. Therefore, the staff proposes to determine that the change does not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: John T. Larkins

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: June 7, 1989, as supplemented May 3, 1990

Description of amendment request: The licensee's request supplements Amendment Application No. 170 (Proposed Change No. 211) dated June 7, 1989 (54 FR 32715). By letter dated February 22, 1990, the NRC requested that the licensee revise its previous submittal to include Limiting Conditions for Operation (LCOs) to limit the amount of time that the 6-inch containment vent valves are allowed to be open. This supplement to Amendment Application No. 170 was submitted by the licensee in response to the NRC request.

The licensee's request supplements Proposed Change No. 211 as follows: (1) Format changes were made to Proposed Specification 3.6.5, "Containment Ventilation System Isolation Valves - Valve Leakage," (2) Proposed Section 3.6.6, "Containment Ventilation System Isolation Valves - Valve Position," was added to incorporate LCOs which limit the amount of time the 6-inch containment vent valves are allowed to be open during Operating Modes 1, 2, 3 and 4, (3) The provision to lock closed manual isolation valves CVS-301 and CVS-313 was moved from Section 3:6.2, "Containment Isolation Valves," to Section 3.6.6, "Containment Ventilation Isolation Valves - Valve Position," to be more consistent with NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors," and (4) The proposed revision to Section 3.6.2, "Containment Isolation Valves," regarding opening limitations for valves CV-10 and CV-116 was withdrawn. This information was included in proposed Technical Specification Section 3.6.6, "Containment Ventilation Isolation Valves - Valve Position."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

The proposed changes to PCN-211 made by this supplemental amendment do not change the significant hazard consideration analysis provided in Amendment Application No. 170. Amendment Application No. 170 revises two existing technical specification changes and adds two new technical specification

sections. The two revised sections address containment isolation valves and containment testing. The two new sections add leakage limitations for the containment air locks and the containment ventilation system isolation valves. Revising the two existing technical specifications and adding the two new technical specification sections improves the overall operational safety by further ensuring that the containment function of the containment structure remains operable.

This supplement provides changes that are consistent with Amendment 170. It adds the additional requirement to maintain the containment vent valves closed as much as practicable. As indicated in the November 2, 1984, NRC SER, Reference 2 of the proposed Technical Specification 3.6.6, provided an analysis that shows the valves will close when opened to an angle not exceeding 70°. These valves have been modified to limit the opening angle to approximately 50°. This mechanical limitation along with the procedural limitation added by this supplement will ensure the valves will close or be closed when they are required to isolate containment.

Section 3.6.6 was added to incorporate Limiting Conditions for Operation which limit the amount of time the 6-inch containment ventilation valves are allowed to be open during Modes 1, 2, 3, and 4. The revision requires the valves to be closed as much as is practicable and only allows them to be opened for specific purposes (i.e., for periodic containment pressure reduction, for lowering containment airborne radiation levels and maintaining approximately neutral pressure during personnel entry into containment and for periodic surveillance testing). Therefore, this change does not affect the significant hazards consideration previously provided with Amendment Application No. 170.

The licensee provided the following no significant hazard consideration determination previously with Amendment Application No. 170:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

PCN 211 will establish technical specification requirements for airlock and isolation valve leak testing acceptance criteria that are not currently in the specifications. The acceptance criteria will ensure that these penetrations can withstand the post accident containment pressure with minimal leakage and that degradation of leakage integrity is detected in a timely manner. PCN 211 will also establish opening limits for the containment vent valves. Provisions to limit the valve openings are currently in place in accordance with NRC requirements. These provisions will minimize the force required to close the valves during a design basis LOCA thus providing additional assurance of the isolation function of these valves. The proposed change will establish requirements to ensure the valve opening limitations are maintained. PCN 211 will incorporate LCO's and ACTION statements for the personnel air locks consistent with the WSTS into the Technical Specifications. Finally, PCN 211 will reduce the lower test pressure for the personnel airlock from 10 psig to 3 psig. This change will enhance the reliability of the airlock by limiting unnecessary stresses placed on airlock components during testing at 10 psig. Accident consequences or probability will not be increased since containment pressure during design basis LOCA will seal the inner door. Based on the foregoing, operation of the facility in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with the proposed change create the possibility of a new or different kind or accident from any accident previously evaluated?

Response: No

The changes proposed by PCN 211 establish new technical specification requirements for the containment purge and vent valves and the personnel airlocks. These new requirements are intended to enhance the reliability of the components in their post accident function. Reducing the lower test pressure on the personnel airlock from 10 psig to 3 psig is proposed to minimize stresses placed on the airlock during testing while maintaining a test pressure sufficient to detect degradation of components. Incorporation of LCO's and ACTION statements not currently in the technical specifications may result in avoiding unnecessary plant shutdowns. Therefore, none of the changes proposed by PCN 211 will create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The margin of safety for the containment purge and vent valves and the personnel airlock is defined by the sealing capability in the event of a reactor transient. The changes proposed by PCN 211 are intended to ensure that the sealing capability of these components is maintained and any degradation is detected in a timely manner. Reduction of the lower test pressure for the air lock from 10 psig to 3 psig does not affect the margin of safety since the direction of test pressure is opposite that which the door would experience during an accident. Testing at 3 psig reduces stresses placed on the door and has been demonstrated to have adequate sensitivity to detect leakage and degradation of components. It is also noted that PCN 211 does not impact the semi-annual air lock testing requirement performed at a test pressure of 49.4 psig. Accordingly, operation of the facility in accordance with this proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: John T. Larkins, Acting

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: May 16, 1990

Description of amendment request: Proposed Change No. 224, which was submitted by Amendment Application No. 182, requests NRC approval to increase the allowed heat load for the spent fuel pool (SFP). The existing heat load projection discussed in Section 9.1.3.4 of the Updated Final Safety Analysis Report (UFSAR) are not accurate due to calculational errors and must be revised accordingly. This revision would involve an unreviewed safety question as defined by 10 CFR 50.59 and therefore requires prior NRC review and approval.

In its submittal, the licensee requested that the following revised UFSAR SFP requirements be approved:

SFP temperature no greater than 150° F for the SFP maximum normal heat load case (including assumption of failure of one cooling pump).

No pool boiling for the SFP maximum abnormal heat load case (including assumption of failure of one cooling pump).

Pumps, piping, valves, electrical power sources, and connections will satisfy the existing system quality and seismic requirements.

The SFP cooling pumps will be powered and controlled from separate electrical trains.

In order to accommodate the proposed revision to the UFSAR, the licensee is making the following changes to the SFP cooling system as allowed by 10 CFR 50.59: (1) Permanently connecting the spare SFP cooling pump to the SFP Cooling System. The additions to the system will be Seismic Category A and quality class safety-related, (2) Powering the spare SFP pump from a separate electrical train. Due to extensive electrical system modification to be completed during the upcoming Cycle 11 outage, a non-safety related construction power sources that is fed directly from the San Diego Gas and Electric power grid, or is otherwise

provided, will be the interim power source. The spare pump power supply will be upgraded to safety-related class prior to the Cycle 12 refueling, and (3) Providing appropriate controls that are consistent with existing system requirements. Due to the extensive electrical modifications to be completed during the upcoming Cycle 11 refueling, non-safety related local manual controls will be provided. The controls will be upgraded to safety-related prior to the Cycle 12 refueling.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The loss of SFP Cooling due to pump failure is the only previously evaluated accident whose probability or consequences potentially may be affected by the proposed change of increasing the maximum SFP heat load above that specified in the UFSAR. However, because of the modifications being completed on the SFP Cooling System, neither the probability nor consequences of this accident are significantly changed by the higher heat load. The probability of the loss of SFP cooling due to pump failure is reduced with the addition of redundant cooling pump.

The modified SFP Cooling System assures that the consequences of a cooling pump failure are no worse for the higher heat load than they were for the UFSAR specified maximum abnormal heat load. With the higher heat load and implementation of the modification, the time to reach pool boiling is large in comparison to the time to place the spare pump in-service. For the maximum abnormal heat load currently reflected in the UFSAR, the time to pool boiling upon loss of cooling is 47 hours and the time to install the spare pump is approximately 16 hours. For the high heat loads, the switchover time to the spare pump remains acceptable in relation to the time to boil. During the upcoming outage, the worst case heat load is 8.6 MBtu/h and the time to boil upon loss of SFP cooling is 21 hours. During Cycle 11 operation, the worst case heat load (assuming an unplanned full core off-load at the end of the fuel cycle) is 14.7 MBtu/h and the time to boil is 6 hours. For the corrected hypothetical maximum abnormal heat load case, the heat load is 17 MBtu/h and the time to boil is 3 hours. In each case, the loss of the primary pump can be compensated for without approaching boiling in the pool since with the modified SFP cooling System, the spare pump will be placed in operation within approximately 30 minutes of discovery of a primary pump failure. Therefore, the shorter times to pool boiling are not significant since boiling will be just as reliably averted with the higher SFP heat load as with the UFSAR specified limit.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change involves placing a higher heat load in the SFP than is currently allowed by the UFSAR. The only accident previously evaluated that relates to this change is the loss of SFP cooling. The improved SFP Cooling System reduces the probability of occurrence for this accident since the redundant pump is being directly incorporated into the system.

The only new or different kind of accident not previously evaluated relates to the potential for a recirculation flow path that is introduced by connecting the spare pump to the system. A portion of the coolant flow potentially could be recirculated through a non-operating pump should that pump not be correctly isolated. Such an occurrence could lead to degraded cooling system performance since only a portion of the pump flow would be delivered to the component cooling water heat exchanger for cooling.

However, the probability of this situation is very low since the isolation of a non-operating pump will be assured through administrative controls on dual isolation valves. Each pump will be isolated via two manual isolation valves, one on the pump's discharge piping and one on the suction. For a recirculation path to occur, both of the non-operating pump's isolation valves would have to either fail or be incorrectly aligned.

Dual concurrent failure of both of a non-operating pump's manual isolation valves is not credible and need not be considered. Incorrect alignment of a non-operating pump's valves, while possible, is not significant. Any serious degradation in the cooling system performance due to isolation valve misalignment would be noticed and corrected once the SFP high temperature alarm was activated. Therefore, the potential for a recirculation flow path through a non-operating pump's piping loop is a new type of accident, but one whose probability and consequences are insignificant. Additionally, a check valve will be added to each of the pump piping loops prior to the Cycle 12 refueling to further reduce the potential for a recirculation flow path.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

As discussed in response to Question No. 1, the SFP may experience higher heat loads than were previously calculated. These heat loads are important because they determine the equilibrium temperature with the SFP Cooling System in service, time to boil and time for alternate cooling to be established. Because of upgrades to the SFP Cooling System, the margin to boiling is maintained such tat adequate time is available to provide alternate cooling. These higher heat loads will shorten the time for the SFP to reach boiling upon loss of cooling. However, this reduction in the time to boil interval is compensated for by the modification to the SFP Cooling System which greatly improves the reliability with which the spare pump can be quickly placed in-service. With the modification in place, no piping spool pieces need be installed or electric power leads need be connected to recover from a postulated failure of the primary pump. Rather, only four valves must be realigned and a circuit breaker closed to operate the spare pump. Therefore, the spare pump will be able to be placed in-service in sufficient time to preclude pool boiling under higher SFP heat loads than currently specified in the UFSAR.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: John T. Larkins, Acting

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment request: May 14, 1990

Description of amendment request: The licensee has requested amendments to revise San Onofre Unit Nos. 2 and 3 Technical Specification 4.0.2 and associated bases in accordance with the guidance in NRC Generic Letter 89-14. The Technical Specification indicates that the combined time interval for any three consecutive surveillance intervals shall not exceed 3.25 times the specified surveillance interval. The proposed change allows for the removal of the 3.25 limit. The Technical Specification will continue to allow surveillance intervals to be extended up to 25% of the specified time limit. The Generic Letter has established that the removal of the 3.25 limit results in a benefit to safety.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. Will operation of the facility in accordance with the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

RESPONSE: No.

Specific Surveillance Requirements, i.e., the mechanics of the actual surveillances, are not modified. The proposed change would remove the 3.25 limit from Technical Specification 4.0.2. This Technical Specification allows surveillance intervals to be extended up to 25 percent of the specified interval. This limitation of Specification 4.0.2 is based on engineering judgement and the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the Surveillance Requirements.

The NRC staff has routinely granted requests for one-time exceptions to the 3.25 limit because the risk to safety is low in contrast to the alternative of a forced shutdown to perform these surveillances. Therefore, the 3.25 limitation has not been a practical limit on the use of the 25 percent allowance for extending surveillances. Generic Letter 89-14 has established that the use of the allowance to extend the surveillance intervals by 25 percent can also result in a significant safety benefit for surveillances that are performed on a routine basis during plant operation.

The use of the allowance to extend surveillance intervals by 25 percent can also result in a significant safety benefit for surveillances that are performed on a routine basis during plant operation. This safety benefit is incurred when a surveillance interval is extended at a time that conditions are not suitable for performing the surveillance. Examples of this include transient plant operating conditions or conditions during which safety systems are out of service because of ongoing surveillance or maintenance activities. In such cases, the safety benefit of allowing the use of a 25 percent allowance to extend a surveillance interval would outweigh any benefit derived by limiting three consecutive surveillance intervals to the 3.25 limit.

The proposed change will therefore not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

RESPONSE: No.

Removal of the 3.25 limit from the surveillance requirement does not modify the configuration of the facility or its mode of operation. The proposed change will therefore not create the possibility of a new or different kind of accident from any previously identified.

3. Will operation of the facility in accordance with the proposed change involve a significant reduction in a margin of safety?

RESPONSE: No.

The extension for surveillance interval will result in a safety benefit when the surveillance is extended at a time that conditions are not suitable for performing the surveillance. The proposed change does not affect the operation of the facility, modify any method of surveillance performance, or revise any safety analysis conclusion. Operation of the facility in accordance with the proposed change will therefore not involve a significant reduction in a margin of safety.

The NRC staff has reviewed this analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: John T. Larkins, Acting

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: May 4, 1990 (TS 90-07)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes would revise Table 3.3-11, Fire Detection Instruments, to reflect the addition, during the Cycle 4 refueling outage for each unit, of two smoke detectors in each unit's volume control room. Unit 1 has recently completed its Cycle 4 refueling outage and Unit 2 is scheduled to shut down to begin its Cycle 4 refueling outage in October 1990.

Basis for proposed no significant hazards consideration determination: The following information to support the proposed changes to the TSs was provided by TVA in its application:

To provide redundant fire protection, TVA is installing two photoelectric smoke detectors in the volume control tank room entry labyrinth of each unit. The modification will provide detectors cross-zoned in the same area so that the failure of one smoke detector will not result in a loss of fire detection capability in the volume control tank room entry labyrinth. The two detectors are being added to the appropriate TS tables.

The SQN TSs contain surveillance requirements for fire detection instrumentation that protects safety-related equipment. Since the additional smoke detectors in the volume control tank room meet this criteria, they are being included in the TSs. The proposed change is a conservative addition to the TSs.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment[s] will not:

(1) Involve a significant increase in the probability or consequences an accident previously evaluated.

The proposed addition of the two smoke detectors in each unit's TSs is a conservative change. The installation of the detectors will provide redundant fire detection in the volume control tank rooms' entry labyrinths. [The fire detectors do not cause an accident; they respond to a fire.] The change, therefore, does not significantly increase the probability or consequences of a previously evaluated accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed addition of the two smoke detectors is an appropriate change to each unit's TS. The modifications are a net safety enhancement to SQN, and they meet the criteria of TS inclusion for fire detection instrumentation that protects safety-related equipment. [The fire detectors do not cause an accident; they respond to a fire.] The changes, therefore, do not create the possibility of a new or different kind of accident from any previous analyzed.

(3) Involve a significant reduction in a margin of safety.

The proposed addition of the two smoke detectors in each unit's TSs reflects the planned installation of these detectors in the volume control tank rooms' entry labyrinths. These modifications provide redundancy for the fire detection capability in the volume control tank rooms and are, therefore, a net safety enhancement. [The changes, therefore, do not create a significant reduction in a margin of safety.]

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: May 4, 1990 (TS 90-12)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to revise Section 5.0, Design Features, and to add Surveillance Requirement 4.9.1.4. The changes would allow the licensee to increase the maximum fuel enrichment for fuel on the site from the current 4.0 weight-percent to 5.0 weight-percent Uranium (U)-235 and permit the substitution of Zircaloy-4 or stainless steel filler rods or open water channels for fuel rods in fuel assemblies.

Basis for proposed no significant hazards consideration determination: The following information was provided by TVA in its application to support the proposed changes to the TSs:

The change to increase the allowable fuel enrichment is necessary to allow the use of higher discharge burnup fuel. Higher discharge burnups are achieved by reloading with smaller fresh batch fractions with higher enrichment. The change to allow the substitution of filler rods or water channels is desirable to permit timely removal of fuel rods that are found to be leaking or are determined to be probable sources of future leakage.

Each core reload design used at SQN is confirmed to meet all design criteria and to be within the bounds of the accident analysis presented in Chapter 15 of the Final Safety Analysis Report (FSAR) by performance of a reload safety analysis. This analysis considers modifications to the plant design and any changes to fuel design including increases in fuel enrichment. The performance of the reload safety analysis ensures the unit, with its specific core design and fuel enrichment, will operate within the prescribed safety limits. Any restriction on core operation identified through the reload safety analysis process is documented and any changes to the plant license are made at that time. Therefore, operation with revised Design Feature 5.3.1 allowing the use of fuel assemblies with a maximum enrichment of 5.0 weight-percent will be justified for each fuel cycle.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety considerations associated with reactor operation with higher enrichment and extended burnup have been evaluated. The proposed changes have no adverse [effect] on the probability of any accident. The increased burnup may slightly change the mix of fission products that might be released in the event of a serious accident but such small changes would not significantly affect the consequences of serious accidents. The substitution of filler rods or open water channels for fuel rods will be justified by cycle-specific analysis using an NRC-approved methodology. This reload analysis will demonstrate that existing design limits and safety analyses criteria are met. Therefore, the proposed change does not involve a significant increase in the probability [or] consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

[There are no physical modifications being made to the plant, the new fuel will be irradiated in the same manner as previous operating cycles, and the reload analysis will demonstrate that existing design limits and safety analyses criteria are met.] The proposed change to increase the maximum allowable fuel enrichment or the substitution of filler rods or open water channels for filler rods does not create any new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety.

Based on the discussion provided in Item 1 above and the fact that no [significant] changes are being made in the types or amounts of any radioligical effluents that may be released offsite, there is no significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: May 4, 1990 (TS 90-13)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify Section 3/4.5.1, Accumulators, of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to revise the requirements in TS 3/4.5.1.1, Cold Leg Injection Accumulators, to delete (1) Action Statements "c" and "d" and the associated footnote, (2) Surveillance Requirement (SR) 4.5.1.1.2, and (3) the prescriptive statement of SR 4.5.1.1.1.a.1 as to how to verify accumulator level and pressure.

Basis for proposed no significant hazards consideration determination: The following information was provided by TVA in its application to support the proposed changes to the TSs:

NRC issued by letter dated August 11, 1989, amendments to the SQN Units 1 and 2 TS 3/4.5.1 adding Action Statements c and d that provide actions to follow in the event SR 4.5.1.1.2 could not be met. NRC staff stated in its letter that the issuance of action statements governing the operability of the monitoring instrumentation for the cold-leg [injection] accumulators (i.e., level and pressure instruments) was a generic issue for Westinghouse Electric Corporation's pressurized water reactors (PWR), and therefore these amendments would only be effective until the restart of Unit 2 from its Cycle 4 refueling outage. This would provide approximately 18 months for the NRC staff to work with the Westinghouse Owners Group (WOG) to develop a generic solution to this issue that is applicable for all Westinghouse PWRs. TVA has been in contact with both WOG and NRC staff concerning resolution of this issue and is submitting this proposed change to resolve this issue for the SQN Unit 2 Cycle 4 refueling outage. The requested change is consistent with the accumulator specification proposed by the WOG MERITS program.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of

Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested change does not require a physical modification to any plant system and does not affect any accident analysis. The cold leg accumulators are a passive component in the emergency core cooling system and the TS requiring the verification of both accumulator water level and pressure will remain unchanged. Verification of these parameters ensures that accident analyses assumptions are not violated. Therefore, the requested change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

No physical modification is being made to any plant system as a result of this change. Verification of the parameters (water level and pressure) ensures that accident analyses assumptions are not violated and no change in the analyses is being made. Therefore, the possibility of a new or different kind of accident is not created.

(3) Involve a significant reduction in a margin of safety.

The TS that requires verification of the accumulator water volume and pressure will remain unchanged. No changes to the accident analysis are being made and verification of these parameters ensures that the accident analyses assumptions are not violated. Therefore, there is no significant reduction in any margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: March 6, 1990

Description of amendment request: The proposed amendment would revise Technical Specifications and associated Bases, which contain cycle-specific core operating parameters in accordance with Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications." The proposed revision would relocate the cycle-specific core parameters from the Technical Specifications and place them in the Core Operating Limits Report (COLR) under the control of the plant's unit review group (On-Site Review Committee (ORC) for Callaway Plant). NRC will be notified of changes to the COLR concurrent with plant implementation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The removal of cycle-specific core operating limits from the Callaway Plant Technical Specifications has no influence or impact on the probability or consequences of any accident previously evaluated. The cycle-specific core operating limits, although not in Technical Specifications, will be followed in the operation of the Callaway Plant. The proposed amendment still requires exactly the same actions to be taken when or if limits are exceeded as is required by current Technical Specifications. The cycle specific limits within the COLR will be implemented and controlled per Callaway Plant programs and procedures. Each accident analysis addressed in the Callaway Final Safety Analysis Report (FSAR) will be examined with respect to changes in cycle-dependent parameters, which are obtained from application of the NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed per requirements of 10 CFR 50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated earlier, the removal of the cycle specific variables has no influence or impact, nor does it contribute in any way to the probability or consequences of an accident. No safety-related equipment, safety function, or plant operations will be altered as a result of this proposed change. The cycle specific variables are calculated using the NRC-approved methods and submitted to the NRC to allow the Staff to continue to trend the values of these limits. The Technical Specifications will continue to require operation within the required core operating limits and appropriate actions will be taken when or if limits are exceeded.

Therefore, the proposed amendment does not in any way create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed amendment does not result in a significant reduction in the margin of safety.

The margin of safety is not affected by the removal of cycle-specific core operating limits from the Technical Specifications. The margin of safety presently provided by current Technical Specifications remains unchanged. Appropriate measures exist to control the values of these cycle-specific limits. The proposed amendment continues to require operation within the core limits as obtained from the NRC-approved reload design methodologies and appropriate actions to be taken when or if limits are violated remain unchanged.

The development of the limits for future reloads will continue to conform to those methods described in NRC-approved documentation. In addition, each future reload will involve a 10 CFR 50.59 safety review to assure that operation of the unit within the cycle specific limits will not involve a significant reduction in a margin of safety.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: March 6, 1990

Description of amendment request: The proposed amendment would revise the Technical Specifications by deleting the power range, neutron flux, high negative rate trip (NFRT). This change request is consistent with Westinghouse WCAP-11394(P), "Methodology for the Analysis of the Dropped Rod Event," which was approved by NRC on October 23, 1989. Plant modifications to remove the trip circuitry will be completed in Refuel 4, which is scheduled for fall 1990.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

The removal of the NFRT does not involve a significant increase in the probability or consequences of an accident previously evaluated. Cycle-specific evaluations using an NRC approved methodology will be performed to demonstrate that the DNB design basis is met during the course of a dropped rod event, without relying on a direct reactor trip or automatic power reduction. The method and manner of plant operation will be unchanged other than the deletion of unnecessary surveillances.

The proposed change to remove the NFRT does not create the possibility of a new or different kind of accident from any previously evaluated. No reliance is placed on a direct reactor trip or automatic power reduction due to dropped RCCA(s) [Rod Cluster Control Assemblies]. The deleted circuitry has been shown to be non-essential.

The removal of the NFRT does not involve a significant reduction in a margin of safety. Cycle-specific evaluations using an NRC approved methodology will be performed to demonstrate that the DNB design basis is met during the course of a dropped rod event, without relying on a direct reactor trip or automatic power reduction.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: March 8, 1990

Description of amendment request: The proposed amendment would revise Technical Specifications 4.0.3, 4.0.4 and their associated bases to incorporate the changes provided in Generic Letter 87-09, dated June 4, 1987. Generic Letter 87-09 provided guidance on revising Technical Specifications to provide increased flexibility on the application of limiting conditions for operation associated with surveillance intervals.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change merely is an effort to clarify, simplify, and streamline the specifications in accordance with the guidance provided in GL 87-09 as a part of the implementation of the Commission's Policy Statement on Technical Specification Improvements.

This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the requirements and the method and manner of plant operation are unchanged. Its intent is to resolve the problems regarding the general requirements of Section 4.0 of the Technical Specifications on the applicability of Surveillance Requirements. This is accomplished by providing alternatives to these sections using the guidance provided in GL 87-09.

This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design change is involved, but the intent of the Technical Specifications is clarified to enhance the overall safety to the plant and general public.

Based on the above discussions, the amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a reduction in the required margin of safety. Based on the foregoing, the requested amendment does not present a significant hazard.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involved a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Virginia Electric and Power Company, Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: April 27, 1990

Description of amendment request: The proposed change would add a license condition to Operating License No. NPF-4 for the North Anna Power Station, Unit No. 1 (NA-1). Specifically, the proposed license condition allows a one-time extension of the surveillance test intervals for certain surveillance tests as specified in the NA-1 Technical Specifications (TS) for the eighth cycle of operation. NA-1 completed applicable Mode 4, 5 and 6 surveillance tests during the seventh refueling outage which ended on July 15, 1989. It was considered unreasonable to repeat these surveillance tests during the several short unanticipated outages that have occurred since then. However, these unplanned outages and the unexpected length of the cycle seven refueling outage has impacted the surveillance test intervals between the seventh and eighth refueling outages. This delay, together with additional time allowed for an optimum fuel burn-up before the next refueling, has resulted in a deferral of the next refueling outage for NA-1 until February 1991. Currently, the NA-1 TS require the performance of certain surveillance tests at 18-month intervals to coincide with normal 18-month refueling cycles. The proposed change would extend these surveillance test intervals for the NA-1 eighth cycle by 6 months to compensate for several unanticipated outages and the extended seventh refueling outage that occurred from February 25, 1989 to July 15, 1989 and to permit optimum fuel burnup prior to refueling.

One-time changes to the surveillance test intervals associated with a plant shutdown or refueling outage as specified in the NA-1 TS for Operating License NPF-4 would be changed as follows:

(1) The 18 month surveillance test cycle requirement as specified in the following TS sections would be changed to 24 months for the eighth cycle of unit operation only:

4.1.2.2.c	14.7.4.1.c
4.5.2.e	4.7.7.1.d
4.6.2.1.c	4.7.8.1.d
4.6.2.2.1.c	4.8.1.1.2.d
4.6.2.3.c	4.8.1.1.3.c
4.6.3.1.2	4.8.2.3.2.c
4.7.1.2.b	4.8.2.3.2.d

(2) Table 1.2 of Section 1.0, Definitions, which defines "R" as "At least once per 18 months" as it applies to the following TS sections and related tables, and the 18-month requirement in the note in the tables indicated below, would be changed to 24 months for the eighth cycle of unit operation only:

Table 4.3-1, Note (4)

Table 4.3-2, Note (i)

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the change request against the standards provided above and has determined that this change will not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Current monitoring instrumentation and ongoing Technical Specification surveillance tests ensure the equipment and systems involved in the extended surveillance interval will remain in an operable condition until their inspection at the next refueling outage.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated. Extending the interval for the performance of specific surveillance tests does not create the possibility of a new or different kind of accident. Periodic surveillance tests have been performed since the seventh outage to monitor system and component performance and to detect degradation. Surveillance tests will continue to be performed during the extension interval.

3) Involve a significant reduction in the margin of safety. Extending the interval for these specific surveillance tests for the eighth cycle of North Anna Unit 1 does not significantly degrade the margin of safety. Surveillance tests will continue to be performed during the extension interval. Current monitoring instrumentation and ongoing Technical Specification surveillance tests ensure the affected equipment and systems remain in an operable condition.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed change and agrees with the licensee's conclusion that the three standards in 10 CFR 50.92(c) are met. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: May 21, 1990

Description of amendment request: The proposed changes would amend the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2). Specifically, the proposed changes would relocate the Radiological Effluent TS (RETS) to the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP), as appropriate. The proposed changes are in accordance with the guidance provided in NRC Generic Letter (GL) 89-01, dated January 31, 1989. GL 89-01 stated that the NRC would approve a TS amendment to delete RETS if the requirements would be relocated to the ODCM or PCP.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in accordance with the criteria above and has made the following determination that the proposed changes do not involve a significant hazards consideration as defined in 10 CFR 50.92 because the changes would not:

(1) Involve a significant increase in the probability or consequence of an accident previously evaluated. This change does not alter the conditions or assumptions of any accident analysis.

(2) Create the possibility of a new or different kind of accident from any accident previously identified. This change does not alter the conditions or assumptions of any accident analysis. There are no hardware changes.

(3) Involve a significant reduction in a margin of safety. This change does not alter any of the conditions or assumptions of any accident analysis as stated in the NA-1&2 Updated Final Safety Analysis Report (UFSAR).

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with the above conclusions. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: October 11, 1988, as superseded October 30, 1989

Description of amendment requests: The proposed amendments would modify Surry Units 1 and 2 Technical Specifications (TS) Sections 3.6, "Turbine Cycle," 3.9, "Station Service System," and 3.16, "Emergency Power Systems." The proposed modifications address the operability and redundancy requirements of the cross-connect feature of the Auxiliary Feedwater (AFW) System. The proposal is the result of the identification of an apparent discrepancy between the analyses presented in the Updated Final Safety Analysis Report (UFSAR) and the requirements of the TS. This discrepancy was found to result in the potential for inadequate AFW flow via the unit-to-unit cross-connect for certain high energy line break events.

Surry Units 1 and 2 AFW Systems can be cross-connected. Thus, in the event of a failure of all of one unit's AFW pumps, core cooling can be provided by the other unit's AFW pumps via the cross-connect. The current TS require that in order to operate a unit, only one of the other unit's AFW pumps need be operable. The proposed change would increase the number of required available pumps to two. This would provide an additional margin of safety for common mode failure events. Allowance is made for the outage time necessary to conduct maintenance on the AFW pumps.

This application was previously published in the **Federal Register** on March 8, 1989 (54 FR 9936). However, the October 30, 1989 letter superseded the original request in its entirety. Therefore, the staff has decided to renotice the proposed amendments.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three criteria in the amendment application and made a proposed no significant hazards consideration determination. In regard to the first criterion, the licensee stated that:

... The effect of the changes will be to increase the reliability of the auxiliary feedwater cross-connect feature, which is relied on for mitigation of certain high energy line breaks outside containment and fires [sic]. The current UFSAR accident analysis results and conclusions are not affected by the proposed changes.

In regard to the second criterion, the licensee stated that:

... The additional requirements for the opposite units [sic] auxiliary feedwater systems have no impact on the range of initiating events previously assessed.

In regard to the third criterion, the licensee provided the following statement:

Since the results of the existing UFSAR accident analyses remain bounding, the safety margins are not impacted.

The staff has reviewed the analysis provided by the licensee in support of a proposed no significant hazards consideration determination. The staff agrees with the licensee's analysis and believes that the licensee has met the criteria for such a determination. In addition, the Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). One of the examples of actions involving no significant hazards considerations is example (ii), a change that constitutes an additional restriction not presently included in the TS; e.g., a more stringent surveillance requirement. The proposed changes fall within the scope of this example. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear

Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: February 26, 1990, as supplemented April 24, 1990.

Brief description of amendment: The change removes the provision of Specification 4.0.2 that limits the combined time intervals for three consecutive surveillances to less than 3.25 times the specified interval.

Date of issuance: May 25, 1990

Effective date: May 25, 1990

Amendment No. 18

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14504) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: September 17, 1987

Brief description of amendment: The amendment modifies the general limiting conditions for operation (LCOs) to allow entry into an operational condition under certain circumstances when compliance with the LCO's related Action Statements would allow continued operation for an unlimited period of time. The general surveillance requirements are also modified to clarify the time at which the Action Statements time limits begin relative to failure to perform a surveillance requirement and to allow for a delay of the Action Statement requirements for up to 24 hours to complete the surveillance if the allowable time is less than 24 hours. It also clarifies that restrictions on entry into Operational Conditions based on failure to comply with surveillance requirements shall not prevent passage into or through Operational Conditions as required by Action Statements. The related Bases have also been changed to reflect these changes.

Date of issuance: May 24, 1990

Effective date: Upon issuance, to be implemented within 45 days from date of issuance.

Amendment No. 30

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1988 (53 FR 5498) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: October 11, 1989

Brief description of amendments: Modifies the Technical Specification requirements for Jet Pump flow indication.

Date of issuance: May 23, 1990

Effective date: May 23, 1990

Amendment Nos.: 124 and 121

Facility Operating License Nos. DPR-29 and DPR-30. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12590) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: January 17, 1990

Brief description of amendments: The amendments change the Technical Specifications (TSs) for Units 1 and 2 by replacing the values of cycle-specific parameter limits in core-related specifications with a reference to a Core Operating Limits Report (COLR) which will contain the values of these limits. These amendments also include the addition of the COLR to the Definitions section of the TSs and to the reporting requirements in the TS Administrative Controls. Additionally, the amendments change the TS Table of Contents.

Date of issuance: May 17, 1990

Effective date: May 17, 1990

Amendment Nos.: 74, 68

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 7, 1990 (55 FR 4265) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 17, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: March 15, 1990

Brief description of amendment: This amendment increases the fuel manufacturing tolerances as used in the calculation of nuclear heat flux hot channel factor from 1.4% to 2.0%.

Date of issuance: May 21, 1990

Effective date: May 21, 1990

Amendment No.: 129

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14505) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 21, 1990

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: March 12, 1990

Brief description of amendment: Changes the Technical Specifications related to inservice inspections of steam generator tubes following a primary-to-secondary leak.

Date of Issuance: May 29, 1990

Effective date: May 29, 1990

Amendment No.: 153

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1990 (55 FR 10732) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 29, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: February 5, 1988

Description of amendment request: The change corrects the reference zero and the corresponding trip setpoint and allowable value for the suppression pool water level instrument associated with RCIC to conform to the as-built design.

Date of issuance: May 21, 1990

Effective date: May 21, 1990

Amendment No.: 35

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 27, 1988 (53 FR 28291) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 21, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: December 8, 1989 as supplemented March 6, 1990.

Brief description of amendments: These amendments modify Technical Specifications (TS) so that Westinghouse fuel assemblies with enrichments of up to 4.95 weight percent U-235 may be received. A new Technical Specification (TS 3/4.9.15) is added for both units to require a minimum boron concentration in the fuel storage pool whenever fuel assemblies with enrichment greater than 3.95 weight percent U-235 and with burnup less than 5,550 MWD/MTU are in the fuel storage pool. TS 5.6.1.2, 5.6.2 and 5.3.1 (for Unit 2 only) are modified to reflect the increased allowable fuel enrichment. In addition, the license for both units is modified to reflect a maximum enrichment of 4.95 weight percent U-235 for fuel stored in spent fuel pool.

Date of issuance: May 17, 1990

Effective date: May 17, 1990

Amendments Nos.: 136 and 121

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10537). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 17, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: January 16, 1990

Brief Description of amendment: The amendment modifies the Technical Specifications to reflect the operating limits for cycle 12 core reload.

Date of issuance: May 17, 1990

Effective date: Date of issuance

Amendment No.: 116

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 21, 1990 (55 FR 6107) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: March 27, 1990

Brief description of amendment: This amendment revises the Technical Specification to reflect that the normal position of the drywell and suppression chamber oxygen sampling line isolation valves is open.

Date of issuance: May 24, 1990

Effective date: May 24, 1990

Amendment No.: 116

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 20, 1990 (55 FR 15041) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: February 23, 1990

Brief description of amendments: The amendments changed the Technical Specifications to remove cycle specific parameter limits in accordance with NRC Generic Letter 88-16.

Date of issuance: May 15, 1990

Effective date: May 15, 1990

Amendment No. 37 and 4

Facility Operating License Nos. NPF-39 and NPF-85. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10543) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: March 23, 1990

Brief description of amendments: These amendments changed section 4.0.2 and the associated Bases of the Technical Specifications to remove the limitation that for any three consecutive surveillance intervals, the combined time shall not exceed 3.25 times the specified surveillance interval.

Date of issuance: May 21, 1990

Effective date: May 21, 1990

Amendment Nos. 38 and 5

Facility Operating License Nos. NPF-39 and NPF-85. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14515) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated May 21, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment: April 12, 1990 as supplemented on May 18, 1990. The supplemental letter provided clarifying information related to the licensee's safety evaluation in support of the requested license amendment. The staff has determined that the supplemental information does not affect the proposed no significant hazards determination.

Brief description of amendment: This amendment changed the Technical Specifications to allow a one time extension of about seven months for the performance of required visual inspections of inaccessible snubbers.

Date of issuance: May 25, 1990

Effective date: May 25, 1990

Amendment No.: 156

Facility Operating License No. DPR-56: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 24, 1990 (55 FR 17328) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: November 30, 1989, as supplemented January 25, 1990 and April 16, 1990. The supplementary information sent by letters of January 25 and April 16, 1990 was clarifying in nature, was within the scope of the action originally noticed in the **Federal Register**, and does not alter the Staff's proposed No Significant Hazards Consideration determination.

Brief description of amendment: The amendment modifies the Technical Specification requirements for steam generators to allow tube repair by sleeving as an alternative to plugging.

Date of issuance: May 25, 1990

Effective date: May 25, 1990

Amendment No.: 160

Facilities Operating License No. NPF-1: Amendment changed the Technical Specifications.

Date of initial notice in **Federal Register:** January 24, 1990 (55 FR 2444) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

NRC Project Director: John T. Larkins, Acting

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: January 12, 1990

Brief description of amendment: The amendment changes the setpoints of the 4KV emergency bus undervoltage relays used for degraded voltage conditions to reflect changes to the reserve station transformer tap settings which are being made during the current refueling outage. The amendment also removes operating restrictions imposed by the NRC in Amendment No. 120, which was issued on November 19, 1988.

Date of issuance: May 18, 1990

Effective date: May 18, 1990

Amendment No.: 160

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12598) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 18, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: January 12, 1990, as amended May 4, 1990.

Brief description of amendment: The amendment reflects removal of two primary containment penetrations and their isolation valves which results from replacing the present four-channel Traversing Incore Probe System with a new three-channel system. The letter of May 4, 1990, revising the amendment, reflected a change to the penetration numbers, and a change to the format of a Table to incorporate previously approved changes, and did not effect the proposed finding of no significant hazards consideration.

Date of issuance: May 24, 1990

Effective date: May 24, 1990

Amendment No.: 161

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** March 7, 1990 (55 FR 8234) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: November 20, 1989

Brief description of amendment: The amendment revises Technical Specification 4.7.1.5, Main Steam Line Isolation Valves (MSIV), to change the acceptable full closure time for the MSIV from five seconds to seven seconds.

Date of issuance: May 17, 1990

Effective date: May 17, 1990

Amendment No.: 92

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 10, 1990 (55 FR 940) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket No. 50-327, Sequoyah Nuclear Plant Unit 1 Hamilton County, Tennessee

Date of application for amendment: January 24, 1990 as revised by letters dated April 25 and May 15, 1990 (TS 89-27)

Brief description of amendment: This amendment modifies the Sequoyah Nuclear Plant, Unit 1, Technical Specifications (TSs). The changes revise the definition section; the Specifications 2.2.1, 3/4.3.1.1, and 3/4.3.2.1; and the associated bases for the specifications to reflect reactor protection system upgrades and enhancements which were

implemented during the current Cycle 4 refueling outage for Unit 1.

The specific TSs which were revised are the following: (1) add Definition 1.6.c and an ancronym for Rated Thermal Power; (2) revise or add parameters in Tables 2.2-1, 3.3-1, 3.3-2, 3.3-3, 3.3-4, 3.3-5, 4.3-1, and 4.3-2; (3) add footnotes or action statements in Tables 3.3-1, 3.3-3, and 3.3-5; and (4) delete outdated footnotes and unused action statements in Tables 3.3-3, 3.3-4, 4.3-1 and 4.3-2. These changes reflect rack drift allowables for the Eagle-21 digital process protection system; the incorporation of the environmental allowance modifier, the trip time delay feature, and the median signal selector; the removal of the resistance temperature detector bypass manifolds; the addition of a new steamline break protection logic; the implementation of engineered safety features actuation system enhancements; and the deletion of out-of-date footnotes and unused action statements.

The applications also proposed changes to the Unit 2 TSs. These changes will be issued during the upcoming Unit 2 Cycle 4 refueling outage scheduled to begin in October 1990. The modifications to Unit 2 will incorporate the above upgrades and enhancements during this outage. The Safety Evaluation for Unit 1 also applies to Unit 2.

Date of issuance: May 16, 1990

Effective date: May 16, 1990

Amendment No.: 141

Facility Operating License No. DPR-77 Amendment revised the Unit 1 Technical Specifications.

Date of initial notice in Federal Register: February 21, 1990 (55 FR 6119) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 16, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2 Benton County, Washington

Date of application for amendment: March 2, 1990 as supplemented on April 5, 1990.

Brief description of amendment: This amendment revises Technical Specification Section 3/4.8.2, "Electrical Power Systems, D.C. Sources," by replacing the battery load profile specified in surveillance requirement 4.8.2.1.d.2.

Date of issuance: May 22, 1990

Effective date: May 22, 1990

Amendment No.: 83

Facility Operating License No. NPF-21: Amendment changed the Technical Specifications.

Date of initial notice in Federal Register: April 4, 1990 (54 FR 12605) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Rockville, Maryland, this 6th day of May 1990.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 90-13528 Filed 6-12-90; 8:45 am]

BILLING CODE 7590-01-D

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 21st meeting on June 28 and 29, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. each day. The entire meeting will be open to the public.

The purpose of the meeting will be to review and discuss the following topics:

A. The Committee will discuss past ACNW accomplishments and the future direction of the Committee such as procedures for setting priorities for review topics and Committee interaction with the NRC staff and other organizations.

B. Briefing on the technology involved in the use of tunnel boring machines, drill and blast excavation techniques.

C. Briefing on the findings of the recent BEIR V report, "Health Effects of Exposure to Low Levels of Ionizing Radiation."

D. Briefing on a methodology for predicting the I-129 source term for low level waste sites.

E. Briefing on transportation and storage of spent nuclear fuel—experience at Morris, Illinois offsite spent fuel storage facility.

F. The Committees will discuss and prepare proposed reports to the NRC as appropriate.

G. The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate.

Procedures for the conduct of and participatioin in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, it consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director for the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvience.

Dated: June 7, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90-13657 Filed 6-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-458]

Gulf States Utilities Co., River Bend Station, Unit No. 1; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-47, issued to Gulf States Utilities Company (the licensee), for operation of the River Bend Station, Unit No. 1, located in West Feliciana Parish, Louisiana.

The proposed amendment would raise the 95° F Limiting condition for Operation (LCO) on suppression pool temperature to 100° F. Technical Specification 3.6.3.1 provides an LCO requiring plant shutdown in the event the suppression pool temperature exceeds 95° F greater than 24 hours.

Seasonal high ambient temperatures which increase the service water temperature and other heat sources which discharge to the suppression pool can cause the pool temperature to approach and possibly enter the ACTION statement. This can result in extended operation of suppression pool cooling systems and, if the suppression pool temperature cannot be reduced, in a plant shutdown. Since the problem is recurrent, Gulf States Utilities (GSU) has proposed a permenant TS change to increase the operating suppression pool temperature limit from 95° F to 100° F.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 9, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designed by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide reference to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Frederick J. Hebdon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)(v) and 2.714(d).

If a request for a hearing is received, the Commission's saff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 14, 1990, which 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, Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 30th day of May 1990.

For the Nuclear Regulation Commission.

Frederick J. Hebdon,

Director, Project Directorate IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-13658 Filed 6-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-05004-MLA; ASLBP No. 90-599-01-M]

Northern States Power Co.; (Pathfinder Atomic Plant, Byproduct Material License No. 22-08799-02); Prehearing Conference

June 7, 1990.

Please take notice that a prehearing conference will be held in the captioned proceeding at 9:30 a.m., local time, on June 21, 1990 in the United States Courthouse and Federal Building, located at 400 South Phillips Street, Third Floor, Sioux Falls, South Dakota. The conference will be held for the purpose of simplifying the issues and related matters.

By order dated February 2, 1990, South Dakota Resources Coalition was found to have presented six legitimate concerns in granting its petition for a hearing. They were:

(1) That the extent of present contamination must be clearly known in order to decommission the site;

(2) That a history of past activity at the site is required to identify areas at the site and offsite where contamination may have spread;

(3) That the decommissioning plan and safety analysis provide adequate measures to assure worker protection, long term health monitoring and long term health care for workers who may be injured;

(4) That adequate standards and procedures be applied to determine which wastes will be classified as low level radioactive waste requiring disposal in a low level radioactive waste facility and which waste will be disposed of in a municipal solid waste landfill;

(5) That adequate standards and procedures be applied to determine the release of lands for unrestricted use; and

(6) That the procedures to dismantle, load and ship radioactive portions of the facility are inadequate.

Counsel for licensee, Northern States Power Company, advised by letter of May 11, 1990, that the parties had come to an agreement which resolved concern (2), history of past activity at the site, and the concern could be withdrawn.

In response to an order of May 15, 1990, South Dakota Resources Coalition on May 25, 1990 submitted a statement of proposed issues. In the statement, it advised that concerns (3), worker protection, and (6), shipment of portions of the facility, have been adequately addressed by the licensee. South Dakota Resources Coalition advised of issues it expects to rely upon based on the concerns that were not disposed of. Commission documents were cited in support of its position.

At the prehearing conference, remaining concerns and proposed issues will be discussed in an attempt to focus and simplify issues.

Should it not be possible to resolve all issues prior to hearing, a hearing will be conducted to resolve the matter. It will follow the procedure prescribed in 10 CFR 2.1233-2.1237.

The parties to the proceeding or their representatives are directed to attend the prehearing conference. NRC Staff is invited to attend and lend its expertise at the conference.

It is so Ordered.

Dated: June 7, 1990.

Morton B. Margulies,

Presiding Officer, Administrative Law Judge.

[FR Doc. 90-13659 Filed 6-12-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-12150-0M; ASLBP NO. 90-615-05-OM]

Porter Memorial Hospital—Valparaiso, IN, Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 29810 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding.

PORTER MEMORIAL HOSPITAL—VALPARAISO, INDIANA

Materials License No. 13-17073-01
EA 90-072

This Board is being established pursuant to the request for a hearing and Petition for Leave to Intervene filed by Dr. Koppolu P. Sarma, an authorized user physician, regarding an Order issued by the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, dated May 2, 1990, entitled "Confirmatory Order Suspending Brachytherapy Activities and Modifying License (Effective Immediately)" (55 FR 19814, May 11, 1990). Suspending Brachytherapy Activities and Modifying License (Effective Immediately)" (55 FR 19814, May 11, 1990).

The "Order", among other things, suspended those provisions of the Materials License held by Porter Memorial Hospital which permit brachytherapy treatments at the Hospital until the Licensee complies with certain requirements specified in the Order.

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed in accordance with 10 CFR 2.701. The Board is comprised of the following Administrative Judges:

Judge Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Judge Walter H. Jordan, 881 W. Outer Drive, Oak Ridge, Tennessee 37830.

Judge Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland this 7th day of June, 1990.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90-13660 Filed 6-12-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Extension

Regulation 14C, SEC File No. 270-56.
Form S-4, SEC File No. 270-287.
Form F-4, SEC File No. 270-288.

Notice is hereby given that pursuant to the Paperwork Reduction of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted Regulation 14C, Form S-4 and Form F-4 for approval of an extension of clearance.

Regulation 14C contains disclosure requirements for information statements sent to shareholders, Form S-4 is used to register securities issued in a business combination, and Form F-4 is similar to Form S-4 except that it is filed by foreign companies. Regulation 14C affects 85 filers at an estimated 61 burden hours per response. Form S-4 affects 505 filers at an estimated 1472 burden hours per response. Form F-4 affects three filers at an estimated 1472 burden hours per response.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours

for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Projects 3235–057, 3235–0324 and 3235–0325), room 3228, New Executive Office Building, Washington, DC 20503.

Dated: June 7, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–13707 Filed 6–12–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28095; File No. SR–Amex–90–06]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Listing Guidelines for Certain Unit Investment Trusts

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 May 14, 1990, the American Stock Exchange, Inc. ("Amex" 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 American Stock Exchange, Inc. proposes to amend section 118 of the Amex Company Guide to provide listing guidelines for certain investment trusts ("Trusts") operating on either an open or closed end basis. Proposed section 118B accommodates Trusts that issue securities based on a portfolio of stocks included in a stock market index and/or a portfolio of money market instruments or other debt securities. Such Trusts may permit investors to separate securities into distinct trading components. In addition, the exchange proposes to add section 1006 to the Amex Company Guide to provide delisting criteria for such Trusts, and Commentary .04 to Exchange Rule 411 regarding suitability requirements applicable to recommendations in Trust securities.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

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

Section 118 of the Amex Company Guide provides listing guidelines applicable to a unit investment trust or similar entity ("Trust") that permits investors to separate their securities holdings into distinct trading components representing interests in the income and capital appreciation of securities deposited in the Trust. This Section was originally adopted to accommodate the Amex listing of Americus Trust securities.

The Exchange proposes to amend section 118 by adding new part B applicable to investment trusts that issue securities based on (1) A portfolio of stocks included in a stock market index, and/or (2) a portfolio of money market or other debt instruments. The new rule contemplates that holders of a Trust share or unit may be permitted to separate the share or unit into components reflecting distinct interests and investment objectives, such as the right to dividend income, the possibility of capital appreciation, or the ability to hedge against a market decline. A Trust may operate on an open or closed end basis. It is anticipated that proposed section 118B initially will be applied to Trusts sponsored by SuperShare Services Corporation ("SSC"), a majority owned subsidiary of Leland O'Brien Rubinstein Associates Incorporated ("LOR"). SSC proposes to sponsor as a unit investment trust a SuperTrust consisting initially of two separate Trusts—the Index Trust for Index Shares ("Index Trust") and the Money Market Trust for Money Market Shares ("Money Market Trust"). Each of the two trusts will operate on an open end basis with no maximum number of holders. For an initial investment of at least $10,000, an investor may purchase shares of either the Index Series or Money Market Series of the Capital Market Fund, Inc. (Fund").[1] Fund shares will not be exchange-traded. Throughout the life of the Trust, holders of such shares will be able to exchange them for Index Trust or Money Market Trust SuperUnit securities (hereafter referred to as "SuperUnits"), by tendering Fund shares with a minimum net asset value of $10,000 into the Index Trust or Money Market Trust.[2] SuperUnits are redeemable units of beneficial interest investing in the Index Series and Money Market Series of the Fund, respectively, and it is anticipated that they will be listed on the Exchange.

At the holder's option, an Index Trust SuperUnit could be separated into two SuperShare securities (hereafter referred to as "SuperShare").[3] The Appreciation SuperShare consists of the potential for capital appreciation and represents the right to receive at termination of the Index Trust a portion, if any, of the net asset value of an Index Trust SuperUnit in excess of the Termination Date Amount (as set forth in the SuperTrust prospectus). The Priority SuperShare consists of the right to receive dividends and, upon Trust termination, the net aset value of one Index Trust SuperUnit, less an amount equal to what the Appreciation SuperShare is entitled.

Money Market Trust SuperUnits also may be separated into two SuperShares. The Protection SuperShare represents the right to receive at Trust termination a portion (if any) of the net asset value of the SuperUnit that is equal to the excess of the Termination Date Amount for Money Market Trust SuperUnits over

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[1] The Fund is an open end management investment company organized as a series fund under the Investment Company Act of 1940 ("1940 Act"). The investment objective of the Index Series will be to provide investment results corresponding to the price and yield performance of stocks in the S&P 500 Index. The investment objective of the Money Market Series will be current income consistent with stability of principal and liquidity, and the assets of the series will consist of cash and a portfolio of short term money market instruments.

[2] The exchange offer will continue until the SuperTrust termination date and may be terminated or suspended only under the limited circumstances described in the Third Amended and Restated Application pursuant to section 6(c) of the 1940 Act ("Application"), namely, Trust delisting from the Amex, termination based on a commission order, or when the net asset value of Index Trust SuperUnits exceeds the Termination Date Amount for such units. *See generally*, Third Amended and Restated Application (File No. 812–7283) for further description of the Fund and SuperTrust.

[3] While proposed section 118B also accommodates the listing of SuperShares on the Exchange, such listing is not necessary for the listing of SuperUnits. The Chicago Board Options Exchange, Inc. has filed a proposed rule change to trade SuperShares (*See*, SR–CBOE–90–13).

the net asset value of one Index Trust SuperUnit. The Income and Residual SuperShare represents the right to receive dividends from the SuperUnit and to receive at Trust termination the net asset value of the SuperUnit less an amount equal to what the Protection SuperShare is entitled to receive.

SuperShares cannot be redeemed separately, but complementary SuperShares may be recombined and redeemed.[4] The voting rights of SuperUnits will be divided equally between SuperShares. The term of each SuperTrust will be three years and a SuperTrust will not terminate before the applicable termination date unless the Commission issues an order to that effect or unless all holders of SuperUnits and SuperShares so consent. Exchange trading of SuperUnits and SuperShares will commence on a "regular way" basis, with no when-issued trading. It is anticipated that the initial net asset value of Index Trust and Money Market Trust SuperUnits will be $100 and $50 per unit, respectively.

While the provisions of proposed Section 118B of the Amex Company Guide are intended to accommodate the listing of the Trusts described above, they are also intended to be broad enough to accommodate Trusts of varying size and characteristics. The eligibility of a Trust for listing will be subject to the following:

Size and Distribution—If a Trust is a closed end Trust, or if it is an open end Trust conditioned upon achieving a minimum dollar amount of participation, the Trust must have (1) Total assets of at least $60,000,000 at the time of formation, and (2) minimum distribution of 1,000,000 shares or units held beneficially or of record by 400 round lot holders of shares or units or of separate components of the shares or units.

With respect to the Index and Money Market Trusts described above, the Exchange will interpret this provision to include in the 400 holder requirement holders of Fund shares, as well as those who have already exchanged Fund shares for SuperUnits. This is appropriate insofar as Fund shareholders may exchange their shares for SuperUnits at any time.

Term—The stated term of the Trust may not be less than two years. However, a Trust may be terminated under such other earlier circumstances as may be specified in the Trust prospectus.

Trustees—As under current section 118, requirements of paragraphs (a), (c) and (d) of section 811 of the Amex Company Guide will apply.

Voting—When a share or unit has been divided into separate components, any voting rights accorded the share or unit may be divided between the component securities as specified in the Trust prospectus.

Listing Agreement—The Exchange will apply the same compliance requirements as are specified under current section 118(h).

The Exchange also is proposing to add new section 1006 of the Amex Company Guide which sets forth the criteria for continued listing eligibility of proposed section 118B Trusts. These criteria are predicated on the fact that the delisting of a Trust will be especially burdensome to investors who acquired positions in Trust securities to establish a market hedge, and are relying on the continued availability of the Exchange market to liquidate or redeem their positions. Moreover, because of potentially substantial fluctuations in the number of holders of Trust securities it may be inappropriate to consider the suspension or delisting of a Trust based on periodic variances in the number of outstanding securities. The Exchange, therefore, will only consider the suspension of trading in, or removal from listing of any Trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) If the Trust has more than 60 days remaining until termination and there are less than 50 record and/or beneficial holders of shares, units, or trading components thereof for 20 consecutive trading days; or

(b) There has been a failure on the part of the Trust and/or Trustee to comply with the Exchange's listing policies or agreements; or

(c) Such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

To provide an appropriate suitability standard for recommendations in Trust components, the Exchange proposes to add Commentary .04 to Exchange Rule 411 (Duty to Know and Approve Customers). Proposed Commentary .04 would require that investors be afforded an explanation of any special characteristics and risks attendant to trading Trust securities. In addition, Proposed Commentary .04 would provide that before a member, member organization, allied member or employee of such member organization recommends a transaction in component securities, such member or member organization should make a determination that such units or component securities are suitable for the customer, and should have a reasonable basis for believing that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks and special characteristics of the recommended transaction, and is financially able to bear the risks of such transaction.

Because SuperUnits are significantly similar to the Fund shares to which Exchange suitability requirements do not apply, the Exchange believes that recommendations in SuperUnits alone will warrant lesser suitability requirements than recommendations in SuperShares in light of the different risks and characteristics associated with each. The Exchange intends for Proposed Commentary .04 to provide the recommending broker with a measure of flexibility in applying suitability requirements to transactions in SuperUnits or SuperShares, as the case may be, in view of the nature of the recommendation (SuperUnits or Supershares), the different characteristics of the recommended securities, and the investment objectives, financial situation and needs of the customer.

In addition, prior to the commencement of trading of the securities of any Trust under proposed Section 118B, the Exchange will distribute a circular to its membership calling attention to any special characteristics of and risks associated with the specific Trust.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

[4] SuperUnits may be redeemed on any business day for an in-kind distribution of Fund shares. Fund shares will be redeemed in cash or kind as described in the Application. The Fund expects to make the election permitted by rule 18f-1 under the 1940 Act obligating it to redeem shares soley in cash up to $250,000, with any redemption above that amount, in cash or kind, as described in the Application.

(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 July 5, 1990.

Dated: June 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-13708 Filed 6-12-90; 8:45 am]

BILLING CODE 8010-01-M

[5] 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-28096; File No. SR-CBOE-90-12]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Registration of Floor Brokers and Market-Makers

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 May 14, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" 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 is proposing to clarify its rules governing the registration of floor brokers and market-makers. Specifically, the proposed rule change reassigns from the Exchange's Market Performance Committee ("MPC") to the Membership Committee the task of registering floor brokers and market-makers. The proposal leaves unchanged the MPC's authority to evaluate floor brokers and market-makers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

It is filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory 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 proposed rule change is intended to notify members of which Exchange Committee is properly assigned the task of registering floor brokers and market-makers. Under the proposal, the Membership Committee would have sole responsibility for the initial registration of members as floor brokers or market-makers, as described in proposed paragraph (a) of rule 6.71 and rule 8.2. Evaluation of the performance of existing members as floor brokers or market-makers would continue to be the responsibility of the MPC, as described in proposed paragraph (b) of rule 6.71 and rule 8.2.

The CBOE also proposes to delete from Rule 6.71, the requirement that the MPC post the names of all applicants on the Exchange bulletin board for at least three business days before a registration shall become effective. The CBOE proposes to delete this provision to be consistent with new rule 3.9 which requires the name of all new members to be posted for 10 business days pursuant to the Membership Committee's approval process.[1]

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the Exchange maintains that the proposed rule change is consistent with section 6(b)(5) of the Act, which provides, among other things, that the rules of the Exchange are to be designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competiton.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to consolidate and redesignate the application procedures with respect to floor brokers and market-makers through the Membership Committee is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in

[1] The CBOE filed a proposed rule change on May 3, 1990 (SR-CBOE-90-09) to clarify and consolidate its rules governing nominees and membership application procedures. *See* Securities Exchange Act Release No. 28092 (June 4, 1990) (order approving File No. SR-CBOE-90-09).

particular, the requirements of section 6(b)(5) thereunder because the rule is designed to make the membership application review process more efficient.

The Commission finds good cause for approving the proposal prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** since the filing merely transfers from one Exchange Committee to another authority over floor trader registration without substantially altering the registration procedures. Accordingly, the Commission believes good cause exists to approve the rule filing on an accelerated basis.

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 July 5, 1990.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act,[2] that the proposed rule change (SR-CBOE-12) relating to the registration of floor brokers and market-makers is approved.

Dated: June 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-13709 Filed 6-12-90; 8:45 am]

BILLING CODE 8010-01-M

[2] 15 U.S.C. 78s(b) (1982).

[File No. 22-20360]

Application and Opportunity for Hearing; American Airlines, Inc.

June 6, 1990.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that (*a*) the trusteeship of The Connecticut National Bank ("CNB") under each of up to five indentures to be qualified under the Act and (*b*) the trusteeship of CNB under one or more of such qualified indentures and under certain other indentures described below, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify CNB from acting as trustee under such qualified indentures or such other indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture under which any other securities of the same obligor are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securitries of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for a hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Applicant alleges that

1. The Applicant intends to file one or more Registration Statements on Form S-3, and in fact has filed three Registration Statements on Form S-3, covering the proposed issuance of up to five new series of the 1990 Equipment Trust Certificates, Series H through L (the "Proposed Certificates").

2. Each series of the Proposed Certificates will be issued pursuant to a separate indenture (a "Proposed Indenture"), each to be qualified under the Act, between a banking institution, as trustee (the "Proposed Owner Trustee"), the Applicant, as lessee, and an indenture trustee (the "Proposed Indenture Trustee") The Applicant desires to appoint CNB as the Proposed Indenture Trustee under each such Proposed Indenture.

3. The proceeds from the sale of the Proposed Certificates will be used to provide long-term financing for a portion of the equipment cost of up to five Boeing 757-223 aircraft or McDonnell Douglas DC-9-82 aircraft (collectively, the "Proposed Aircraft"), each of which will be leased by the Proposed Owner Trustee to the Applicant.

4. Each series of the Proposed Certificates will be secured by a security interest in one of the Proposed Aircraft and by the right of the Proposed Owner Trustee to receive rentals payable in respect of such Aircraft by the Applicant under the applicable lease. No Aircraft will be covered by more than one Proposed Indenture or by any other indenture, and the Proposed Certificates to be issued pursuant to any one Proposed Indenture will be separate from the Proposed Certificates to be issued pursuant to any other Proposed Indenture.

5. Each Proposed Indenture will provide, pursuant to section 310(b) of the Act, for the resignation of the Proposed Indenture Trustee in the event that it does not eliminate a conflicting interest, and will provide that trusteeship under another indenture of the Applicant constitutes a conflicting interest, provided, however, that the Applicant may apply to the Commission for a finding that no material conflict exists.

6. CNB currently acts as indenture trustee under three qualified indentures, each dated as of September 28, 1989 (the "August 1989 Qualified Indentures"). Each of the August 1989 Qualified Indentures relates to a separate leveraged lease transaction in which an equity participant leases one Boeing 757-223 Aircraft to the Applicant. The Applicant's 1990 Equipment Trust Certificates, Series E through G, are being issued under the August 1989 Qualified Indentures and each such series will be secured by a security interest in the aircraft to which the relevant August 1989 Qualified Indenture relates and by the right of such equity participant to receive rentals on such aircraft from the Applicant.

7. Each aircraft covered by an August 1989 Qualified Indenture is not covered by any other indenture, and the

Equipment Trust Certificates to be issued under each August 1989 Qualified Indenture will be separate from loan certificates issued under any other indenture.

8. CNB currently acts as indenture trustee under three qualified indentures, each dated as of September 15, 1989 (the "July 1989 Qualified Indentures"). Each of the July 1989 Qualified Indentures relates to a separate leveraged lease transactioin in which an owner trustee leases one McDonnell Dougles DC-9-82 or Boeing 757-223 Aircraft to the Applicant. The Applicant's 1990 Equipment Trust Certificates, Series A through D, are being issued under the July 1989 Qualified Indentures and each such series will be secured by a security interest in the aircraft to which the relevant July 1989 Qualified Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

9. Each aircraft covered by a July 1989 Qualified Indenture is not covered by and other indenture, any the Equipment Trust Certificates to be issued under each July 1989 Qualified Indenture will be separate from loan certificates issued under any other indenture.

10. CNB currently acts as indenture trustee (the "Pass Through Trustee") under four qualified indentures under which the Equipment Note Pass Through Certificates, Series 1988-A are outstanding (the "1988 Qualified Indentures") and as indenture trustee under four separate leveraged lease indentures related to the 1988 Qualified Indentures (the "1988 Lease Indentures"). Each of the 1988 Lease Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one McDonnell Douglas DC-9-82 Aircraft to the Applicant. In 1988, each owner trustee, for the benefit of institutional investors acting as equity participants, issued four series of loan certificates (the "1988 Equipment Notes") under each 1988 Lease Indenture to four separate grantor trusts. These grantor trusts in turn issued four series of Pass Through Certificates (the "1988 Pass Through Certificates") under the four separate 1988 Qualified Indentures. The 1988 Equipment Notes issued with respect to each 1988 Lease Indenture are secured by a security interest in the aircraft to which such 1988 Lease Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

11. Each aircraft covered by a 1988 Lease Indenture is not covered by any other indenture, and the 1988 Equipment Notes issued under each 1988 Lease Indenture are separate from loan certificates issued under any other indenture.

12. The Pass Through Certificates issued under the 1988 Qualified Indentures represent undivided interests in the 1988 Equipment Notes held by the related Pass Through Trustee. The 1988 Equipment Notes are not covered by any other indenture, and the 1988 Pass Through Certificates issued under each 1988 Qualified Indenture are separate from loan certificates issued under any other indenture.

13. CNB currently acts as Pass Through Trustee under four qualified indentures under which the Equipment Note Pass Through Certificates, Series 1987-A, are outstanding (the "1987 Qualified Indentures") and as indenture trustee under six separate leveraged lease indentures related to the 1987 Qualified Indentures (the "1987 Lease Indentures"). Each of the 1987 Lease Indentures relates to a separate leveraged lease transaction in which an owner trustee leases one McDonnell Douglas DC-9-82 Aircraft to the Applicant. In 1987, each owner trustee, for the benefit of institutional investors acting as equity participants, issued seven series of loan certificates (the "1987 Equipment Notes") under each 1987 Lease Indenture to seven separate grantor trusts. These grantor trusts in turn issued seven series of Pass Through Certificates (the "1987 Pass Through Certificates) under the seven separate 1987 Qualified Indentures. (To date, three series of 1987 Equipment Notes have matured, and the 1987 Pass Through Certificates issued by the three grantor trusts holding such Equipment Notes were paid off. As a result, the three 1987 Qualified Indentures under which such 1987 Pass Through Certificates were issued terminated, and thus only four 1987 Qualified Indentures remain.) The 1987 Equipment Notes issued with respect to each 1987 Lease Indenture are secured by a security interest in the aircraft to which such 1987 Lease Indenture relates and by the right of the owner trustee to receive rentals on such aircraft from the Applicant.

14. Each aircraft covered by a 1987 Lease Indenture is not covered by any other indenture, and the 1987 Equipment Notes issued under each 1987 Lease Indenture are separate from loan certificates issued under any other indenture.

15. The Pass Through Certificates issued under the 1987 Qualified Indentures represent undivided interests in the 1987 Equipment Notes held by the related Pass Through Trustee. The 1987 Equipment Notes are not covered by any other indenture, and the 1987 Pass Through Certificates issued under each 1987 Qualified Indenture are separte from loan certificates issued under any other indenture.

16. CNB currently acts as indenture trustee under an indenture, dated as of October 15, 1986 (the "Other Indenture"), between CNB and an owner trustee that relates to a leveraged lease transaction in which the owner trustee, for the benefit of certain institutional investors acting as equity participants, issued in a private placement loan certificates to institutional investors acting as loan participants.

17. The proceeds of the issuance of the loan certificates issued under the Other Indenture were used by the owner trustee to purchase on Boeing 767-223 aircraft that was then leased by such owner trustee to the Applicant. The Applicant is not a party to the Other Indenture (only the owner trustee as issuer of the loan certificates and CNB are parties), but the applicant's unconditional obligation to make rental payments under the lease relating to such Other Indenture is the only credit source for principal and interest payments on the loan certificates.

18. The loan certificates issued under the Other Indenture are secured by a security interest in the aforementioned Boeing 767-223 aircraft and the right of the owner trustee to receive rentals on such aircraft from the Applicant. Such aircraft is not covered by any other indenture, and the loan certificates issued under the Other Indenture are separate from loan certificates issued under any other indenture.

19. The Other Indenture is not subject to the Act and, accordingly, does not contain the language regarding conflicts required by section 310(b) of the Act for qualified indentures.

20. CNB's acting as trustee under the Proposed Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture does not present any likelihood of a material conflict of interest within the meaning of section 310(b)(1) of the Indenture Act. Each series of the Proposed Certificates will be secured under the relevant Proposed Indenture by collateral specific to such Proposed Indenture. None of the Proposed Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture provides for cross-collateralization. The collateral relating to each series of the

Proposed Certificates is not subject to the claims of holders of any other Proposed Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture. None of the collateral relating to the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture is subject to the claims of holders of the Proposed Certificates.

21. CNB's powers as trustee in respect of any default under any Proposed Indenture are not restricted by the provisions of any other Proposed Indentures, the August 1989 Qualified Indentures, the July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture.

22. As required by the Act, each Proposed Indenture, each August 1989 Qualified Indentures, each July 1989 Qualified Indentures, each 1988 Qualified Indenture, and each 1987 Qualified Indenture provide for the resignation of CNB, as trustee, in the event that CNB does not eliminate a conflicting interest, unless it obtains from the Commission a determination that no material conflict exists. Accordingly, CNB's acting as trustee under the Proposed Indenture does not present any likelihood of a material conflict of interest.

23. The Applicant is not in default in any respect under any of the August 1989 Qualified Indentures, July 1989 Qualified Indentures, the 1988 Qualified Indentures, the 1988 Lease Indentures, the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture and will not, at the time of execution thereof, be in default in any respect under any of the Proposed Indentures.

The Applicant waives notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Section, File Number 22-20360, 450 Fifth Street, NW., Washington, DC.

Notice is Further Given that any interested person may, not later than July 2, 1990, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Jonathan G. Katz, Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-13600 Filed 6-12-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Public Law 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80-2-69 established the first interim SFFL, and Order 90-3-49 established the currently effective two-month SFFL applicable through May 31, 1990.

In establishing the SFFL for the two-month period beginning June 1, 1990, we have projected non-fuel costs based on the year ended December 31, 1989 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as reported to the Department.

By Order 90-6-16 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic	1.3200
Pacific	1.7256
Latin America	1.3854
Canada	1.4822

For further information contact: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation.

Dated: June 7, 1990.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs

[FR Doc. 90-13623 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-90-25]

Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and dispositions of prior petitions; correction.

SUMMARY: This action makes a correction to the Summary of petitions published on June 4, 1990 (55 FR 22877). In the dates section we inadvertently inserted the wrong date. This action corrects that omission.

SUPPLEMENTARY INFORMATION:

History

This document corrects the comment date published in the **Federal Register** June 4, 1990, (55 FR 22877). The FAA would like to change the July 25, 1990 comment date to read June 25, 1990.

Jean Neely,

Acting, Program Management Staff, Office of Chief Counsel.

[FR Doc. 90-13637 Filed 6-12-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: June 7, 1990.

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, Pub. L. 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 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0061
Form Number: CF 1304

Type of Review: Extension
Title: Crew's Effects Declaration
Description: Customs Form 1304 is completed by the master of the arriving carrier to record and list the crew's effects that are accompanying them on the trip, but which are defined as merchandise under U.S. status and, therefore, must be manifested.
Respondents: Business or other for-profit
Estimated Number of Respondents: 9,000
Estimated Burden Hours Per Response: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 17,168 hours
OMB Number: 1515–0086
Form Number: CF 214 and CF 216
Type of Review: Extension
Title: Application for Foreign Trade Zone Admission and/or Status Transaction (CF 214); and Application for Foreign Trade Zone Activity Permit (CF 216)
Description: These documents allow business firms to apply for admission of goods to a foreign trade zone, and for foreign trade zone grantees and U.S. Customs to authorize admission without payment of import duties and taxes. Also allows firms to apply for and receive and appropriate zone status.
Respondents: Businesses and other for-profit
Estimated Number of Respondents/ Recordkeepers: 6,514
Estimated Burden Hours Per Response/ Recordkeeper: 44 minutes
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 18,001
OMB Number: 1515–0124
Form Number: None
Type of Review: Extension
Title: Disclosure of Information on Inward and Outward Vessel Manifest
Description: The information is used to grant a domestic importer's consignee's and exporter's request for confidentiality of its identity from public disclosure.
Respondents: Businesses and other for-profit
Estimated Number of Respondents: 200
Estimated Burden Hours Per Response: 30 minutes
Frequency of Response: On occasion and Annually
Estimated Total Reporting Burden: 100 hours

Clearance Officer: Dennis Dore (202) 535–9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

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. 90–13643 Filed 6–12–90; 8:45 am]
BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

Date: June 7, 1990.

The Department of 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 of 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 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0067
Form Number: IRS Form 2555
Type of Review: Extension
Title: Foreign Earned Income
Description: This form is used by U.S. citizens and resident aliens who qualify for the foreign earned income exclusion and/or the foreign housing exclusion or deduction. This information is used by the Service to determine if a taxpayer qualifies for the exclusion(s) or deduction.
Respondents: Individuals or households
Estimated Number of Responses/ Recordkeepers: 181,789
Estimated Buden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hrs., 10 min.
Learning about the law or the form—26 min.
Preparing the form—1 hr., 50 min.
Copying, assembling, and sending the form to IRS—49 min.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 956,210 hours

OMB Number: 1545–0969
Form Number: None
Type of Review: Extension
Title: Imposition of Backup Withholding Due to Notification of an Incorrect Taxpayer Identification Number and the Due Diligence Exception to the Imposition of a Penalty for a Missing or an Incorrect Taxpayer Identification Number
Description: This regulation is necessary because it provides guidelines that assist the taxpayer (broker, payor) with obtaining the correct name and taxpayer identification number of payees. If the taxpayer identification number is incorrect, the payee's account is subject to backup withholding.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations
Estimated Number of Responses/ Recordkeepers: 30,000
Estimated Burden Hours Per Respondent-Recordkeeper: 15 minutes
Frequency of Response: Other (Once)
Estimated Total Reporting/ Recordkeeping Burden: 6,750 hours

OMB Number: 1545–1026
Form Number: IRS Form 8645
Type of Review: Extension
Title: Soil and Water Conservation Plan Certification
Description: Form 8645 is used to certify that conservation expenses claimed as a deduction on Schedule F, (Form 1040) are part of an approved plan for their farm area. The approved plan requirement comes under Code section 175(c)(3).
Respondents: Farms
Estimated Number of Respondents/ Recordkeepers: 85,000
Estimated Burden Hours Per Response/ Recordkeeper:
Recordkeeping—7 mins.
Learning about the law or the form—5 mins.
Preparing the form—8 mins.
Copying, assembling, and sending the form to IRS—11 mins.
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 44,200 hours

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

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. 90–13644 Filed 6–12–90; 8:45 am]
BILLING CODE 4830-01-M

Internal Revenue Service

Tax on Certain Imported Substances: Determination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, 1989–1 C.B. 717, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include *polyethylene terephthalate pellets.*

EFFECTIVE DATE: This modification is effective as of April 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistance Chief Counsel (Passthroughs and Special Industries), 202–566–4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: .

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the dermination process.

Determination

On December 26, 1989, the Secretary determined that polyethytlene terephthalate pellets should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective as of April 1, 1990.

The petition to add polyethylene terephthalate was submitted by Eastman Chemicals Divison, Eastman Kodak Company, a manufacturer and exporter of this substance. No material comments were received on this petition.

Polyethylene terephthalate has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 50.8 percent by weight of the materials used in its production.

HTS number: 3907.60.00
Schedule B number: 3907.60.0000
CAS number: 25038–59–9

Polyethylene terephthalate, a semi-crystalline solid, is derived from the taxable chemicals *xylene* and *ethylene.* The predominant method of producing polyethylene terephthalate involves reacting terephthalic acid with ethylene glycol. Terephthalic acid is produced by the air oxidation of p-xylene, and ethylene glycol is produced by reaction of ethylene with oxygen and water.

The stoichiometric material consumption formula for this substance is:

$$\underset{\text{xylene}}{100C_6H_4(CH_3)_2} + \underset{\text{ethylene}}{101\ H_2C{:}CH_2} + \underset{\text{oxygen}}{350.5\ O_2} + \underset{\text{water}}{101\ H_2O} > \underset{\text{polyethylene terephthalate}}{C_2H_6O_2(C_{10}H_8O_4)_{100}} + \underset{\text{water}}{400\ H_2O}$$

The rate of tax prescribed for this substance, under section 4671(b)(3), is $6.30 per ton. This is based upon a conversion factor for xylene of 0.5507 and a conversion factor for ethylene of 0.1470.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–13579 Filed 6–12–90; 8:45 am]

BILLING CODE 4830-01-M

Tax on Certain Imported Substances; Notice of Determination

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89–61, 1989–1 C.B. 717, that the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code will be modified to include *linear alpha olefins* and *polyalphaolefins.*

EFFECTIVE DATE: This modification is effective as of April 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries), 202–566–4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a) of the Internal Revenue Code, an importer or exporter of any substance may request that the Secretary determine whether such substance should be listed as a taxable substance. The Secretary shall add such substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce such substance. This determination is to be made on the basis of the predominant method of production. Notice 89–61, 1989–1 C.B. 717, sets forth the rules relating to the determination process.

Determination

On December 26, 1989, the Secretary determined that linear alpha olefins and polyalphaolefins should be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code, effective as of April 1, 1990.

The petitions to add linear alpha olefins and polyalphaolefins were submitted by Ethyl Corporation, a manufacturer and exporter of these substances. No material comments were received on these petitions.

Linear Alpha Olefins

Linear alpha olefins have been determined to be a taxable substance because a review of the stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 100 percent by weight of the materials used in its production.

HTS number: 2901.29.10.10
Schedule B number: 2901.29.1010
CAS number: variable

Linear alpha olefins are clear liquids derived from the taxable chemical *ethylene.* The predominant method of producing linear alpha olefins is via the catalytic chain growth of ethylene.

The stoichiometric material consumption formula for this substance is:

$$\underset{\text{ethylene}}{n/2\ C_2H_4} \rightarrow \underset{\text{linear alpha olefin}}{C_nH_{2n}}$$

The rate of tax prescribed for this substance, under section 4671(b)(3), is $4.87 per ton. This is based upon a conversion factor for ethylene of 1.00.

Polyalphaolefins

Polyalphaolefins have been determined to be a taxable substance because a review of the stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 99.6 percent by weight of the materials used in its production.

HTS number: 3902.90.00.50

Schedule B number: 3902.90.0050

CAS number: variable

Polyalphaolefins are clear liquids derived from the taxable chemical *ethylene.* The predominant method of producing polyalphaolefins is by oligomerization of decene-1, a linear alpha olefin.

The stoichiometric material consumption formula for this substance is:

$$\underset{\text{ethylene}}{n/2\ C_2HG54} + \underset{\text{hydrogen}}{H_2} \rightarrow \underset{\text{polyalphaolefin}}{C_nH_{2n+2}}$$

The rate of tax prescribed for this substance, under section 4671(b)(3), is $4.85 per ton. This is based upon a conversion factor for ethylene of 0.9961.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–13578 Filed 6–12–90; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Public Diplomacy, U.S. Advisory Commission; Meeting

The United States Advisory Commission on Public Diplomacy will meet in room 600, 301 4th Street, SW. on June 13 from 10 a.m. to 11:45 a.m.

The meeting will be closed to the public from 10 a.m.–11 a.m. because it will involve discussion of classified information relating to international radio and television broadcasting. (5 U.S.C. 552b(c)(1)) Premature disclosure of this information is likely to frustrate significantly implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 522b(c)(9)(B))

From 11 a.m. to 11:45 a.m. the Commission will meet in open session with Mr. Nils Wessell, Director, Office of Research and Ms. Mary McIntosh, Senior Research Analyst, Office of Research.

Please call Gloria Kalamets, (202) 619–4468 for further information.

Dated: June 7, 1990.

Bruce S. Gelb,

Director.

[FR Doc. 90–13763 Filed 6–12–90; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 114
Wednesday, June 13, 1990

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).

DEPARTMENT OF DEFENSE

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: 8:00 a.m., July 9, 1990.

PLACE: Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20814-4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:00 a.m. Meeting—Board of Regents.

(1) Approval of Minutes—May 18, 1990; (2) Faculty Matters; (3) Report—Admissions; (4) Report—Associate Dean for Operations; (5) Report—Dean, Military Medicine Education Institute; (6) Report—President, USUHS; (7) Comments—Members, Board of Regents; (8) Comments—Chairman, Board of Regents.

New Business.

SCHEDULED MEETINGS: September 24, 1990.

CONTACT PERSON FOR MORE INFORMATION: Charles R. Mannix, Executive Secretary of the Board of Regents, 202/295-3028.

Dated: June 8, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-13757 Filed 6-8-90; 4:30 pm]

BILLING CODE 3810-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, June 19, 1990.

PLACE: Board Room 812A, Eighth Floor, 800 Independence Avenue SW., Washington, DC 20594.

STATUS: The first two items are open to the public. The last item is closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Railroad Accident Report: Derailment of Southern Pacific Transportation Company Freight Train and Rupture of Calnev Pipeline, San Bernardino, California, May 25, 1989.
2. Recommendations: "Ten Most Wanted" List.
3. Opinion and Order: Administrator v. Skryack, Docket SE-8658; disposition of respondent's appeal.

News Media PLEASE Contact TED LOPATKIEWICZ 382-6605

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: June 8, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90-13772 Filed 6-11-90; 9:37 am]

BILLING CODE 7533-01-M

Corrections

Federal Register
Vol. 55, No. 114
Wednesday, June 13, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-88-204]

Snap Beans; Grade Standards

Correction

In rule document 90-12885 beginning on page 22772 in the issue of Monday, June 4, 1990, make the following correction:

On page 22772, in the third column, in the second paragraph from the bottom of the page, "of" should read "and".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Pell Grant, Perkins Loan, College Work-Study, Supplemental Educational Opportunity Grant and Stafford Loan Programs; Revision of the Need Analysis Systems for the 1991-92 Award Year

Correction

In notice document 90-12045 beginning on page 21502 in the issue of Thursday, May 24, 1990, make the following correction:

On page 21503, in the second column, in the third column of the table, the ninth entry should read "23,000".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3760.7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Denial

Correction

In proposed rule document 90-10100 beginning on page 18132 in the issue of Tuesday, May 1, 1990, make the following corrections:

1. On page 18132, under the heading "DATES", in the second paragraph, in the fourth line "Joseph" was spelled incorrectly.

2. On the same page, under the heading "ADDRESSES", in the third paragraph, in the fourth line "street" should be capitalized.

3. On page 18133, in the first column, in the second full paragraph, in the eighth line from the bottom "aquifer" was misspelled.

4. On page 18134, in the first column, in the second full paragraph, in the last line, after "Solid" insert "Waste and Emergency Response, Publication SW-846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes - A Guidance Manual," U.S. EPA, Office of Solid Waste".

5. On page 18135, in the third column, in the final paragraph, in the first line "Further" should read "Furthermore".

6. On page 18136, in the second column, in the first full paragraph, in the seventh line from the bottom "believe" should read "believes".

7. On the same page, in the third column, in the first paragraph, in the eighth line "concentration" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 442 and 449

[Docket No. 89N-0058]

Human and Veterinary Drugs; Editorial Amendments

Correction

In rule document 90-6284 beginning on page 11575 in the issue of Thursday, March 29, 1990, make the following corrections:

§ 442.53a [Corrected]

On page 11583, in the second column, in amendatory instruction 131 to § 442.53a, on the first line, "cefotetan" was misspelled.

§ 449.150d [Corrected]

On page 11584, in the second column, in amendatory instruction 159 to § 449.150d, in the first line, the section number was misprinted.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AGL-7]

Proposed Transition Area Establishment-Eaton Rapids, MI

Correction

In proposed rule document 90-11012 beginning on page 19742 in the issue of Friday, May 11, 1990, make the following correction:

§ 71.181 [Corrected]

On page 19743, in the second column, in § 71.181, under Eaton Rapids, MI [New], in the fourth line "40°" should read "42°".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 90-10]

List of State-Designated Routes for the Transportation of Highway Route Controlled Quantity Shipments of Radioactive Materials

Correction

In notice document 90-12043 beginning on page 21480 in the issue of Thursday, May 24, 1990, make the following corrections:

1. On page 21480, in the second column, under **ADDRESSES**, in the second line "Designated" was misspelled.

2. On the same page, in the third column, in the fifth paragraph, in the eighth line "Shipment" should read "Shipments".

3. On page 21481, in the second column, in the fifth line from the bottom of the page, "Virginia-Effective 6-13-89" should appear in bold print.

4. In the same column, in the last line, "I-6" should read "I-66".

5. In the third column, in the fourth line from the top of the page, insert "17" between "Highway" and "from".

BILLING CODE 1505-01-D

federal register

Wednesday
June 13, 1990

Part II

Department of Agriculture

Federal Grain Inspection Service

7 CFR Part 800
Shiplot Inspection Plan (Cu-Sum); Final Rule

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

RIN 0580-AA09

Shiplot Inspection Plan (Cu-Sum)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is revising the regulations under the United States Grain Standards Act (USGSA) regarding the inspection of shiplot grain. Specifically, FGIS is revising the shiplot inspection plan by: (1) Establishing new breakpoints based on updated estimates of standard deviation; (2) limiting review inspections of material portions to one field review; (3) requiring that review inspection results of material portions be averaged with prior results unless a material error is detected; (4) defining a material error as a difference of more than two standard deviations; (5) designating a material portion as the single sublot exceeding the breakpoint value; (6) including wheat protein under the shiplot inspection plan for shipments specifying a minimum or maximum amount of protein; (7) requiring a special certificate statement when the protein range of a lot exceeds 1.0 percentage point; and (8) offering, upon request, an optional inspection service whereby component samples are analyzed. This action revises the regulations regarding the inspection of shiplot grain. The revisions include adding provisions concerning the shiplot inspection plan and establishing in the regulations procedures for review inspection services for sublots inspected as part of the inspection plan. This action will improve the statistical performance of the plan.

EFFECTIVE DATE: September 11, 1990.

FOR FURTHER INFORMATION CONTACT: Paul Marsden, Resources Management Division, USDA, FGIS, Room 0628 South Building, 1400 Independence Avenue SW., Washington, DC, 20250, telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major rule established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities. Most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Background

Since 1916, the United States Department of Agriculture (USDA) has established Official U.S. Standards for Grain. The standards and the inspection system serve the needs of the grain market by providing both the buyer and seller with a common language to describe grain quality through an impartial inspection process.

Determining the quality of large export grain shipments represents a difficult challenge for an inspection system. During the early years of U.S. grain exports, the quality of export shipments was determined after loading based on a single composite sample. As the size of export shipments increased, a need developed to determine grain quality during loading. In response, inspectors initially graded samples representing sublots (a portion of the entire shipment) but continued to determine the average quality for the export shipment on a single composite sample. Later, the average quality of the shipment was based on the average of the sublot results.

At first, no restrictions were placed on individual sublot results. Quality could vary between sublots provided the average quality of the entire lot met contract requirements. By 1961, a process was developed to control quality fluctuations within export shipments. The process became known as the 10 Percent Plan because it allowed, based on sublot results, no more than 10 percent of the export shipment to be inferior by one grade in quality in comparison to the certificated grade.

With any inspection plan, inspection results are subject to variability caused by sampling limitations, equipment capabilities, and inspector performance. To minimize these variabilities and maintain an impartial inspection process, USDA developed a statistically based acceptance inspection plan in 1969 which later became known as Plan A. This plan compared individual factor results to contract and grade limits through the use of: (1) Absolute limits, (2) progressive loading limits, and (3) block limits. These limits allowed some fluctuation in quality results to compensate for the inherent variability associated with grain inspection. The absolute limit established an allowance beyond the grade factor limit. A sublot was considered inferior quality and designated a material portion if a sublot factor result exceeded the absolute limit. The progressive loading limit restricted the total number of inferior quality sublots for the entire vessel. The block limit restricted the number of consecutive sublots inferior in quality for the same factor. A "block" consisted of three or more consecutive sublots that exceed the same grade factor limit but did not exceed the absolute limit. All sublots in the block were considered a material portion when a block limit violation occurred. In addition, whenever a material portion was caused by exceeding the progressive loading limits or block limits, the next five sublots loaded after the material portion designation had to be within grade on the factor that caused the material portion designation.

Plan A also incorporated a "second pick" procedure. When a sublot factor result exceeded the grade factor limit or the absolute limit, a second portion was analyzed. The average of the two analyses was used as the sublot factor result to determine if any loading limits were exceeded. Review inspections (reinspection, appeal inspection, and Board appeal inspection) were available for an entire lot or individual material portion sublots. To obtain a review inspection before a vessel was completely loaded, shippers could call a "cutoff" which designated the end of a lot. All sublots making up the lot could then be reviewed and the results certificated. Grain loaded after the "cutoff" represented another lot and was inspected and certificated separately. Material portion sublots were separately certificated even if the subsequent review inspection results were within the grade limit.

After several years of development and field testing, Plan A was implemented as an FGIS instruction on September 25, 1974, for use at shipping bin elevators. Shipping bin elevators have grain bins in which grain may be temporarily held after official sampling until the official inspection results are available. Elevators without shipping bins are commonly referred to as direct loading elevators because they do not have the capability of holding grain after official sampling while the inspector determines the quality. The 10 Percent Plan was implemented as a FGIS instruction on October 29, 1974, as an

interim procedure for use at direct loading elevators which chose not to use Plan A. The 10 Percent Plan was scheduled to expire on November 1, 1975; however, the plan was extended at the grain industry's request. Both the 10 Percent Plan and Plan A were used for export grain shipments between 1974 and 1980.

A 1977 report prepared by the USDA Office of the Inspector General cited many problems associated with shiploading and recommended that FGIS develop one plan that was applicable to all elevators. A review was conducted to evaluate the 10 Percent Plan, Plan A, and alternate inspection plans. FGIS developed a Cumulative Sum (Cu-Sum) Plan in 1979 to replace both inspection plans. The Cu-Sum Plan was designed to simplify the process of inspecting, provide the shipper with final sublot quality results, and to be applicable at all export facilities. After a year of field tests, the Cu-Sum Plan was implemented as an FGIS instruction in Book III of the Grain Inspection Handbook on May 1, 1980.

The Cu-Sum Plan is an online acceptance sampling plan that provides continuous quality information. The plan establishes statistically based factor tolerances (breakpoints) for accepting occasional portions of a lot when, due to known sampling, equipment, and inspection variations, inspection results exceed the grade limit. The individual sublot factor results are compared to the grade limit and the cumulative sum of the differences is monitored and applied to the acceptance tolerance. For example, if the grade limit for foreign material is 2.0 percent and the sublot foreign material result is 2.2 percent, the difference for the sublot is +0.2. The difference for each sublot by factor is added together during loading to derive what is known as the Cu-Sum. If the next sublot had a +0.1 difference, the Cu-Sum would be +0.3 (the sum of 0.2 + 0.1). Negative values are also added to the Cu-Sum but the overall Cu-Sum value cannot go below zero. If a factor's Cu-Sum value exceeds the breakpoint, the grain represented by the sublot is considered inferior quality and designated a material portion. If in the above example the breakpoint for foreign material was +0.4 and the next sublot had 2.3 percent foreign material, the Cu-Sum would be +0.6 thus exceeding the breakpoint and causing a material portion which is rejected by the plan. The certificated quality of the lot is the combined average of all sublots accepted under the plan. A material portion is certificated separately from sublots accepted under the plan.

The Cu-Sum Plan allows review inspections of material portion sublots as well as lots. One sublot within a material portion sequence (a series of sublots that lead to a sublot exceeding the breakpoint) may be reviewed under the plan. The reviewed sublot is certificated as part of the entire lot if the review inspection results are within the acceptable tolerance.

After nearly 6 years of use, FGIS contracted with an independent, third-party statistician, Dr. William H. Woodall, Department of Statistics, University of Southwestern Louisiana, to evaluate the Cu-Sum Plan. The statistician was selected because of the individual's expertise in the field of quality control and familiarity with Cu-Sum inspection techniques.

The study was designed to evaluate the relationship between the use of the Cu-Sum Plan, its effect on determining the quality of exported grain, and to identify possible improvements to the plan. The final report included recommendations to improve the effectiveness of the Cu-Sum Plan. The specific recommendations were: (1) Retain the basic Cu-Sum procedure but average review inspection results unless a material error is present and use a reference value smaller than the grade limit to regain the effectiveness of the original Cu-Sum Plan; (2) use an absolute limit equal to the breakpoint less the starting value; (3) revise the Cu-Sum breakpoints based on new estimates of factor result variability; and (4) improve the accuracy of the USDA rounding procedure.

FGIS already addressed the fourth recommendation by implementing revised rounding procedures on June 30, 1987 (52 FR 24414), which are more generally accepted mathematical rounding procedures. The rounding procedures appear in § 810.104 of the Official U.S. Standards for Grain (7 CFR 810.104).

Based on these recommendations and all other available information, FGIS proposed the following changes to the shiplot inspection plan: (1) Revising and updating the breakpoints for grading factors based on new estimates of standard deviation, (2) revising the review inspection procedures under the plan, (3) redesignating material portions, (4) including protein determinations as part of the inspection plan, and (5) offering optional component sample inspections.

FGIS proposed these changes in the January 23, 1989, **Federal Register** (54 FR 3050) and solicited comments for 60 days. The proposed rule was corrected on January 27, 1989 (54 FR 4109). The comment period was extended an additional 60 days in the March 3, 1989 **Federal Register** (54 FR 9054). The comment period was extended based on requests received from the U.S. grain industry indicating additional time was needed to review the proposed changes. FGIS determined that an extension of time to allow additional public input would be beneficial because it provided more time to respond to the proposed changes and might facilitate the development of effective alternative recommendations.

FGIS received 69 comments on the January 23, 1989, proposed regulations. Individual producers or producer-related groups submitted 29 comments; grain handlers, exporters, or their association representatives submitted 20 comments; foreign buyers of U.S. grain or their representatives submitted 17 comments; and individuals and associations not directly involved in producing, handling, exporting, or buying U.S. grain submitted 3 comments.

Some grain handlers, exporters, and their association representatives commented that the proposed changes and anticipated economic impact are based on flawed statistical data obtained by FGIS. They further commented that the proposed rulemaking process was arbitrary and FGIS did not cooperate with the U.S. grain industry in developing the proposed changes. The majority of comments received from grain handlers, exporters, and their association representatives expressed opposition to the proposed material portion designation. Furthermore, they commented that the proposed changes were too costly and would not significantly improve export grain quality.

Producers and foreign buyers generally submitted comments supporting the proposed rule. Some producer and producer-related groups, recognizing that grain handlers strongly opposed the proposed material portion designation, indicated they would support a modified material portion designation provided the operational characteristics of the plan remain similar to the proposed changes.

The following paragraphs address comments received regarding the proposed changes. To the extent that the comments are inconsistent with the findings and conclusions made herein, they are denied.

General Comments

Some exporters and their association representatives commented that the reasons for proposing the changes to the

shiplot inspection plan were unclear and that producers and foreign buyers believe that the proposed changes to the plan will significantly improve the quality of U.S. grain exports. FGIS disagrees with these comments.

FGIS stated in the proposal that the intent of the proposed changes was to improve the statistical basis of the inspection plan. The comments received from producers and foreign buyers indicated they recognize that a plan which improves the determination of quality may impact on the grain quality. However, their comments did not indicate they expected a significant change in quality.

The North American Export Grain Association (NAEGA), an organization representing the interests of major grain and oilseeds exporting companies and cooperatives in the United States and Canada, strongly criticized FGIS for failing to work with industry in developing an acceptable inspection plan. In their comments submitted on the proposal, NAEGA stated:

> The proposed rule arises, in our view, from arbitrary rule making by FGIS which bears greater testimony to the agency's sensitivity to political pressure than it does to the agency's commitment to serve U.S. competitiveness in world markets. This is a serious charge that we do not make lightly.
>
> FGIS did, during two years leading up to the introduction of the rule, give opportunity to interested parties to propose alternatives to the actions now contained in the rule. However, the criteria required to be served by any alternative to the FGIS plan—the response of the OC curve—were so narrowly drawn that they admitted of no alternatives that satisfied both the FGIS and the interest of affected industries in maintaining necessary competitiveness in international markets.
>
> One alternative to the FGIS plan—a proposal submitted by Dr. William Woodall of Southwestern Louisiana University—was summarily dismissed by FGIS despite the fact that FGIS itself had contracted with Dr. Woodall to perform the research. Other alternatives proposed also failed to result in any significant changes in the original FGIS proposal now promulgated as the proposed rule.
>
> In no instance during the past two years has FGIS requested that the FGIS Advisory Committee undertake a detailed review and consensus endorsement of its proposal, despite the clear Congressional intent that the Committee be accorded a role in weighing significant matters involving industries affected by FGIS regulation and oversight. Furthermore, the proposed rule does not reflect suggested changes in the material portion provisions of the rule recommended by the inter-industry Grain Quality Workshop at its December 1988 meeting.

FGIS disagrees with the views expressed by NAEGA in their comment. FGIS has not engaged in arbitrary rulemaking. On the contrary, FGIS fully cooperated with industry regarding the development of the proposed changes. As stated earlier, FGIS contracted with Dr. William Woodall, Associate Professor, Department of Statistics, University of Southwestern Louisiana, to review the shiplot inspection plan and recommend any changes needed. FGIS discussed with industry Dr. Woodall's recommendations to improve the inspection plan immediately after he released his final report. NAEGA and other industry representatives indicated during these preliminary meetings that the Woodall proposal was too restrictive. In particular, they expressed opposition to the recommendation to use a reference value smaller than the grade limit. They viewed such a change as equivalent to changing the Official U.S. Standards for Grain. FGIS recognized the industry's strong concern regarding this part of Dr. Woodall's overall recommendation. Consequently, FGIS developed an alternate recommendation.

The revised recommendation included the basic recommendations by Dr. Woodall (i.e. revise breakpoints, average review inspection results with original inspection results, and implement absolute limits). However, the recommendation to use a reference value smaller than the grade limit was replaced with a new designation of the material portion. At that time, FGIS recommended designating the material portion as the sublot exceeding the breakpoint value and all previous sublots back to, but not including, the last sublot with a zero cusum value. In addition to these requirements, FGIS recommended including wheat protein in the inspection plan.

On August 13, 1987, FGIS held a meeting in Washington, DC with individuals representing producers, grain handlers, exporters, and processors to discuss the recommended changes to the shiplot inspection plan. A significant portion of the meeting focused on the statistical performance of the inspection plan comparing Dr. Woodall's recommended changes to FGIS' recommended changes. It was also explained that the statistical improvements derived by either recommendation was dependent on the inter-relationship of the procedural changes introduced. Consequently, when evaluating the merits of the recommendations, it was important to consider all changes together.

During the meeting, industry indicated they thought the breakpoints for certain factors were too small and requested another analysis of inspection data. They further indicated that the absolute limit rule would in fact become a smaller breakpoint for factors and suggested the rule be reconsidered since the operating characteristic (OC) curve indicates it has little impact on the overall performance of the plan. The material portion designation was also debated and it was recommended that FGIS eliminate the designation entirely or consider relaxing the designation by looking at the consecutive series of sublot loaded back to the last sublot within contract grade.

FGIS continued working with industry to develop further alternatives after the August 13, 1987, meeting. FGIS worked with several individuals in evaluating their alternative procedures by providing statistical information illustrating the effects of various procedures on inspection plan performance.

The proposed changes to the shiplot inspection plan and the economic impact analysis conducted by the Economic Research Service (ERS) of USDA were also discussed at the December 14, 1988, Grain Quality Workshop. The Grain Quality Workshop passed a resolution regarding the proposed changes to the shiplot inspection plan. The resolution commended FGIS for its review of the inspection plan and the proposal which would be published for comment. The Grain Quality Workshop took exception with the new material portion designation and urged FGIS to consider alternatives which will still maintain the statistical integrity and reliability of the plan. The Grain Quality Workshop did not propose any alternative plans as part of the resolution.

The FGIS review of the inspection plan and the proposed changes were discussed at the FGIS Advisory Committee ten times since initial discussions started in January 1986 until the proposal was published in the **Federal Register** for comment.

Every effort was made by FGIS to evaluate the shiplot inspection plan in a sound statistical manner. Statisticians and quality control experts were consulted and all industry requests for further evaluation and information were considered. As requested by the export grain industry during the August 13, 1987, meeting, FGIS reviewed the original breakpoint values calculated by Dr. Woodall and made changes as warranted. Further, FGIS revised its recommendation presented at the August 13 meeting by deleting the absolute limit rule and relaxing the material portion designation.

Statistical Performance

Comments questioning the statistical performance of the plan were received from several commenters. One commenter questioned the quantitative objective of the changes while others indicated FGIS' demonstration of statistical performance was in error because the methodology to derive the statistical performance cannot predict loading strategies. FGIS disagrees with these comments for the following reasons.

FGIS relies on the operating characteristic (OC) curve to evaluate the performance of an inspection plan and any proposed changes to that plan. A comment misconception is that an OC curve predicts loading operations and target values for loading. This is not correct. OC curves predict the performance of a sampling plan based on the probability of acceptance or rejection at various quality levels.

FGIS used historical export data to determine the standard deviations for the grading factors. These standard deviations were in turn used to compute or estimate by simulation techniques the probability of a sublot meeting a set of acceptance criteria for a quality level. The plotting of the probability of acceptance for various quality levels generates an OC curve.

Simulations were performed for the more complicated sets of acceptance rules where direct computation is either not possible or highly complex. A large number of simulated sample values are generated for each quality level using the estimated factor standard deviation to obtain an accurate estimate of the probability of acceptance.

Based upon its own research, expert opinions, and industry discussions, FGIS has determined that the methodology used to calculate OC curves is correct.

Inspection plans can vary based on the needs of the buyers and sellers. Some comments received from exporters indicated they would like acceptance of their grain 100 percent of the time when the quality is within the grade limit. Some comments received from importers indicate they do not want to receive any grain which does not meet their contract specifications. To meet the needs of industry as closely as possible, FGIS has designed a plan to establish fair acceptable and rejectable quality levels.

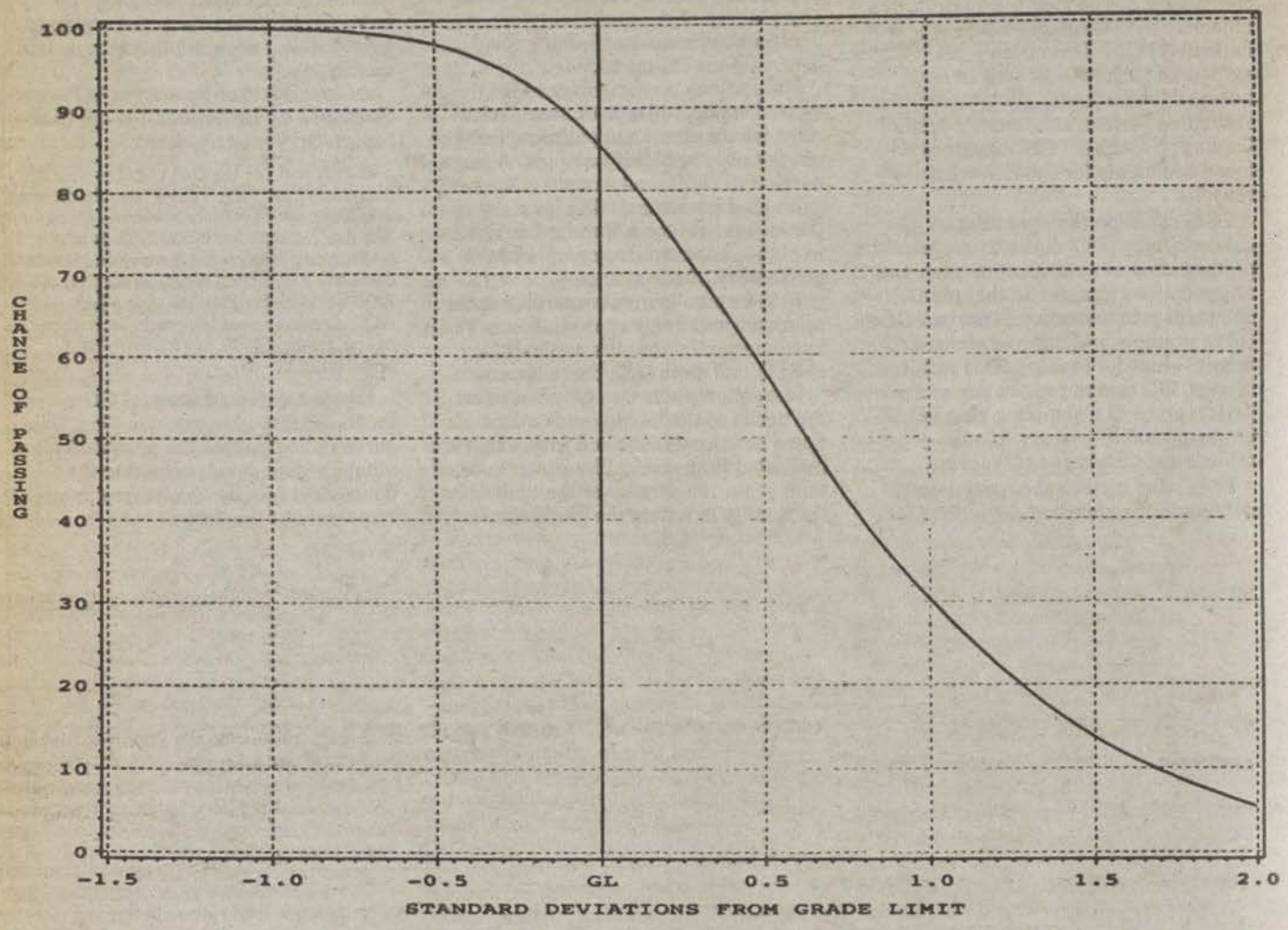
Acceptable quality levels (AQL) were discussed by Dr. Woodall in his final report. Dr. Woodall stated:

> Plan A and the Cu-Sum plan (as originally designed) have AQL values roughly one-half of a standard deviation *below* the grade limit. The desired location of the AQL is required to define an acceptable inspection plan. It is certainly a minimum requirement that the AQL be no larger than the grade limit. If the AQL is near or over the grade limit, then below-grade sublots are likely to pass undetected.

Figure 1 depicts a general OC curve for the proposed inspection plan. The curve indicates that the proposed plan would accept sublots equal to the contracted quality level approximately 85 percent of the time.

FIGURE 1

Proposed Shiplot Inspection Plan (Maximum Field Reviews)

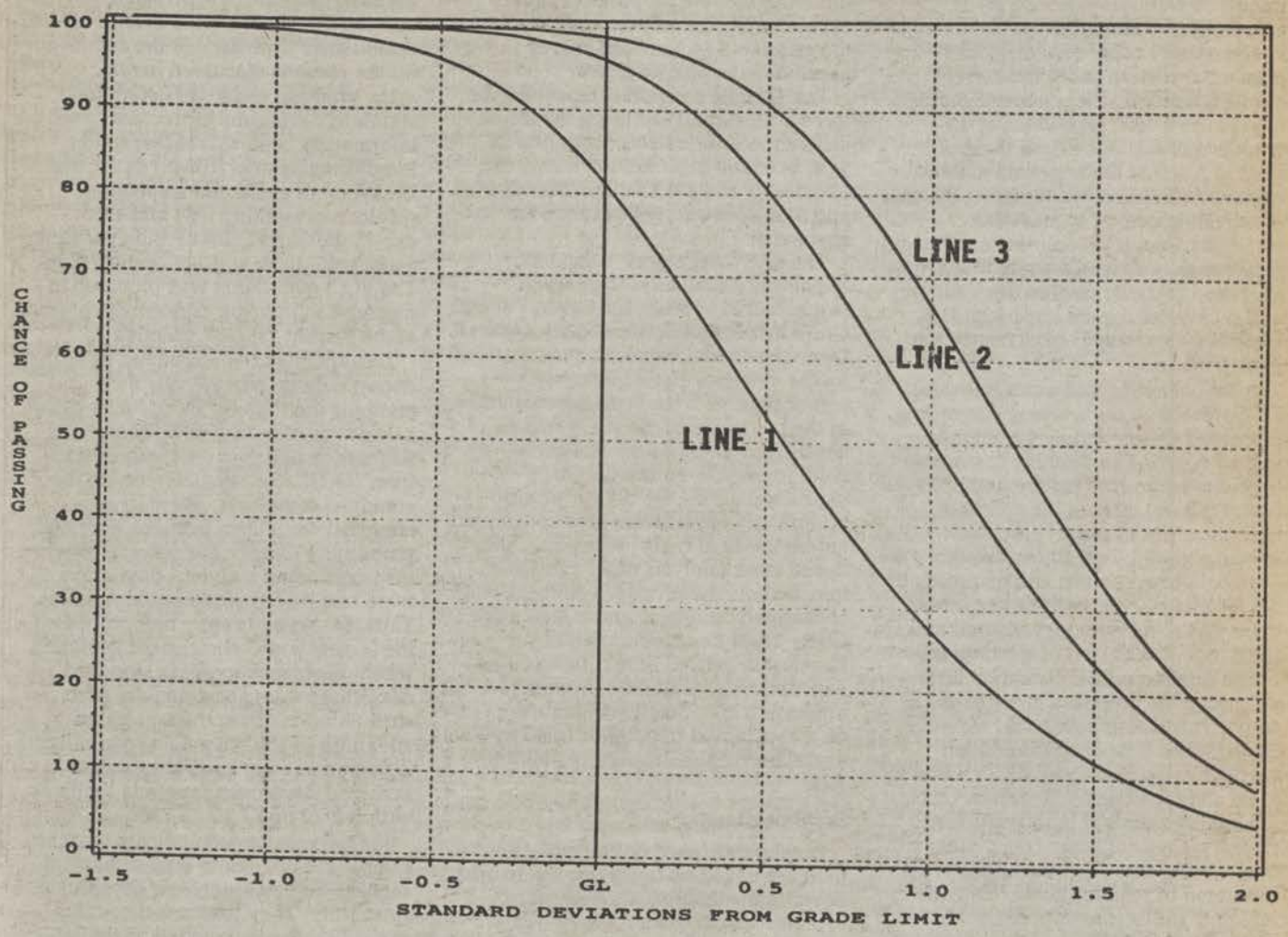


When the current shiplot inspection plan was implemented in 1980, the intent of the plan was to base all determinations on a single analysis.

Figure 2 illustrates the OC curve for the current inspection plan. Line 1 demonstrates the probability of acceptance based on an original inspection. Line 2 demonstrates the probability of acceptance based on a reinspection result when a material portion occurs. Line 3 demonstrates the probability of acceptance based on an appeal inspection result after a reinspection.

FIGURE 2

Current Plan OC Curve (Maximum Field Reviews)



The original inspection line (Line 1) crosses the grade limit at approximately 81 percent acceptance. After an applicant requests a reinspection and an appeal inspection (Line 3), the probability of acceptance approaches 99 percent. In turn, the probability of accepting grain of inferior quality as acceptable quality also increases.

In Dr. Woodall's comments to the proposed changes, he stated:

> The proposed changes to the Cu-Sum plan will result in a much better inspection plan. The quality of exported U.S. grain will improve somewhat because the grade limits will become more meaningful. . . . The current Cu-Sum plan is clearly not an effective inspection plan.

Be[illegible]-grade sublots are likely to pass undetected when the acceptable quality level is near or over the grade limit. Therefore, FGIS proposed changes to the inspection plan to provide for improvement in performance of the plan.

Economic Impact

Several commenters indicated they believed the economic impact analysis underestimates the actual economic impact of the proposed changes. Underestimation of the quantity of grain requiring improvement and the failure to factor in the cost of storing and disposing of screenings were cited as reasons for these comments. One comment questioned the determination that the proposal would not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act. FGIS disagrees with the comments for the following reasons.

FGIS informed participants at a Grain Quality Workshop its intent to conduct an economic analysis of the proposed changes. The Grain Quality Workshop supported FGIS in its effort to conduct the analysis and established a working committee to assist in the analysis. After the workshop, FGIS contacted ERS to conduct the economic impact analysis.

FGIS and ERS met with the working committee to establish the parameters for conducting the economic impact analysis and to ensure analysis of important economic impact issues. Basic criteria for analysis included (1) summarizing the current inspection plan effects by elevator type and quality factor; (2) determining the effects of averaging review inspection results using more than two standard deviations as a material error definition; (3) applying the proposed changes and

reviewing all material portions one time; (4) considering the current percent of material portions as the risk acceptable to the shipper and improving grain quality to simulate this risk; (5) calculating by elevator type the average vessel quality using only original inspection results under the current plan; (6) applying the proposed changes except use a reference value of 0.5 standard deviations below the grade limit in place of the proposed material portion definition; (7) estimating the cost of adjusting quality to meet the proposed plan, (8) simulating component factor results as an alternate to the proposed material portion designation; and (9) evaluating the impact on U.S. exports if no change to the inspection plan is made.

After collecting and analyzing data, FGIS, ERS, and the working committee discussed the preliminary economic impact report. The working committee expressed concern that the preliminary report did not include the option of cleaning grain at export elevators; cleaning grain by an amount equal to the change in breakpoints; and disposing of the cleanings. Alternatives to address these concerns were investigated and were included as part of the final report.

The final report published by ERS estimated the proposed changes to the shiplot inspection plan could result in costs for the U.S. wheat, corn, and soybean industries from $15.5 million to $85.6 million, depending on how quickly the industries adapt to the proposed changes. Costs of improving grain quality, recycling, and unloading were estimated in selected scenarios with regard to industries response to the proposed changes.

The ERS report estimated the proposed changes could cost the industries approximately $15.5 million if the industries quickly improve their grain quality to maintain their current frequency of material portion occurrence (scenario No. 1). The ERS report further estimated the proposed changes could cost the industries approximately $24.4 million under a transition scenario (scenario No. 2) if the frequency of material portion occurrences doubled after improving grain quality and the rejected sublots were unloaded from ships or recycled from shipping bins. The ERS report also estimated, as the worst possible case (scenario No. 3), the proposed changes could cost industry approximately $85.6 million if the industries did not improve their grain quality over the current level. Additionally, the ERS study indicated higher quality U.S. export grain and oilseeds resulting from the proposed changes to the inspection plan could bring benefits which could offset or even outweigh the costs of improving grain quality. The benefit of improving wheat protein under the proposed plan is estimated at $5.2 million, compared to the estimated $4.1 million cost of improving the quality factor.

The specific economic impact for the three grains analyzed using the three different scenarios was estimated at $4.6, $4.9, and $19.7 million for wheat; $3.5, $10.1, and $31.1 million for corn; and $7.4, $9.5, and $34.8 million for soybeans.

The ERS final report "Economic Impacts of Changes in the Shiplot Inspection Plan Proposed by the Federal Grain Inspection Service" does address the important economic concerns raised by the changes. The basic criteria established with the working committee at the beginning of the study were considered in the ERS evaluation. Additionally, the other concerns expressed during the review of the preliminary report were also considered before the final report was published. Based upon analysis of all available information, the proposed changes were considered nonmajor under Executive Order 12291 and Departmental Regulation 1512-1. In addition, it also was determined that the proposal would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

Breakpoints

Breakpoints used in the inspection plan are based on the factor's standard deviation measurement. Therefore, estimations of standard deviation are based on actual inspection data. If inspection data is not available, then statistical principles are applied to obtain these measurements.

The majority of commenters supported the proposal to revise the breakpoints, however, some commenters expressed concern. Exporters contended FGIS employed flawed statistical methodology to determine the standard deviations and breakpoint values.

In summary, the exporters' general concerns include (1) variability associated with the mechanical sampling device is not included in the determination of standard deviation; (2) inspection data in the monitoring sample data based are not unrelated or random and the inspection data base only identifies inspector variability; (3) the relationship of the breakpoint for total defects and its component factors is not correct; (4) Durum wheat breakpoints for certain factors are incorrect due to the nature of the grain; and (5) the breakpoint for broken corn and foreign material for corn, defects for wheat, foreign material for soybeans, and soybean moisture are too small. Except as otherwise noted, FGIS disagrees with these views expressed in the comments for the reasons discussed herein.

Dr. Woodall and FGIS determined standard deviations for factors based on information in the Grain Inspection Monitoring System (GIMS) data base. Dr. Woodall evaluated inspection results representing 1984 and 1985 export data and FGIS verified his values using 1985, 1986, and 1987 export data. The FGIS evaluation was provided in response to industry concerns expressed at the August 13, 1987, meeting.

Breakpoints are determined by sorting export data by percentages then grouping the data by grade limits before calculating standard deviations. Regression equations were developed from the GIMS data to determine the standard deviations. Theoretical standard deviations from the binomial probability distribution were used when inspection data standard deviations were less than their theoretical values. Thus, breakpoints were determined on the largest possible standard deviation whenever inspection data standard deviations were questionable. Also, extrapolations from the regression equations of the binomial probability distribution were used to calculate standard deviations for grade limits with few or no data.

Industry comments indicate that the sample obtained with the mechanical sampler may not represent the lot due to variability. They further believe this variability is compounded as the mechanical sampler reduces the size of the sample to obtain a sample from the initial sample. For this reason, exporters contend the variability should be considered when calculating breakpoints; especially for particle size factors.

Based on consultation with USDA statisticians, FGIS determined that the concept of including the variability of the mechanical sampling device to determine the breakpoint value is statistically invalid. The sample obtained with the mechanical sampler is a composite random sample of the lot offered for inspection. The sample for inspection is considered random and representative because the sampling device is set to obtain a sample at specific intervals during loading and the interval samples are later combined to form one sample. Although there is variability associated with the mechanical sampler, sampler variability

should not be significant when determining breakpoint values because the sample is a composite of random samples and represents lot quality. Accordingly, the methodology used to calculate the factor standard deviations is statistically correct and consistently applied.

Exporters also expressed concerns that the GIMS data used to determine standard deviations and calculate breakpoints did not include equipment variability. Additionally, they indicated the data is related because the inspectors know the results of the original inspection.

GIMS is a statistical measuring device used by FGIS to monitor the accuracy of inspection results. In order for the system to function, samples are randomly selected after the original inspection is performed; monitoring inspections are performed in a different laboratory using different inspection equipment by different personnel using different sample portions, and monitoring is performed without knowledge of original inspection results. As an additional precaution to prevent questionable data from entering into the breakpoint analysis, the theoretical standard deviation was used when the inspection data standard deviation was less than the theoretical value. Thus, questionable data were omitted from the breakpoint calculations.

FGIS is of the view that appropriate standard deviations were used to calculate breakpoint values. Further, sampling variability, equipment capabilities, and inspector variability are considered when using this data as new test samples are obtained from the file sample, different inspection equipment is used to obtain inspection results, and different inspectors grade the monitoring sample.

Commenters also stated that the breakpoint for defects in wheat should be larger than proposed because the breakpoint for one of its component factors, damaged kernels (total), is larger than the breakpoint for defects.

FGIS reviewed the mathematical and statistical theory as proposed by the commenters. "Defects in wheat" is the sum of damaged kernels, foreign material, and shrunken and broken kernels. The grade limits for U.S. No. 2 wheat for defects, damaged kernels, foreign material, and shrunken and broken kernels are 5.0%, 4.0%, 1.0%, and 5.0%, respectively. Thus, it is impossible for each factor to be at its maximum level for the U.S. No. 2 grade.

Because of the structure of the grade limits, the levels of damaged kernels, foreign material, and shrunken and broken kernels is somewhat controlled by the grade limit for defects. In order to stay within the grade limit for a U.S. No. 2 wheat, damaged kernels seldom approach the grade limit for a U.S. No. 2 wheat because the defect grade limit is very near the grade limit for damaged kernels.

The evaluation of breakpoints for the wheat factors involved analyzing and sorting data by factors. Breakpoints were established for wheat containing approximately 4.0 percent damaged kernels, although the wheat having damaged kernels at this level would probably grade as U.S. No. 3 or No. 4 due to defects. In turn, when defects were evaluated at the No. 2 grade limit, the defects were approximately at the 5.0 percent level and damaged kernels were approximately at the 2.0 percent level. The breakpoint for 2.0 percent damaged kernels is 1.0. This value is very close to the 0.9 breakpoint calculated for defects.

FGIS, after reviewing this matter, concludes that the data is representative of the wheat. Accordingly, the breakpoints for defects in wheat should not be larger as suggested by the commenters and will remain as proposed.

Another exporter voiced concerns about Durum wheat breakpoints. This comment indicated the variability of inspection for heat-damaged kernels, total damaged kernels, and contrasting class in Durum wheat differs from the other wheats because Durum wheat has a larger kernel size resulting in fewer kernels in a work portion. Recalculating breakpoints for Durum wheat were suggested.

The exporter comment regarding establishing different breakpoints for Durum wheat has merit because the work portion does contain fewer kernels than other wheats which may increase variability. FGIS, rather than establishing different breakpoints for Durum wheat at this time, will instruct official inspection personnel to increase the portion sizes when determining damaged kernels and heat-damaged kernels. Accordingly, no change to the regulations would be made. Portion sizes will be increased from approximately 15 grams to approximately 20 grams and from approximately 50 grams to approximately 66 grams when determining damaged kernels and heat-damaged kernels, respectively. This adjustment will equalize the variability of Durum wheat to other wheats, thus the same breakpoint may be used for all wheats.

Finally, exporters commenting on this proposal questioned the breakpoints for broken corn and foreign material (BCFM) for corn, defects for wheat, foreign material (FM) for soybeans, and soybean moisture. They requested FGIS increase these proposed breakpoints by one-tenth of a percentage point. FGIS reviewed the data used to determine these breakpoints and found that rounding breakpoints to the nearest tenth of a percentage point impacts on the final breakpoint value when the calculated value is near a midpoint.

Table 1 illustrates the actual breakpoint value for these factors before and after rounding.

TABLE 1.—QUESTIONABLE BREAKPOINT VALUES

Factor	Actual break-point	Rounded break-point
U.S. No. 2 Corn BCFM	0.278	0.3
U.S. No. 3 Corn BCFM	0.321	0.3
U.S. No. 1 Wheat Defects	0.697	0.7
U.S. No. 2 Wheat Defects	0.921	0.9
U.S. No. 1 Soybean FM	0.217	0.2
U.S. No. 2 Soybean FM	0.308	0.3
Soybean Moisture	0.248	0.2

Based on the information contained in Table 1, FGIS cannot statistically justify increasing the breakpoints as requested by the exporters except for soybean moisture. Because the calculated soybean moisture breakpoint is extremely close to a midpoint before rounding, FGIS will increase the breakpoint by one tenth of a percentage point. The proposed breakpoint of 0.2 will be increased to 0.3. Therefore, the breakpoints will remain as proposed except for soybean moisture which will be increased by one-tenth.

The proposed breakpoint table for wheat special grades and factors contained breakpoints for White wheat subclasses. After the shiplot inspection plan proposal was published for comment, FGIS published a final rule on November 27, 1989, (54 FR 48735) which amended the United States Standards for Wheat. This final rule replaced the single class White wheat with two classes, Hard White wheat and Soft White wheat. This final rule was effective May 1, 1990, and established three Soft White wheat subclasses Soft White wheat, White Club wheat, and Western White wheat.

In order to conform with the new standards, FGIS is revising Table 24. The subclass Hard White wheat is removed from this breakpoint table

because Hard White wheat will not have subclasses. The final breakpoint values for the other subclasses are the same as the remaining wheat subclass breakpoints as proposed. The table has been revised to conform to the language of the definitions of the new subclasses.

Review Inspections

The proposed rule included provisions for (1) averaging inspection results unless a material error is detected; (2) limiting the number of field review inspections (reinspection or appeal inspection) to one; and (3) limiting review inspection requests to sublots designated as a material portion or the entire lot. The proposal included defining a material error as a change of more than two standard deviations in inspection results when results are compared.

The majority of commenters supported these proposed changes. However, some commenters expressed concerns about the proposed review inspection process. In summary the general concerns included (1) restricting the review inspection process under the proposed plan would create an imbalance in the national inspection system between domestic grain movements and export grain movements; (2) limiting the number of review inspections violates statistical principles; and (3) a material error should be defined as a one standard deviation change. FGIS disagrees with these latter comments.

These comments suggested that the proposal would cause an imbalance between domestic and export movements. Nearly all domestic grain movements are inspected using an inspection process known as the single lot inspection. This inspection process, unlike the shiplot inspection plan, does not permit the use of tolerances or breakpoints. The shiplot inspection plan utilizes breakpoints to efficiently determine grain quality Limiting the number of review inspections for export shipments is justified because domestic grain movements are not inspected with tolerances or breakpoints. The proposed action would provide for more balance between the two types of movements rather than creating an imbalance suggested by the commenters.

Some commenters indicated the proposal to limit the number of review inspections contradicts statistical principles. They indicated increasing the sample size improves the estimate of grain quality

FGIS determined that although it is true that increasing the sample size improves the estimate of grain quality; reviewing only questionable sublots introduces a bias into the inspection plan. Since review inspections usually are requested when a shipper is dissatisfied with the original inspection result, statistical principles support letting the original result stand unless it is in error. Averaging review results with original results would reduce the degree of any bias in the inspection plan.

Reviewing all sublots in a lot for all factors is more statistically sound because all sublots (acceptable quality and unacceptable quality) are handled the same way and are subjected to the same probabilities. This procedure negates any bias introduced through the review inspection process. Therefore, this provision was included as part of the proposed rule.

Some commenters indicated the definition of a material error should be a more than one standard deviation change in results rather than the proposed more than two standard deviation change. FGIS evaluated the impact of using a more than one standard deviation change as a material error definition. The more than one standard deviation definition does not improve the effectiveness of the shiplot inspection plan as much as the more than two standard deviation change because averaging does not occur as often. The current practice of replacing original inspection results with review results remains virtually unchanged when more than one standard deviation material error definition is used.

After considering all available information including the comments received regarding this part of the proposal, FGIS is adopting the review inspection requirements as proposed. Review inspection results will be averaged unless a material error is detected and field reviews will be limited to one. A material error will be defined as a more than two standard deviation change in inspection results. Review inspections will be permitted for only material portion sublots or the entire lot. However applicants may request a reinspection, appeal inspection, and Board appeal inspection of the entire lot. If this option is requested, review inspection results will not be averaged but will replace original inspection results.

Material Portions

The regulations define a material portion as a portion of a lot which, in accordance with the inspection plans prescribed in the instructions, is considered inferior to the contract or declared grade The current shiplot inspection plan defines a material portion as one sublot. In discussions with the industry, FGIS recommended designating the material portion as a series of sublots from the sublot exceeding the breakpoint back to, but not including, the last sublot inspected having a zero cusum value. However, after further review, FGIS proposed to designate the material portion to include the sublot exceeding the breakpoint plus all previously consecutive sublots exceeding the same contracted grade factor limit back to, but not including, the last sublot loaded within the contracted grade for the factor in question.

Exporters and export associations commenting on this change unanimously opposed this proposed designation of a material portion. They indicated this proposed change would dramatically increase operating costs. However, no specific amounts are mentioned. They recommended defining the material portion as the sublot which exceeds the breakpoint. They further suggested that FGIS implement the other changes of the proposed plan for a one year period before proposing other changes with regard to material portions.

Some foreign buyers and producers commented that breakpoints should not be used and a material portion should be any sublot exceeding the contract specification.

Producer associations further indicated support to modify the material portion designation using alternate rules and procedures; but, they believed the performance of alternate inspection plan procedures should be similar to the proposed rule as measured by the OC curve.

Two commenters suggested alternative options to replace the proposed material portion designation. Both suggested alternatives would designate the material portion as the sublot exceeding the breakpoint value while incorporating other inspection procedures.

One commenter suggested replacing the proposed material portion designation with further restrictions on review inspections. The commenter recommended limiting the number of material portion sublots reviewed. The commenter suggested limiting the review to 10 percent of the entire lot. For example, a lot expecting to contain 20 sublots would be permitted to have two material portion sublots reviewed. This suggestion would not permit the review of any other material portions observed during loading after two sublots are reviewed.

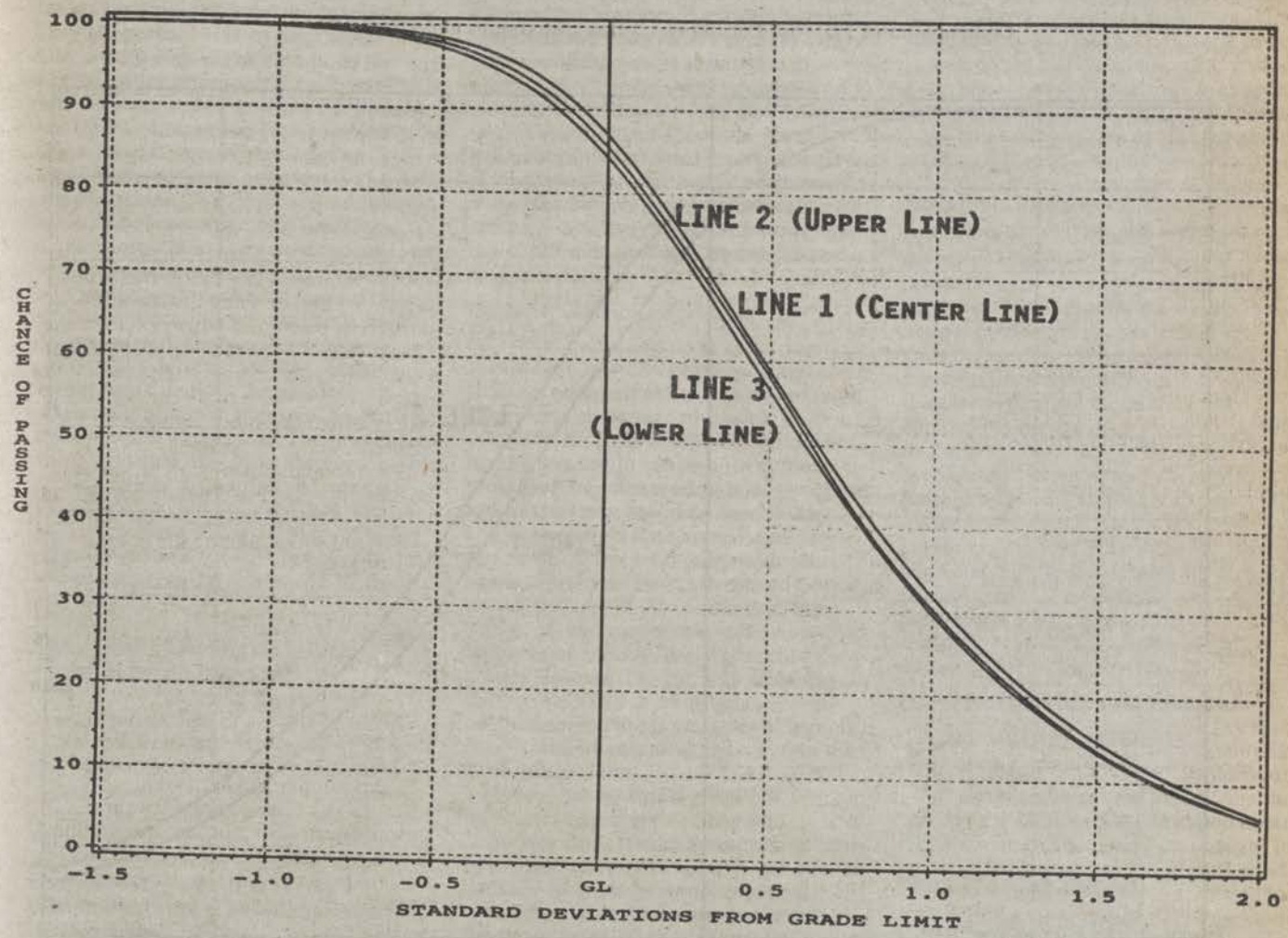
The other commenter recommended substituting the proposed averaging rule with a replacement rule as an

alternative to the proposed material portion designation. This recommendation would compare the review inspection result with the original inspection result. If a material error is detected, the review result will replace the original result. If a material error is not detected, the original result will remain.

Figure 3 illustrates a comparison of alternate inspection plans to the proposed inspection plan.

FIGURE 3

Alternate Plans Compared to Proposed Plan (Maximum Field Reviews)



Line 1 is the FGIS proposed inspection plan; Line 2 is the suggested alternative inspection plan which limits the number of material portions reviewed to 10 percent of the total lot; and Line 3 is the suggested alternative inspection plan which replaces results rather than averaging results.

Figure 3 indicates the performance of the two alternative plans are similar to the proposed plan. The FGIS proposed plan (Line 1) crosses the grade limit at approximately 85 percent chance of passing. The recommended plan to limit the number of review inspections to 10 percent of the lot (Line 2) crosses the grade limit at approximately 87 percent chance of passing. The recommended plan to replace original results if a material error is observed (Line 3) crosses the grade limit at approximately 84 percent chance of passing.

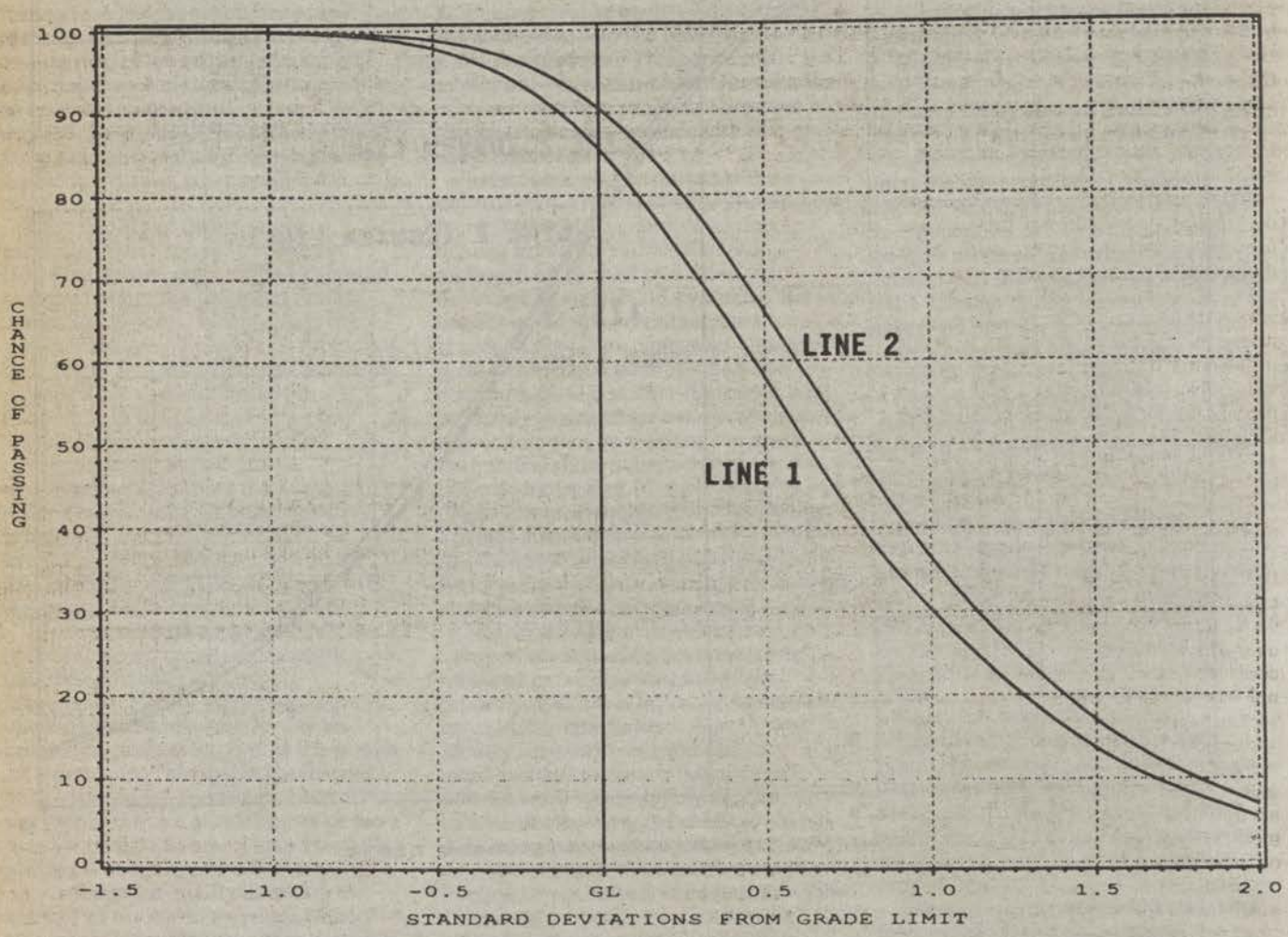
After evaluating all available information including comments regarding the proposed material portion designation, FGIS is not adopting the proposed material portion designation because alternatives in the comments were presented which merit further review before reaching any final decision concerning this matter. The alternatives presented in the comments could reduce cost to the industry, when compared to the proposed material portion designation, by reducing the number of sublots that would be required to be off-loaded if a material portion was declared. Therefore, no change to the material portion designation will be made at this time. The material portion will continue as the sublot exceeding the breakpoint. In response to the comments received from foreign buyers, FGIS will provide necessary inspection services for sales contracts that include provisions which require all sublot inspection results to meet contract specifications.

By not including the proposed material portion designation as a change to the inspection plan, the probability of acceptance at the grade limit is slightly larger than that of the proposed plan as illustrated in Figure 4. Although the OC curve is different from the proposed curve, the overall inspection plan is improved with respect to performance. Thus, the integrity of the inspection plan would be maintained.

The inspection plan with the proposed material portion designation crosses the grade limit at approximately 85 percent acceptance (Line 1). The inspection plan crosses the grade limit at approximately 90 percent acceptance when all other proposed changes, except the material portion designation, are implemented (Line 2).

FIGURE 4

Comparision of Material Portion Definition (Maximum Field Reviews)



FGIS will continue its evaluation of the inspection plan. This evaluation will include a review and discussion of the alternate recommendations received as part of the comments to the proposal.

In addition, FGIS is including in the text of the definition of material portion which appears in § 810.0(b)(55) language that reflects the current procedures concerning designating a material portion. Subsamples, components, and sublots are referenced. This will further clarify the regulations in connection with that definition.

Protein

FGIS proposed including wheat protein determinations under the same inspection plan as other grading factors. The proposal provided for one inspection plan and would better determine protein uniformity within the lot. The proposal required the use of a breakpoint and starting value whenever a contract specifies minimum or maximum protein limits for wheat shipments. Additionally, a certificate statement indicating the range of protein for the lot would be used whenever the range exceeds 1.0 percentage point and the contract did not specify a specific acceptable range. The breakpoint and starting value is not required for average or ordinary protein shipment; however, the inspection certificate will show the range statement if the range exceeds 1.0 percentage point.

Producers commenting on this proposal indicated their support to include protein under the shiplot inspection plan. They cited improved uniformity, additional quality assurance, and improved competitiveness in international trade as reasons for adopting this proposal.

Exporters commenting on this proposal opposed including protein under the shiplot inspection plan; but, they supported revising the Protein Uniformity Inspection Plan to try to obtain better protein uniformity within a lot. They suggested revising the Protein Uniformity Inspection Plan to require that at least two out of every five sublots are within the contracted protein specifications. They commented that the inclusion of wheat protein under the shiplot inspection plan would force them to ship protein of a higher quality than contracted and would not increase the protein uniformity of export lots. FGIS disagrees with these comments.

FGIS has determined that placing wheat protein under the shiplot inspection plan will improve the protein uniformity of export lots. The breakpoint value prevents excessive fluctuations of protein below the contracted amount. Exporters implied uniformity is not gained because of the 1.0 percent range rule. However, excessively high protein would generally be controlled by the marketplace.

The exporters' suggestion of limiting the number of sublots exceeding contract specifications within a consecutive run could increase the overall percentage of sublots meeting contract specifications. However, it does not control the degree of change from sublot to sublot nor does it adequately control the clustering of low protein sublots during loading. The exporters' recommendation for change is not acceptable because it is simply a modified average plan with no controls on variability.

After considering all available information including the comments received, FGIS has concluded that including wheat protein into the shiplot inspection plan as proposed improves protein uniformity.

The American Soybean Association indicated their support to include soybean oil and protein under the shiplot inspection plan; however, FGIS will not implement inspection tolerances for these tests at this time. This information was previously announced in the August 16, 1989, **Federal Register** (54 FR 33702) announcing the testing service as official criteria. FGIS will evaluate testing performance and review contract requirements for a minimum of one year before considering proposing to establish breakpoint values for these factors. This will allow for the collection and review of inspection data in order to calculate the standard deviations of the tests. This statistical information would be necessary when establishing breakpoint values.

Therefore, as announced in the August 16, 1989, publication for soybean shipments, inspection personnel will test each sublot for protein and/or oil when testing is requested and certificate the average of the sublot results until breakpoints are established. Limits on individual sublots will not be applied unless the contract specifies that no sublot shall fall below or exceed a given protein and/or oil value. In such cases, each sublot must meet the contract specification. Any sublot not meeting the specification would be considered a material portion.

Optional Component Sample Inspections

FGIS proposed to provide, upon request, component inspection analysis under the following conditions: (1) A minimum of three component samples must comprise the sublot, (2) sublot sizes may be increased to a maximum of 120,000 bushels based on the loading characteristic of the elevator and the size of the shiplot, (3) reduced factor breakpoints will be implemented based on the number of components in the sublot, (4) component sample inspections will be limited to critical grading factors (factors which usually determine grade or contract compliance), and (5) component sample results will be required to be within the "one grade" limit.

Opposing comments were not received regarding this proposal. Exporters did express their opinion that few exporters would request this service because of the expected additional inspection costs and the use of smaller breakpoints. FGIS is adopting this portion of the proposed rule.

Miscellaneous Changes

Several miscellaneous changes are made in this final rule that reflect changes to the text of the proposed rule. These changes are made for clarity or to correct information contained in several of the tables. For example, in proposed § 800.86, Table 2, the minimum limits for Two-rowed Malting barley should have appeared as negative numbers. In Table 13 of that section, the maximum limits for rye breakpoints for total damaged kernels should have appeared as positive numbers. These changes are made in the final rule. For clarity, references in the tables to "Same as the instructions" for grade limits for infested, treated, and bleached are changed to reference the appropriate sections of the standards. Other miscellaneous changes made for clarity include changes to the format of several of the tables and deletion of unnecessary footnotes. In addition, a clarifying change is made to § 800.125(a) to reference as an exception § 800.86(c)(5). The change would provide that any person may request a reinspection or review of weighing service except as provided in § 800.86(c)(5). Section 800.0(b)(55) is changed to include a subsample, component, and sublot in the material portion definition.

Final Plan Provisions

In summary, FGIS will: (1) Establish new breakpoints; (2) limit review inspections of material portions to one field review; (3) require the averaging of review inspection results unless a material error is detected; (4) define a material error as a difference of more than two standard deviations; (5) continue to designate a material portion as the single sublot exceeding the breakpoint value; (6) include wheat protein under the shiplot inspection plan for shipments specifying a minimum or maximum amount of protein; (7) require a special certificate statement when the protein range of a wheat lot exceeds 1.0 percentage point; and (8) offer component sample analysis as an optional inspection service.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

For the reasons set out in the preamble, 7 CFR part 800 is amended as follows:

PART 800—[AMENDED]

1. The authority citation for part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*)

2. Section 800.0(b)(55) is revised to read as follows:

§ 800.0 Meaning of terms.

* * * * *

(b) * * *

(55) *Material portion.* A subsample, component, or sublot which is determined to be inferior to the contract or declared grade. A subsample is a material portion when it has sour, musty, or commercially objectionable foreign odors, when it is heating; or when it is of distinctly low quality. A component is a material portion when it is infested or when it is determined to

be inferior in quality by more than one numerical grade to the contract or declared grade. A sublot is a material portion when a factor result causes a breakpoint to be exceeded or when a factor result exceeds specific sublot contract requirements. A sublot designated a material portion shall include only one sublot.

* * * * *

3. Section 800.86 is revised to read as follows:

§ 800.86 Inspection of shiplot, unit train, and lash barge grain in single lots.

(a) *General.* Official inspection for grade of bulk or sacked grain aboard, or being loaded aboard, or being unloaded from a ship, unit train, or lash barges as a single lot shall be performed according to the provisions of this section and procedures prescribed in the instructions.

(b) *Application procedure.* Applications for the official inspection of shiplot, unit train, and lash barges as a single lot shall:

(1) Be filed in advance of loading or unloading;

(2) Show the estimated quantity of grain to be certificated;

(3) Show the contract grade and official criteria if applicable; and

(4) Identify the carrier and stowage area into which the grain is being loaded, or from which the grain is being unloaded, or in which the grain is at rest.

(c) *Inspection procedures.*—(1) *General information.* Shiplot, unit train, and lash barge grain officially inspected as a single lot shall be sampled in a reasonably continuous operation. Representative samples shall be obtained from the grain offered for inspection and inspected and graded in accordance with a statistical acceptance sampling and inspection plan according to the provisions of this section and procedures prescribed in the instructions.

(2) *Tolerances.* The probability of accepting or rejecting portions of the lot during loading or unloading is dependent on inspection results obtained from preceding portions and the applied breakpoints and procedures. Breakpoints shall be periodically reviewed and revised based on new estimates of inspection variability. Tables 1 through 24 list the breakpoints for all grains.

TABLE 1.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SIX-ROWED MALTING BARLEY AND SIX-ROWED BLUE MALTING BARLEY

Grade	Minimum Limits of—						Maximum Limits of)									
	Test weight per bushel (pounds)		Suitable malting type (percent)		Sound barley [1] (percent)		Damaged kernels [1] (percent)		Foreign material (percent)		Other grains (percent)		Skinned and broken kernels (percent)		Thin barley (percent)	
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	47.0	−0.5	95.0	−1.3	97.0	−1.0	2.0	0.8	1.0	0.4	2.0	0.8	4.0	1.1	7.0	0.6
U.S. No. 2	45.0	−0.5	95.0	−1.3	94.0	−1.4	3.0	0.9	2.0	0.4	3.0	0.9	6.0	1.4	10.0	0.9
U.S. No. 3	43.0	−0.5	95.0	−1.3	90.0	−1.6	4.0	1.1	3.0	0.4	5.0	1.3	8.0	1.5	15.0	0.9

[1] Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels or scored against sound barley.

NOTE: Six-rowed barley that meets the requirements of U.S. No. 1 to U.S. No. 3, inclusive, for the subclasses Six-rowed Malting barley and Six-rowed Blue Malting barley is classified and graded according to the requirements in this section. Otherwise, it will be graded according to the requirements in § 810.206.

TABLE 2.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR TWO-ROWED MALTING BARLEY

Grade	Minimum limits of—						Maximum limits of—							
	Test weight per bushel (pounds)		Suitable malting types (percent)		Sound barley [1] (percent)		Wild oats (percent)		Foreign material (percent)		Skinned and broken kernels (percent)		Thin barley (percent)	
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1 Choice	50.0	−0.5	97.0	−1.0	98.0	−0.8	1.0	0.6	0.5	0.1	5.0	1.3	5.0	0.4
U.S. No. 1	48.0	−0.5	97.0	−1.0	98.0	−0.8	1.0	0.6	0.5	0.1	7.0	1.3	7.0	0.5
U.S. No. 2	48.0	−0.5	95.0	−1.3	96.0	−1.1	2.0	0.8	1.0	0.4	10.0	1.8	10.0	0.9
U.S. No. 3	48.0	−0.5	95.0	−1.3	93.0	−1.1	3.0	0.9	2.0	0.4	10.0	1.8	10.0	0.9

[1] Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels or scored against sound barley.

NOTE: Two-rowed barley that meets the requirements of U.S. No. 1 Choice to U.S. No. 3, inclusive, for the subclass Two-rowed Malting barley is classified and graded according to the requirements in this section. Otherwise, it will be graded according to the requirements in § 810.206.

TABLE 3.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SIX-ROWED BARLEY, TWO-ROWED BARLEY, AND BARLEY

Grade	Minimum limits of—				Maximum limits of—									
	Test weight per bushel (pounds)		Sound barley (percent)		Damaged kernels [1] (percent)		Heat-damaged kernels (percent)		Foreign material (percent)		Broken kernels (percent)		Thin barley (percent)	
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	47.0	−0.5	97.0	−1.1	2.0	0.8	0.2	0.1	1.0	0.4	4.0	1.0	10.0	0.9
U.S. No. 2	45.0	−0.5	94.0	−1.4	4.0	1.0	0.3	0.1	2.0	0.4	8.0	1.5	15.0	0.9
U.S. No. 3	43.0	−0.5	90.0	−1.6	6.0	1.4	0.5	0.2	3.0	0.5	12.0	1.8	25.0	1.3
U.S. No. 4 [2]	40.0	−0.5	85.0	−2.2	8.0	1.5	1.0	0.5	4.0	0.5	18.0	1.8	35.0	1.9
U.S. No. 5	36.0	−0.5	75.0	−2.2	10.0	1.8	3.0	0.6	5.0	0.6	28.0	2.4	75.0	2.3

[1] Includes heat-damaged kernels. Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels.

[2] Barley that is badly stained or materially weathered shall be graded not higher than U.S. No. 4.

TABLE 4.—BREAKPOINTS FOR BARLEY SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Dockage	0.99 or above	0.47
Two-rowed Barley	Not more than 10.0% of Six-rowed in Two-rowed.	1.8
Six-rowed Barley	Not more than 10.0% of Two-rowed in Six-rowed.	1.8
Malting (Blue Aleurone Layers).	Not less than 90.0%.	−1.3
Malting (White Aleurone Layers).	Not less than 90.0%.	−1.3
Smutty	More than 0.02%	0.06
Garlicky	3 or more in 500 grams.	2⅓
Ergoty	More than 0.10%	0.13
Infested	Same as in § 810.107.	0
Blighted	More than 4.0%	1.1
Injured-by-Frost Kernels.	Not more than 1.9%.	0.1
Injured-by-heat Kernels.	Not more than 0.2%.	0.04
Frost-damaged Kernels.	Not more than 0.4%.	0.05
Heat-damaged Kernels.	Not more than 0.1%.	0.1
Other Grains	Not more than 25.0%.	2.4
Moisture	As specified by contract or load order grade.	0.5

TABLE 5.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR CORN

Grade	Minimum test weight per bushel (pounds)		Maximum limits of— Damaged kernels: Heat-damaged kernels (percent)		Total (percent)		Broken corn and foreign material (percent)	
	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	56.0	−0.4	0.1	0.1	3.0	1.0	2.0	0.2
U.S. No. 2	54.0	−0.4	0.2	0.2	5.0	1.3	3.0	0.3
U.S. No. 3	52.0	−0.4	0.5	0.3	7.0	1.5	4.0	0.3
U.S. No. 4	49.0	−0.4	1.0	0.5	10.0	1.8	5.0	0.4
U.S. No. 5	46.0	−0.4	3.0	0.9	15.0	2.1	7.0	0.4

TABLE 6.—BREAKPOINTS FOR CORN SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Flint	95 percent or more of flint corn	−1.0
Flint and Dent	More than 5 percent, but less than 95 percent of flint corn	1.0 or −1.0
Infested	Same as in § 810.107	0
Corn of other colors:		
White	Not more than 2.0 percent	0.8
Yellow	Not more than 5.0 percent	1.0
Waxy	95 percent or more	−3.0
High BCFM	As specified by contract or load order grade	10 percent of the load order grade
Moisture	As specified by contract or load order grade	0.4

TABLE 7.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR FLAXSEED

Grade	Minimum test weight per bushel (pounds)		Maximum limits of-damaged kernels: Heat-damaged kernels (percent)		Total (percent)	
	GL	BP	GL	BP	GL	BP
U.S. No. 1	49.0	-0.1	0.2	0.1	10.0	0.9
U.S. No. 2	47.0	-0.1	0.5	0.1	15.0	1.1

TABLE 8.—BREAKPOINTS FOR FLAXSEED SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breadpoint
Moisture	As specified by load order or contract grade	0.4
Dockage	0.99 percent or above	0.32

TABLE 9.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR MIXED GRAIN

Grade	Maximum Limits of—				
	Moisture (percent)	Damaged kernels			
		Total (percent)		Heat-damaged kernels (percent)	
		GL	BP	GL	BP
U.S. Mixed Grain	16.0	15.0	0.6	3.0	0.4

Note: There is no tolerance for U.S. Sample grade Mixed Grain.

TABLE 10.—BREAKPOINTS FOR MIXED GRAIN SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Smutty	15 or more in 250 grams (wheat, rye, or triticale predominates).	6
	More than 0.2% (all other mixtures).	0.05
Ergoty	More than 0.30% (rye wheat predominates).	0.13

TABLE 10.—BREAKPOINTS FOR MIXED GRAIN SPECIAL GRADES AND FACTORS—Continued

Special grade or factor	Grade limit	Breakpoint
	More than 0.10% (all other mixtures).	0
Garlicky	2 or more per 1,000 grams (wheat, rye, or triticale predominates).	1
	4 or more per 500 grams (all other mixtures).	2

TABLE 10.—BREAKPOINTS FOR MIXED GRAIN SPECIAL GRADES AND FACTORS—Continued

Special grade or factor	Grade limit	Breakpoint
Infested	Same as in § 810.107.	0
Blighted	More than 4.0% (barley predominates).	1.1
Treated	Same as in § 810.805.	0
Moisture	As specified by contract or load order grade.	0.5

TABLE 11.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR OATS

Grade	Minimum limits of—				Maximum limits of—					
	Test weight per bushel (pounds)		Sound Oats (percent)		Heat-damaged kernels (percent)		Foreign material (percent)		Wild Oats (percent)	
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	36.0	−0.5	97.0	−0.8	0.1	0.1	2.0	0.4	2.0	0.6
U.S. No. 2	33.0	−0.5	94.0	−1.2	0.3	0.4	3.0	0.4	3.0	0.8
U.S. No. 3 [1]	30.0	−0.5	90.0	−1.4	1.0	0.5	4.0	0.5	5.0	1.1
U.S. No. 4 [2]	27.0	−0.5	80.0	−1.9	3.0	0.8	5.0	0.5	10.0	1.4

[1] Oats that are Slightly Weathered shall be graded not higher than U.S. No. 3.
[2] Oats that are Badly Stained or Materially Weathered shall be graded not higher than U.S. No. 4.

TABLE 12.—BREAKPOINTS FOR OATS SPECIAL GRADES AND FACTORS

Special grade or factors	Grade limit	Breakpoint
Heavy	38 pounds or more.	−0.5
Extra Heavy	40 pounds or more.	−0.5
Moisture	As specified by contract or load order grade.	0.5

TABLE 12.—BREAKPOINTS FOR OATS SPECIAL GRADES AND FACTORS—Continued

Special grade or factors	Grade limit	Breakpoint
Thin	More than 20.0%	0.5
Smutty	More than 0.2%	0.05
Ergoty	More than 0.10%	0.10
Garlicky	4 or more in 500 grams.	2⅓

TABLE 12.—BREAKPOINTS FOR OATS SPECIAL GRADES AND FACTORS—Continued

Special grade or factors	Grade limit	Breakpoint
Infested	Same as in § 810.107.	0
Bleached	Same as in § 810.1005.	0

TABLE 13.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR RYE

Grade	Minimum test weight per bushel (pounds)		Maximum limits of—									
			Foreign Material				Damaged kernels(percent)				Thin rye (percent)	
			Foreign matter other than wheat (percent)		Total (percent)		Heat-damaged (percent)		Total (percent)			
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	56.0	−0.5	1.0	0.4	3.0	0.8	0.2	0.1	2.0	0.8	10.0	0.6
U.S. No. 2	54.0	−0.5	2.0	0.5	6.0	1.1	0.2	0.1	4.0	1.1	15.0	0.8
U.S. No. 3	52.0	−0.5	4.0	0.8	10.0	1.4	0.5	0.4	7.0	1.4	25.0	0.9
U.S. No. 4	49.0	−0.5	6.0	0.8	10.0	1.4	3.0	0.8	15.0	2.0		

TABLE 14.—BREAKPOINTS FOR RYE SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Moisture	As specified by contract or load order grade.	0.3
Light Garlicky	2 or more per 1,000 grams.	1⅓
Garlicky	More than 6 per 1,000 grams.	7⅓

TABLE 14.—BREAKPOINTS FOR RYE SPECIAL GRADES AND FACTORS—Continued

Special grade or factor	Grade limit	Breakpoint
Ergoty	More than 0.30%	0.10
Plump	Not more than 5.0% through 0.064×3/8 sieve.	0.5
Light Smutty	More than 14 per 250 grams.	6

TABLE 14.—BREAKPOINTS FOR RYE SPECIAL GRADES AND FACTORS—Continued

Special grade or factor	Grade limit	Breakpoint
Smutty	More than 30 per 250 grams.	10
Infested	Same as in § 810.107.	0
Dockage	0.99% or above	0.32

TABLE 15.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SORGHUM

Grade	Minimum test weight per bushel (pounds)		Maximum Limits of—					
			Damaged kernels				Broken kernels, foreign material, and other grains (percent)	
			Heat-damaged (percent)		Total (percent)			
	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	57.0	−0.4	0.2	0.1	2.0	1.1	4.0	0.8
U.S. No. 2	55.0	−0.4	0.5	0.4	5.0	1.8	8.0	0.9
U.S. No. 3 [1]	53.0	−0.4	1.0	0.5	10.0	2.3	12.0	1.3
U.S. No. 4	51.0	−0.4	3.0	0.8	15.0	2.8	15.0	1.5

[1] Sorghum which is distinctly discolored shall be graded not higher than U.S. No. 3.

TABLE 16.—BREAKPOINTS FOR SORGHUM SPECIAL GRADES AND FACTORS

Special grade or factors	Grade Limit	Breakpoint
Class		
Brown	Not less than 90.0%.	−1.9
Yellow	Not less than 90.0%.	−1.9
White	Not less than 98.0%.	−0.9

TABLE 16.—BREAKPOINTS FOR SORGHUM SPECIAL GRADES AND FACTORS—Continued

Special grade or factors	Grade Limit	Breakpoint
Smutty	20 or more in 100 grams.	8
Infested	Same as in § 810.107.	0
Dockage	0.99% and above	0.32

TABLE 16.—BREAKPOINTS FOR SORGHUM SPECIAL GRADES AND FACTORS—Continued

Special grade or factors	Grade Limit	Breakpoint
Moisture	As specified by contract or load order grade.	0.5

Table 17—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SOYBEANS

Grade	Minimum test weight per bushel (pounds)		Maximum limits of—									
			Damaged kernels				Foreign material (percent)		Splits (percent)		Soybeans of other colors (percent)	
			Heat-damaged (percent)		Total (percent)							
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	56.0	−0.4	0.2	0.2	2.0	0.8	1.0	0.2	10.0	1.6	1.0	0.7
U.S. No 2	54.0	−0.4	0.5	0.3	3.0	0.9	2.0	0.3	20.0	2.2	2.0	1.0

Table 17—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SOYBEANS—Continued

Grade	Minimum test weight per bushel (pounds)		Maximum limits of—									
			Damaged kernels				Foreign material (percent)		Splits (percent)		Soybeans of other colors (percent)	
			Heat-damaged (percent)		Total (percent)							
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 3 [1]	52.0	−0.4	1.0	0.5	5.0	1.2	3.0	0.4	30.0	2.5	5.0	1.6
U.S. No. 4 [2]	49.0	−0.4	3.0	0.9	8.0	1.5	5.0	0.5	40.0	2.7	10.0	2.3

[1] Soybeans which are purple mottled or stained shall be graded not higher than U.S. No. 3.
[2] Soybeans which are materially weathered shall be graded not higher than U.S. 4.

TABLE 18.—BREAKPOINTS FOR SOYBEAN SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Garlicky	5 or more per 1,000 grams	2
Infested	Same as in § 810.107	0
Soybeans of other colors	Not more than 10.0%	2.3
Moisture	As specified by contract or load order grade	0.3

TABLE 19.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SUNFLOWER SEED

Grade	Minimum test weight per bushel (pounds)		Maximum limits of—					
			Damaged sunflower seed				Dehulled seed (percent)	
			Heat-damaged (percent)		Total (percent)			
	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	25.0	−0.5	0.5	0.4	5.0	1.3	5.0	1.3
U.S. No. 2	25.0	−0.5	1.0	0.6	10.0	1.8	5.0	1.3

TABLE 20.—BREAKPOINTS FOR SUNFLOWER SEED SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Moisture	As specified by contract or load order grade	0.5
Foreign Material	1.25% and less	0.27
	1.26% and above	0.39
Admixture	As specified by contract or load order grade	0.6

TABLE 21.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR TRITICALE

Grade	Minimum test weight per bushel (percent)		Maximum limits of—											
			Damaged kernels				Foreign material				Shrunken and broken kernels (percent)		Defects [3] (percent)	
			Heat-damaged (percent)		Total [1] (percent)		Material other than wheat or rye (percent)		Total [2] (percent)					
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	48.0	−0.5	0.2	0.1	2.0	0.8	1.0	0.4	2.0	0.6	5.0	0.8	5.0	1.3
U.S. No. 2	45.0	−0.5	0.2	0.1	4.0	1.1	2.0	0.5	4.0	0.9	8.0	0.8	8.0	1.3
U.S. No. 3	43.0	−0.5	0.5	0.4	8.0	1.5	3.0	0.6	7.0	1.2	12.0	1.6	12.0	2.3
U.S. No. 4	41.0	−0.5	3.0	0.8	15.0	2.0	4.0	0.8	10.0	1.4	20.0	2.3	20.0	2.3

[1] Includes heat-damaged kernels.
[2] Includes material other than wheat or rye.
[3] Defects includes damaged kernels (total), foreign material (total), and shrunken and broken kernels. The sum of these three factors may not exceed the limit for defects for each numerical grade.

TABLE 22.—BREAKPOINTS FOR TRITICALE SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Breakpoint
Garlicky	2 or more per 1,000 grams	1⅓
Ergoty	More than 0.10%	0.1
Smutty	More than 14 per 250 grams	6
Infested	Same as in § 810.107	0
Dockage	0.99% or above	0.32
Moisture	As specified by contract or load order grade	0.5

TABLE 23.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR WHEAT

Grade	Minimum limits of—				Maximum limits of—													
	Test weight per bushel				Damaged Kernels										Wheat of other classes [4]			
	Hard Red Spring wheat or White Club wheat [1] (pounds)		All other classes and subclasses (pounds)		Heat-damaged kernels (percent)		Total [2] (percent)		Foreign material (percent)		Shrunken and broken kernels (percent)		Defects [3] (percent		Contrasting classes (percent)		Total [5] (percent)	
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	58.0	−0.3	60.0	−0.3	0.2	0.2	2.0	1.0	0.5	0.2	3.0	0.3	3.0	0.7	1.0	0.7	3.0	1.6
U.S. No. 2	57.0	−0.3	58.0	−0.3	0.2	0.2	4.0	1.5	1.0	0.3	5.0	0.4	5.0	0.9	2.0	1.0	5.0	2.1
U.S. No. 3	55.0	−0.3	56.0	−0.3	0.5	0.3	7.0	1.9	2.0	0.5	8.0	0.5	8.0	1.2	3.0	1.3	10.0	2.9
U.S. No. 4	53.0	−0.3	54.0	−0.3	1.0	0.4	10.0	2.3	3.0	0.6	12.0	0.6	12.0	1.4	10.0	2.3	10.0	2.9
U.S. No. 5	50.0	−0.3	51.0	−0.3	3.0	0.7	15.0	2.7	5.0	0.7	20.0	0.7	20.0	1.5	10.0	2.3	10.0	2.9

[1] These requirements also apply when Hard Red Spring and White Club wheat predominate in a sample of Mixed wheat.
[2] Includes heat-damaged kernels.
[3] Defects include damaged kernels (total), foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for defects for each numerical grade.
[4] Unclassed wheat of any grade may contain not more than 10.0 percent of wheat of other classes.
[5] Includes contrasting classes.

TABLE 24.—BREAKPOINTS FOR WHEAT SPECIAL GRADES AND FACTORS

Special grade or factor	Grade limit	Break-point
Moisture	As specified by contract or load order grade	0.3
Garlicky	More than 2 per 1,000 grams	1½
Light Smutty	More than 14 smut balls per 250 grams	6
Smutty	More than 30 smut balls per 250 grams	10
Infested	Same as in § 810.107	0
Ergoty	More than 0.30%	0.19
Treated	Same as in § 810.2204	0
Dockage	As specified by contract or load order grade	0.20
Protein	As specified by contract or load order grade	0.5
Class and Subclass		
Hard Red Spring:		
DNS	75% or more DHV	−5.0
NS	25% or more DHV but less than 75% DHV	−5.0
Durum:		
HADU	75% or more HVAC	−5.0
ADU	60% or more HVAC but less than 75% of HVAC	−5.0
Soft White:		
SWH	Not more than 10% White Club wheat	2.0
WHCB	Not more than 10% of other Soft White wheat	2.0
WWH	More than 10% WHCB and more than 10% of other Soft White wheat	−3.0
		−3.0

(3) *Grain accepted by the inspection plan.* Grain which is offered for inspection as part of a single lot and accepted by a statistical acceptance sampling and inspection plan according to the provisions of this section and procedures prescribed in the instructions shall be certificated as a single lot provided it was sampled in a reasonably continuous operation. Official factor and official criteria information shown on the certificate shall be based on the weighted or mathematical averages of the analysis of sublots.

(4) *Grain rejected by the inspection plan.* When grain which is offered for inspection as part of a single lot is rejected by the plan or is not sampled in a reasonably continuous operation, the grain in each portion shall be certificated separately. If any portion of grain is not accepted by the plan and designated a material portion, the applicant shall be promptly notified and have the option of:

(i) Removing the material portion from the carrier; or

(ii) Requesting the material portion be separately certificated; or

(iii) Requesting either a reinspection or an appeal inspection of the material portion; or

(iv) Requesting a reinspection service and/or an appeal inspection service on the entire lot.

(5) *Reinspection service and appeal inspection service.* A reinspection or an appeal inspection may be requested on a material portion. A Board appeal inspection may also be requested on a material portion after the reinspection or appeal inspection. A reinspection, an appeal inspection, and a Board appeal inspection may be requested on the total sublots in the lot.

(i) *Material portions.* A material portion designated by the plan may be reinspected or appeal inspected once in the field, but not both, and once at the Board of Appeals and Review. The reinspection or appeal inspection result shall, unless a material error is found, be averaged with the original inspection determination. The Board appeal inspection result shall, unless a material error is found, be averaged with the previous inspection result. The inspection plan tolerances shall be reapplied to the material portion grain to determine acceptance or rejection. If a material error is found, the reinspection or appeal inspection result shall replace the original inspection result or the Board appeal result shall replace the previous inspection result. For purposes of this section, a material error is defined as results differing by more than two standard deviations. Acceptance or

rejection of that portion of grain shall be based on the reinspection or appeal inspection and on the Board appeal inspection result alone when a material error is found.

(ii) *Entire lot.* The applicant may request a reinspection service, an appeal inspection service, and a Board appeal inspection service on the entire lot. Inspection results for these services shall replace the previous inspection results. The tolerances shall be reapplied to all portions of the entire lot to determine acceptance or rejection.

(d) *Infested grain.*—(1) *Available options.* If gain or any portion of grain in a single shiplot, unit train, or lash barge lot is found to be infested, according to the provisions of the Official U.S. Standards for Grain, the applicant shall be promptly notified and have the option of:

(i) Unloading the portion of infested grain from the lot and an additional amount of other grain in common stowage with the infested grain; or

(ii) When applicable, completing the loading and treating all infested grain in the lot; or

(iii) When applicable, treating the infested grain for the purpose of destroying the insects, subject to subsequent examination by official personnel; or

(iv) Continue loading without treating the infested grain, in which case all of the infested grain in the lot and all grain in common stowage areas with the infested grain will be officially certificated as infested according to the provisions of the Official U.S. Standards for Grain.

(2) *Exception.* If infested grain in loaded into common stowage with a lot, or a portion of a lot, which has not been officially certificated as being infested, the applicant loading the infested grain may not use the option in paragraph (d)(1)(i) of this section.

(3) *With treatment.* If infested grain is treated with a fumigant in accordance with the instructions and the treatment is witnessed by official personnel, the official sampling, inspection, grading, and certification of the lot shall continue as though the infested condition did not exist.

(e) *Special certification procedures.*—(1) *Rejected grain.* When grain is rejected by the inspection plan under paragraph (c)(4) of this section, the official inspection certificate for each different portion of different quality shall show:

(i) A statement that the grain has been loaded aboard with grain of other quality;

(ii) The grade, location, or other identification and approximate quanity of grain in the portions; and

(iii) Other information required by the regulations and the instructions.

The requirement of paragraph (e)(1)(i) of this section does not apply to grain that is inspected as it is unloaded from the carrier or to portions loaded in separate carriers or stowage space.

(2) *Common stowage.*—(i) *Without separation.* When bulk grain is offered for official inspection as it is loaded aboard a ship and is loaded without separation in a stowage area with other grain or another commodity, the official inspection certificate for the grain in each lot shall show the kind, the grade, if known, and the location of the other grain, or the kind and location of the other commodity in the adjacent lots.

(ii) *With separation.* When separations are laid between lots, the official inspection certificates shall show the kind of material used in the separations and the locations of the separations in relation to each lot.

(iii) *Exception.* The common stowage requirements of this paragraph are not applicable to the first lot in a stowage area unless a second lot is loaded, in whole or in part, in the stowage area prior to issuing the official inspection certificate for the first lot.

(3) *Protein.* A special statement indicating the actual protein range of a lot shall be shown on the official inspection certificate if the difference between the lowest and highest protein determinations for the lot exceeds 1.0 percent when protein is officially determined and a specific range limit is not established by the contract grade.

(4) *Part lot.* If part of a lot of grain in an inbound carrier is unloaded and part is left in the carrier, the unloaded grain shall be officially inspected and certificated in accordance with the provisions of § 800.84(g).

(5) *Official mark.* If the grain in a single lot is officially inspected for grade as it is being loaded, upon request, the following official mark shall be shown on the inspection certificate: "Loaded under continuous official inspection."

4. Section 800.125(a) is revised to read as follows:

§ 800.125 Who may request reinspection services or review of weighing services.

(a) *General.* Any interested person may request a reinspection or review of weighing service, except as provided for in § 800.86(c)(5). Only one reinspection service or review of weighing service may be performed on any original service. When more than one interested person requests a reinspection or review of weighing service, the first person to file is the applicant of record.

* * * * *

5. Section 800.129(a)(1) is revised to read as follows:

§ 800.129 Certificating reinspection and review of weighing results.

(a) * * *

(1) *Results of material portion sublots.* When results of a reinspection on a material portion do not detect a material error, they shall be averaged with the original inspection results. For purposes of this section, a material error is defined as results differing by more than two standard deviations. The averaged inspection results shall replace the original inspection results recorded on the official inspection log. Reinspection results shall replace the original inspection results recorded on the official inspection log if a material error is detected. No certificates will be issued unless requested by the applicant or deemed necessary by official personnel.

* * * * *

6. Section 800.135(9) is revised to read as follows:

§ 800.135 Who may request appeal inspection services.

(a) *General.* Any interested person may request appeal inspection or Board appeal inspection services, except as provided for in § 800.86(c)(5). When more than one interested person requests an appeal inspection or Board appeal inspection service, the first person to file is the applicant of record. Only one appeal inspection may be obtained from any original inspection or reinspection service. Only one Board appeal inspection may be obtained from an appeal inspection. Board appeal inspections will be performed on the basis of the official file sample. Board appeal inspections are not available on stowage examination services.

* * * * *

7. Section 800.139(b) is revised to read as follows:

§ 800.139 Certificating appeal inspections.

* * * * *

(b) *Results of material portion sublots.* When results of an appeal inspection performed by a field office or the Board of Appeals and Review on a material portion do not detect a material error, they shall be averaged with the previous inspection results recorded on the official inspection log for the identified sample. For purposes of this section, a material error is defined as results differing by more than two standard deviations. The appeal or

Board appeal inspection result shall replace the previous inspection results recorded on the official inspection log for the identified sample if a material error is detected. No certificate will be issued unless requested by the applicant or deemed necessary by inspection personnel.

* * * * *

Dated: May 1, 1990.

John C. Foltz,

Administrator.

[FR Doc. 90-11957 Filed 6-12-90; 8:45 am]

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federal register

Wednesday
June 13, 1990

Part III

Environmental Protection Agency

Repellant R-11: Removal From Reregistration Lists and Cancellation of All Pesticide Products; Receipt of Requests to Cancel; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34009; FRL-3742-6]

Notice of Intent to Remove the Active Ingredient Repellent R-11 From Reregistration List C, and to Cancel All Pesticide Product Registrations Containing Repellent R-11

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent.

SUMMARY: Section 4(d) of FIFRA requires pesticide registrants to inform EPA of their intent to seek or not to seek reregistration, and to identify and commit to replace any missing or inadequate data required to support reregistration of the active ingredient(s) in their products. The sole registrant who committed to support Repellent R-11 through reregistration has withdrawn that commitment and requested cancellation of its registration.This notice announces the Agency's intent to remove Repellent R-11 from Reregistration List C, and to cancel all registrations of products containing it, unless within 60 days of publication of this notice someone assumes the burden of supporting Repellent R-11 through reregistration.

DATES: Commitments to support reregistration of Repellent R-11 must be received by August 13, 1990. To avoid cancellation if no such commitment to support Repellent R-11 is made, an acceptable application to amend the registration of any product containing Repellent R-11 by removing that ingredient from the product's formulation should be received by EPA by July 13, 1990.

FOR FURTHER INFORMATION CONTACT: Phil Hutton, PM-17, Office of Pesticide Programs (H7505C), Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location and telephone number: Rm. 207 CM # 2, 1921 Jefferson Davis Highway South, Arlington VA 22202, (703) 557-2690.

SUPPLEMENTARY INFORMATION: This notice announces EPA's intent to remove Repellent R-11 from Reregistration List C, and to cancel all registrations of products containing it unless someone assumes the burden of supporting it.

I. Background

Section 4 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended in October, 1988, defines a five-phase program of accelerated reregistration. In the first of these phases, the Agency assigned the pesticide active ingredient Repellent R-11 (CAS Registry Number 126-15-8) chemical name 2,3,4,5-bis(2-butylene)tetrahydro-2-furaldehyde to Reregistration List C.

In the second phase of accelerated reregistration the sole producer of Repellent R-11, McLaughlin Gormley King Company (MGK), committed to support the ingredient through the process of reregistration. As part of its phase 2 response MGK committed to develop data to fill all identified gaps in the existing data base supporting the registration of Repellent R-11.

Also in phase 2, numerous other registrants of products including Repellent R-11 in their formulation informed the Agency of their intention to pursue reregistration for their products as well. These other registrants, however, all indicated that they acquired the active ingredient from MGK, and thus claimed exemption from those data requirements applying to the registered technical grade of the product. They did not commit to generate the data necessary to support reregistration of Repellent R-11.

On February 6, 1990, and March 2, 1990, MGK submitted to EPA preliminary information from studies of chronic and subchronic toxicity of Repellent R-11. This information, submitted under the authority of section 6(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), showed the following adverse effects of the pesticide:

1. Multiple malformations were observed at the high dose level in the first generation animals of a two-generation reproduction study in the rat. The no-observed-effect-level (NOEL) in this study is 360 milligrams per kilogram of body weight per day (mg/kg/day).

2. Anovulatory ovaries and reduced ovarian activity were noted in a 90-day range finding assay in the mouse. The NOEL for these effects in this study is 500 mg/kg/day.

3. Ovarian atrophy was noted at all tested dose levels in an 18-month chronic feeding study in the mouse. A NOEL was not determinable for this effect. Decreased hematopoiesis was observed at the mid and high dose levels, with anemia and leukopenia at the high dose level in this study, with a NOEL for these effects at 125 mg/kg/day.

4. Anovulatory activity was observed at the mid and high dose levels in a 24-month chronic feeding study in the rat, with a NOEL of 65 mg/kg/day.

5. MGK also reported increased incidences of certain benign tumors in rat and mouse chronic studies. These included tubular adenomas of the mouse ovary, lung adenomas in the male mouse, and testicular interstitial cell tumors in the rat.

The Agency has conducted preliminary assessments of margins of exposure (MOE) for the effects identified in points 1 through 4 above. These assessments suggest that MOE's may be inadequate, given the use of R-11 as a repellent directly on the skin of humans and animals.

In conjunction with the submission of this information, McLaughlin Gormley King has withdrawn its phase 2 commitment to generate the necessary data to support reregistration of Repellent R-11, and has requested voluntary cancellation of the registration of its technical grade of Repellent R-11, and of 29 additional registrations of MGK products containing Repellent R11. These cancellations are announced elsewhere in this issue of the **Federal Register**.

Had MGK determined at the time of its Phase 2 response that it did not wish to make all the necessary commitments to pursue reregistration of Repellent R-11 and requested voluntary cancellation in its Phase 2 response for that reason, the Agency would have provided 60 days for comment pursuant to FIFRA section 4(d)(5) before accepting the voluntary cancellation. Because MGK's request for voluntary cancellation instead came after its Phase 2 response and seems to have been motivated at least in part by the preliminary information from studies described above, EPA is granting the request under FIFRA section 6(f) without a lengthy comment period. EPA does not believe that Congress intended to compel delays in otherwise appropriate voluntary cancellations under section 6(f), particularly those that may be motivated by evidence of adverse health or environmental effects, in order to maximize the options available for retaining registrations of products affected by the cancellation procedures in section 4(d)(5).

II. Intent to Remove Repellent R-11 From Reregistration List C, and to Cancel the Registrations of All Products Containing It

Since MGK, the sole registrant that committed to generate the necessary data to support reregistration of the active ingredient Repellent R-11, has withdrawn that commitment and requested cancellation of its registrations, Repellent R-11 is now a candidate for removal from Reregistration List C, and all registrations of products containing

Repellent R-11 are candidates for cancellation.

Previously exempt registrants who relied in phase 2 on MGK's commitment to generate data to support the ingredient must now amend their phase 2 responses, either to forego the data exemption and assume the burden of supporting the ingredient through reregistration themselves, or to identify another registered source of supply which will be supported through reregistration. In either case, the registrant must also submit an application to amend the registration, accompanied by a new Certified Statement of Formula, to report the change in source of ingredient. Any registrant that amends its phase 2 response without committing to support the ingredient through reregistration should be aware that if no other registrant satisfactorily commits to support reregistration of Repellent R-11, as described in Unit III of this notice, all registrations of products containing Repellent R-11 will be canceled.

This notice announces the Agency's intent to remove Repellent R-11 from Reregistration List C, and to cancel the registrations of all products containing this ingredient, unless the burden of supporting Repellent R-11 through reregistration is assumed by a current registrant or another party who acquires the rights to a current registration containing the ingredient.

Once the ingredient is removed from List C, any application for registration of a pesticide containing Repellent R-11 would be considered to be an application for registration of a "new chemical", and the full range of applicable data requirements would have to be met before a registration could be granted.

The registrations including Repellent R-11 and therefore within the scope of this notice of intent to cancel are listed in Table 1 of this notice, by EPA Registration Number and product name. The first element in the registration number is the EPA-assigned identifier of the registrant (the EPA Company Number); the names and addresses of all Repellent R-11 registrants are listed in Table 2 of this notice in order by this EPA Company Number. Products in Table 1 for which an amendment has been submitted to delete Repellent R-11 from the formulation are indicated by an "A" beside the registration number.

TABLE 1 — REGISTRATIONS CONTAINING REPELLENT R-11 PROPOSED FOR CANCELLATION

Registration No.	Status	Product Name
000059-00193		Flair
000099-00123		Watkins Insect Repellent Formula 50
000121-00029	A[1]	Cutter Evergreen Scent Insect Repellent Pump Spray
000121-00030	-Do-	Cutter Insect Repellent Cream Formula MM
000121-00031	-do-	Cutter Evergreen Scent Insect Repellent Spray Form
000121-00032		Cutter Evergreen Scent Insect Repellent Cream Form
000121-00033	A	Cutter Original Insect Repellent Spray Formula MMI
000121-00034	-do-	Cutter Original Insect Repellent Pump Spray
000239-02610		P/P Insect Repellent Spray No. 2
000239-02611		P/P Insect Repellent Spray No. 1
000270-00056		Farnam Grand Champion Instant Coat Brightener
000270-00110		Super Swat Fly Repellent
000270-00154		Super Swat P Fly Repellent
000270-00163		Super Swat II Fly Repellent
000270-00251		Crash Fly Spray
000334-00300		Adios Insect Repellent
000475-00291		CAI Insect Repellent Spray for Personal Use
000498-00041		Spray Pak Insect Repellent
000499-00253		Whitmire Liquid Pet Spray
000499-00337		P/P Flea and Tick Spray No. 1
000499-00356		P/P Insect Repellent Stick No. 1
000572-00234		Rockland "H-S" Fly Spray for Horses
000602-00179		Purina Fly-Pel
000773-00036		Sprecto
001021-00535	A	Personal Repellent Formula 5731
001021-00537	-do-	Pyrocide Intermediate 5582
001021-00567	-do-	Pyrocide Intermediate 5734
001021-00737	A	Pyrocide Intermediate 6339
001021-00905		Pyrocide Intermediate 6763
001021-00933		Pyrocide Pressurized Pet Spray 6806
001021-00963		Pyrocide Intermediate 6846
001021-01231		Pyrocide Intermediate 7140
001021-01276	A	MGK Intermediate 1995
001021-01290	-do-	MGK Intermediate 2007
001021-01312	-do-	MGK Intermediate 2020
001266-00159		Shield
001452-00033		Petscription Flea Tick Shampoo
001553-00137		Imperial C
001685-00072		State Formula 254 IRS Insect Repellent Spray
001769-00098		Swat Insect Repellent

TABLE 1 — REGISTRATIONS CONTAINING REPELLENT R-11 PROPOSED FOR CANCELLATION—Continued

Registration No.	Status	Product Name
002097-00015		Mycodex Aqua-Spray
002382-00059		Pet-Guard Gel
002382-00081		Parid-X Spray
002382-00088		H2OP Water Base Natural Pyrethrins Flea Tick
002517-00005		Double Duty Dog Flea Foam Shampoo
002517-00008		Double Duty Dog Flea Tick Spray
002517-00013		Double Duty Dog Flea Tick Soap
002517-00027		Double Duty Dog Flea Tick Spray
002596-00007		Hartz Dog Flea Tick Killer
002596-00025		Hartz Cat Flea Tick Killer
002596-00052		Hartz Dog Flea Tick Killer - Fine Mist Spray
002596-00054		Hartz Cat Flea Tick Killer - Fine Mist Spray
002596-00069		Hartz Cat Flea Tick Killer with Allethrin
002596-00070		Hartz Dog Flea Tick Killer with Allethrin
002596-00106		Hartz Fast Acting Roll-On Flea Tick Killer
002724-00135		Starbar Fly Repellent for Horses and Ponies
002724-00403		Zoecon RF-321 Ovicidal Pump Spray
002777-00015		Long Lasting Fly X Pel Repellent for Flies, Mosquitos
002781-00010		X-Pel Flying Insect Repellent
002915-00040		Insect Repellent Gel
002915-00047		Ful-Scat Insect Repellent
003095-00023		Pic Insect Repellent Lotion
003134-00035		Super Sect-a-Spray Flea Tick Killer Deodorant
003282-00038		6-12 Super Strength Premium Insect Repellent
003282-00077		D-Con Flea Tick Killer III
003325-00068		Hide Insect Repellent
003546-00028	A	Sport Insect Repellent
004306-00013		Sulfodene Scratchex Flea Tick Spray
004822-00067		Sports-Guard Pressurized Insect Repellent
004822-00119		Johnson Deep Woods Formula OFF! Fly and Mosquito
004822-00125		Johnson Deep Woods Formula OFF!
004822-00129		Johnson Deep Woods Formula Gel OFF! Fly and Mosquito
004822-00142		Deep Woods Formula OFF! Fly Mosquito Repellent
004822-00144		Johnson Deep Woods Formula OFF! Pressurized Fly
004822-00166		Deep Woods OFF! Fly and Mosquito Repellent Formula

TABLE 1 — REGISTRATIONS CONTAINING REPELLENT R-11 PROPOSED FOR CANCELLATION—Continued

Registration No.	Status	Product Name
004822-00190		6100 Formula 1 Fly and Mosquito Repellent Gel
004822-00195		6017 Formula 1 Insect Repellent
004822-00196		6017 Formula 2 Insect Repellent
004822-00198		6017 Formula 4 Insect Repellent
004822-00200		6017 Formula 6 Insect Repellent
004822-00201		6017 Formula 8 Insect Repellent
004822-00207		Formula 6099 # Insect Repellent
004822-00208		Formula 6099 # 4 Insect Repellent
004822-00209		Formula 6099 # 5 Insect Repellent
004822-00234		6017 Formula II Insect Repellent
004822-00235		6017 Formula 12 Insect Repellent
004822-00247		Deep Woods OFF! Insect Repellent Formula IV
004822-00251		Formula 6099 # 7 Insect Repellent
004822-00252		Formula 6099 # 6 Insect Repellent
004822-00282		Deep Woods OFF! Insect Repellent II Towelettes
004866-00007		Bug Stop Pump Spray
004972-00016		Protexall Insect Repellent
004972-00032		Florida Swamp Insect Repellent
005481-00016		Alco Parade
005481-00052		Alco Parade Pressurized
006175-00010		D-Tick Lotion
006175-00029		Spray-Kil Flea and Tick Mist for Dogs
006175-00038		Spray Kill for Dogs, Cats Horses
006175-00041		Spray Kill Aerosol
007056-00035		Bug Ban Flea and Tick Spray
007056-00100	A	CSA Liquid Pet Spray
007056-00118		Bug Ban Regular
007056-00120		Bug Ban Double Strength
007056-00157		CSA Liquid Pet Spray # 2
007056-00160		CSA Liquid Pet Spray # 4
007405-00060	A	Chem-Cap Insect Repellent II
008220-00044		No Burn No Bite Sunscreen/Insecticide
008220-00046		No Burn No Bite SPF4
009444-00026		Personal Purge Insect Repellent Foam
009444-00042		Personal Purge Insect Repellent Lotion
009468-00011		Ritter's Flea Tick Spray
009688-00004		No Bite Insect Repellent
009688-00064		Flea Tick Spray with Repellent
009688-00065		Equine Spray with Repellent
010118-00006		Insect Repellent Spray
010404-00025		Lesco Insect Repellent
010806-00034		Contact Personal Insect Repellent

TABLE 1 — REGISTRATIONS CONTAINING REPELLENT R-11 PROPOSED FOR CANCELLATION—Continued

Registration No.	Status	Product Name
010807-00028		Misty Super Insect Repellent Spray
010807-00029		Misty Insect Repellent Spray
010807-00127		Misty Extra-Strength Insect Repellent Spray
010900-00072		856 Insect Repellent II
010900-00074		878 Insect Repellent Spray
011556-00060		Para-S Bomb
011556-00065		Para-S-1 Aerosol
011623-00023		Insect Repellent Spray
011715-00002		Shoo Bug Insect Repellent
011715-00010		Speer Flea Tick Spray
011715-00085	A	Speer Double Strength Insect Repellent
011715-00086		Speer Insect Repellent
011715-00112		Constant Companion Flea Tick Spray for Dogs
011715-00152		Pet Guard Flea and Tick Spray for Dogs and Cats
011715-00160		Speer Liquid Flea Tick Killer
011715-00173		Speer Stable Spray
013799-00017		Four Paws Flea and Tick Soap
015297-00013		Bio-Groom Flea Tick Spray Repellent
028293-00011		Unicorn Liquid Pet Spray
028293-00016		Unicorn Flea Tick Spray
028293-00019		Unicorn Fly Repellent for Horses Ponies
028293-00027		Unicorn Horse Spray-n-Wipe
028293-00098		Unicorn Double Strength Insect Repellent
028293-00118		Today Flea and Tick Spray
028293-00140		Unicorn Super Pet Shampoo
037425-00002		Adams Flea and Tick Mist
037425-00004	A	AW Flea and Tick Shampoo
037425-00014	-do-	Adams Ear Mite Lotion
037425-00016	-do-	Adams 14 Day Residual Flea and Tick Mist
037425-00017		Adams Equine Residual Fly Mist/Wipe
037425-00018	A	Adams Caniderm Mist
037425-00019	-do-	Adams Pyrethrin Dip
037425-00021		Adams Animal Repellent Concentrate
037425-00022		Adams 14-Day Flea Dip
040849-00021		Enforcer Flea Tick Spray for Pets
043288-00008		Omni Liquid Pet Spray
045087-00033		Zema Fast Killing Flea and Tick Mist
046813-00004		CCL Personal Insect Repellent I
046813-00022		CCL Personal Insect Repellent II
046813-00037		CCL Flea Tick Pet Spray I
046813-00046		CCL Quick Breaking Insect Repellent Foam
046813-00052		CCL Flea Tick Pump Spray for Dogs Cats III

TABLE 1 — REGISTRATIONS CONTAINING REPELLENT R-11 PROPOSED FOR CANCELLATION—Continued

Registration No.	Status	Product Name
050254-00009		Insect Repellent Spray
051033-00077		Bug-a-Boo Plus Personal Insect Repellent
051793-00005		Elite Flea and Tick Spray II
051793-00006		Elite Flea and Tick Shampoo II
051793-00009		Elite Flea Tick Spray
051793-00010		Elite Flea and Tick Shampoo
051793-00024		Elite Aloe Repellent Lotion
051793-00053		Elite Aerosol Flea Tick Spray with Sevin
051793-00054		Elite Flea Tick Spray With Sevin
051793-00107		Elite Residual Mist Plus Concentrate
054287-00006		Insect Guard
056276-00001		Utilitel Insect Repellent Spray
056276-00009		Utilitel Insect Repellent XXX
056493-00031		Horse Spray-n-Wipe
058284-00002		Camicide Bug Repellent
062811-00004		Lightning Ultra Flea and Tick Spray

[1] "A" means an amendment to delete Repellent R-11 from the formulation has been received.

The following Table 2 lists the names and addresses of all Repellent R-11 registrants in order of EPA company number.–

TABLE 2 — REGISTRANTS OF PRODUCTS CONTAINING REPELLENT R-11

EPA Co. Number	Company Name & Address
000059	Coopers Animal Health, Inc., Box 419167, Kansas City, MO 64141.
000099	Watkins, Inc., 150 Liberty St., Winona, MN 55987.
000121	Miles, Inc., Consumer Household Products Division, 7123 W. 65th St., Chicago, IL 60638.
000239	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.
000270	Farnam Companies, Inc., 301 W. Osborn Rd., Phoenix, AZ 85067.
000334	Hysan Corp., Lara Office, 4309 S. Morgan St., Chicago, IL 60609.
000475	Boyle-Midway Household Products, Inc., S Avenue Hale St., Cranford, NJ 07016.
000498	Chase Products Co. The Quality First Co., 19th & Gardner Rd., Broadview, IL 60153.
000499	Whitmire Research Laboratories, Inc., 3568 Tree Court Industrial Blvd., St. Louis, MO 63122.
000572	Rockland Chemical Co., Inc., 686 Passaic Ave., West Caldwell, NJ 07006.
000602	Purina Mills, Inc., Box 66812, St. Louis, MO 63166.
000773	Pitman-Moore, Inc., Box 207, Terre Haute, IN 47808.

TABLE 2 — REGISTRANTS OF PRODUCTS CONTAINING REPELLENT R-11—Continued

EPA Co. Number	Company Name & Address
001021	McLaughlin Gormley King, Co., 8810 Tenth Ave. North, Minneapolis, MN 55427.
001266	Malter International Corp., Box 6099, New Orleans, LA 70174.
001452	Roccorp, Inc., Box 2945, North Canton, OH 44720.
001553	Momar Inc., 1830 Ellsworth Industrial Dr., Atlanta, GA 30318.
001685	State Chemical Mfg. Co., 3100 Hamilton Ave., Cleveland, OH 44114.
001769	NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062.
002097	Beecham Laboratories, 501 5th St., Bristol, TN 37620.
002382	Virbac, Inc., Box 277, Hurst, TX 76053.
002517	Conagra Pet Products Co., 1405 Cummings Dr., Richmond, VA 23220.
002596	Hartz Mountain Corp., 700 Frank E. Rodgers Blvd South, Harrison, NJ 07029.
002724	Zoecon Corp., A Sandoz Company, 12200 Denton Dr., Dallas, TX 75234.
002777	Indianhead Chemical Corp., 1318 Princess Drive, Tempe, AZ 85281.
002781	Happy Jack, Inc., Box 475, Snow Hill, NC 28580.
002915	Fuller Brush Co., PO Box 729 Westport Addition, Great Bend, KS 67530.
003095	PIC Corp., 23 S. Essex Ave., Orange, NJ 07050.
003134	Evsco Pharmaceuticals, Affiliate of IGI, Inc., Box 209, Buena, NJ 08310.
003282	D-Con Co., Inc., 225 Summit Ave., Montvale, NJ 07645.
003325	HST, Inc., 1109 Highway 427 North, Longwood, FL 32750.
003546	Lynwood Labs, Inc., 945 Great Plain Ave., Needham, MA 02192.
004306	Combe Inc., 1101 Westchester Ave., White Plains, NY 10604.
004822	S.C. Johnson Son, Inc., 1525 Howe St., Racine, WI 53403.
004866	Intagra, Inc., 8500 Pillsbury Ave. South, Minneapolis, MN 55420.
004972	Protexall Products, Inc., 1109-11 Highway 427 North, Longwood, FL 32750.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles, CA 90023.
006175	Agribusiness Marketers, Inc., 2667 W. Dual, Baton Rouge, LA 70814.
007056	CSA Limited, Inc., Box 690347, Houston, TX 77269.
007405	Chemical Packaging Corp., 2700 S.W. 14th St., Pompano Beach, FL 33069.
008220	Carter-Wallace, Inc., Lambert Kay Division, Half Acre Rd., PO Box 1, Cranbury, NJ 08512.
009444	Cline-Buckner, Inc., Subs. of Waterbury Companies, Inc., PO Box 640/100 Calhoun St., Independence, LA 70443.
009468	Ritter Chemical Co., Box 134, Bellaire, TX 77401.
009688	Chemsico, Box 15842, St. Louis, MO 63114.
010118	Mueller Sports Medicine, Inc., PO Box 99, Prairie du Sac, WI 53578.

TABLE 2 — REGISTRANTS OF PRODUCTS CONTAINING REPELLENT R-11—Continued

EPA Co. Number	Company Name & Address
010404	Lesco, Inc., c/o Landis International, Inc., Box 5126, Valdosta, GA 31603.
010806	Contact Industries, Inc., 641 Dowd Ave., Elizabeth, NJ 07201.
010807	Amrep, Inc., 990 Industrial Park Dr., Marietta, GA 30062.
010900	Sprayon Products, Inc., 26300 Fargo Ave., Bedford Heights, OH 44146.
011556	Mobay Corp., Animal Health Division, Box 390, Shawnee Mission, KS 66201.
011623	Apollo Industries, Inc., 1850 S. Cobb Industrial Blvd., Smyrna, GA 30082.
011715	Speer Products, Inc., Box 18993, Memphis, TN 38118.
013799	Four Paws Products Ltd., 50 Wireless Blvd., Hauppauge, NY 11788.
015297	Bio Derm Laboratories, Inc., 1600 Redmon Rd., Box 8070, Longview, TX 75607.
028293	Unicorn Laboratories, 1000 118th Ave. North, St. Petersburg, FL 33716.
037425	Adams Veterinary Research Labs, Inc., Subsidiary of Norden Laboratories, Box 971039, Miami, FL 33197.
040849	Enforcer Products, Inc., c/o Regwest Co., Box 2220, Greeley, CO 80632.
043288	CSA Limited, Box 690347, Houston, TX 77269.
045087	Zemo Corp., Box 12803, Research Triangle Park, NC 27709.
046813	CCL Industries, Inc., c/o Air Guard Control, Inc., 1209 W. Bailey, Sioux Falls, SD 57104.
050254	Custom Packaging Co., Inc., Box 270720, Houston, TX 77277.
051033	Omnitech International, Inc., 800 N. Arcadia Rd., Thibodaux, LA 70301.
051793	Elite Chemical Corp., Inc., 6670-C Corners Industrial Court Box 1947, Norcross, GA 30091.
054287	Associated Registrations, Box 13260, Clearwater, FL 34621.
056276	Utilitel, Inc., 2545 Dunmore Dr., Birmingham, AL 35226.
056493	Fermenta Animal Health Co., 10150 N. Executive Hills Blvd., PO Box 901350, Kansas City, MO 64090.
058284	Campbell Chemicals, Inc., 1664 Headland Dr., Fenton, MO 63026.
062811	Innotech, Inc., 10220 N. Executive Blvd., Suite 500, Kansas City, MO 64153.

III. Procedures for Preserving Registrations of Repellent R-11

Section 4(d)(5) of FIFRA defines a process for preventing cancellation of products containing active ingredients which, like Repellent R-11, are unsupported in reregistration phase 2. Under this procedure anyone who wishes to prevent cancellation of all Repellent R-11 products must:

(1) Within 60 days of publication of this notice, obtain the rights to a product listed in Table 1—i.e., with the agreement of the current registrant, submit to EPA in conformance with 40 CFR 152.135 an application for transfer of an existing active registration.

(2) Within 60 days of publication of this notice, provide to EPA the information listed in section 4(d)(2) of FIFRA entitled "Notice of Intent to Seek or Not to Seek Reregistration".

(3) Within 120 days of publication of this notice, comply with the provisions of section 4(d)(3) of FIFRA entitled "Missing or Inadequate Data", and pay any reregistration fee prescribed by section 4(i)(3) of FIFRA.

EPA will extend this opportunity to support Repellent R-11 to current registrants as well as to transferees. Any current registrant who wishes to assume support of Repellent R-11 wou'd follow the same procedure, omitting application for a transfer.

Report commitments to support reregistration of Repellent R-11 and submit applications for amended registration to the person listed under **FOR FURTHER INFORMATION CONTACT.** Anyone considering the assumption of support for Repellent R-11 should be aware that the Agency will require the generation of certain data in addition to those generally required to support registration, as a result of concerns raised by the preliminary results identified in Unit I of this notice. These data requirements will include at least the following:

1. A developmental toxicity study in the rat, Guideline Reference 83-3, using the same strain and dose levels used in the reproduction study reported by MGK.

2. A general metabolism study, Guideline Reference 85-1.

3. A general metabolism study, Guideline Reference 85-1, in combination with Deet.

4. A dermal penetration study, Guideline Reference 85-2.

5. A dermal penetration study, Guideline Reference 85-2, in combination with Deet.

6. A 90-day subchronic dermal toxicity study, Guideline Reference 82-3.

7. A 90-day subchronic dermal toxicity study, Guideline Reference 82-3, in combination with Deet.

8. Another chronic feeding/oncogenicity study in the mouse, Guideline References 83-1 and 83-2, to establish a NOEL.

Note that there is no assurance that the results of these additional tests would support registration of the ingredient.

IV. Amendment of Current Registrations to Delete Repellent R-11 from Formulation

An alternative procedure is available to current registrants of products containing Repellent R-11 to prevent cancellation of their registrations. Current registrants will be permitted to amend their formulation to delete Repellent R-11, providing that no new or alternate ingredient is substituted for it. The only permissible changes would be increased levels of one or more components other than Repellent R-11 already present in the formulation. Five copies of revised labels and a revised, signed Certified Statement of Formula must accompany the application for amended registration.

If the burden of generating data to support reregistration of Repellent R-11 is not assumed, any applications for amended registration still pending as of the effective date of cancellation of all Repellent R-11 products will not be processed (because the registrations will no longer be in effect.) Current registrants who choose to submit an amendment are therefore encouraged to apply as quickly as possible, and to identify their submissions with the special heading "R-11 DELETION". The Agency will make every effort to complete its processing of acceptable applications so identified and received within 30 days of the publication of this notice before the effective date of Repellent R-11 cancellations.

V. Terms of Cancellation

The terms of the cancellations of MGK's technical grade product containing Repellent R-11, and of 29 additional MGK registrations containing Repellent R-11, announced elsewhere in this issue of the **Federal Register**, prohibit any use of those products in the formulation of other pesticides after the effective date of those cancellations. Thus it will be illegal for any current registrant of a product containing Repellent R-11 to formulate additional product using stocks of the canceled MGK products after that date.

If Repellent R-11 remains unsupported 60 days after publication of this notice it will be removed from Reregistration List C, and the registrations of all products containing it will be canceled by order and without a hearing. If a cancellation order is issued, the order will likely prohibit all sale, distribution, or reformulation of any pesticide products containing Repellent R-11.

Dated: June 7, 1990

William K. Reilly,

Administrator.

[FR Doc. 90-13694 Filed 6-12-90; 8:45 am]

BILLING CODE 6560-50-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66140; FRL-3742-7]

Repellent R-11: Receipt of Requests to Cancel; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of requests for voluntary cancellation; cancellation order.

SUMMARY: This notice, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), announces EPA's receipt of requests from McLaughlin Gormley King Company (MGK) to cancel the registrations of its technical grade product and 29 additional products containing the active ingredient 2,3,4,5-bis-(2-butylene)-tetrahydro-2-furaldehyde. This ingredient is also known as Repellent R-11. Because of the risks that may be associated with use of this product, EPA will grant MGK's request for voluntary cancellation effective June 14, 1990, and will not permit any sale, distribution, or further reformulation of stocks of the cancelled products after that date.

DATE: The cancellations shall become effective June 14, 1990.

FOR FURTHER INFORMATION CONTACT: Phil Hutton, PM-17, Office of Pesticide Programs (H7505C), Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location and telephone number: Rm. 207 CM # 2, 1921 Jefferson Davis Highway South, Arlington VA 22202, (703) 557-2690.

SUPPLEMENTARY INFORMATION: This notices announces the receipt of a request for cancellation of Repellent R-11.

I. Requests for Voluntary Cancellation

On March 2, 1990, McLaughlin Gormley King Company (MGK) sent EPA a letter reporting that it had cancelled its EPA registration for MGK Repellent 11 (EPA Registration No. 1021-402). MGK Repellent 11 is a technical grade product of Repellent R-11 used in the formulation of end-use insect repellent products for both human and animal protection. MGK further reported in the letter and in conversations with Agency personnel that it had ceased all shipments of MGK Repellent 11 (and of any products containing Repellent R-11) as of January 25, 1990, and that it did not intend to make any further shipment of the product in this country.

On April 25, 1990, MGK submitted another letter, requesting cancellation of 29 additional registrations of products containing Repellent R-11. These products are listed in the following Table 1, in order by their EPA Registration Numbers. These products are all manufacturing-use products used by formulators in the production of end-use products.

TABLE 1—REPELLENT R-11 REGISTRATIONS FOR WHICH MGK REQUESTED VOLUNTARY CANCELLATION ON APRIL 25, 1990

Registration No.	Product name
1021-511	Repellent Spray Mix for Personal Use, F-5520
1021-512	Pyrocide Intermediate 5579
1021-659	Pyrocide Intermediate 5447
1021-668	Pyrocide Intermediate 6168
1021-685	Pyrocide Intermediate 6202
1021-689	Pyrocide Intermediate 6197
1021-726	Pyrocide Intermediate 6327
1021-729	Pyrocide Intermediate 6322
1021-730	Pyrocide Intermediate 6335
1021-818	Pyrocide Intermediate 6614
1021-829	Pyrocide Aerosol Mix 6622
1021-844	Pyrocide Intermediate 6640
1021-858	Pyrocide Intermediate 6688
1021-886	Pyrocide Intermediate 6735
1021-935	Pyrocide Pressurized Pet Spray 6807
1021-964	Pyrocide Pressurized Pet Spray 6849
1021-971	MGK Intermediate 1799
1021-977	Pyrocide Intermediate 6865
1021-1048	Pyrocide Intermediate 6948
1021-1070	MGK Intermediate 1834
1021-1111	MGK Intermediate 1849
1021-1144	Pyrocide Intermediate 6561
1021-1147	MGK Intermediate 1796
1021-1214	MGK Repellent Intermediate 1953
1021-1230	Pyrocide Intermediate 7139
1021-1232	Pyrocide Intermediate 7138
1021-1234	Pyrocide Pressurized Pet Spray Mix 7142
1021-1346	Pyrocide Intermediate 7220
1021-1359	Pyrocide Aerosol Mix 7250

In its March 2nd letter, and in other correspondence with the Agency dated February 6, 1990, MGK reported preliminary information from studies of chronic and subchronic toxicity of Repellent R-11. This information, submitted under the authority of section 6(a)(2) of FIFRA, showed the following adverse effects of the pesticide:

1. Multiple malformations were observed at the high dose level in the first generation animals of a two-generation reproduction study in the rat. The no-observed-effect-level (NOEL) in this study is 360 milligrams per kilogram of body weight per day (mg/kg/day).

2. Anovulatory ovaries and reduced ovarian activity were noted in a 90-day

range finding assay in the mouse. The NOEL for these effects in this study is 500 mg/kg/day.

3. Ovarian atrophy was noted at all tested dose levels in an 18-month chronic feeding study in the mouse. A NOEL was not determinable for this effect. Decreased hematopoiesis was observed at the mid and high dose levels, with anemia and leukopenia at the high dose level in this study, with a NOEL for these effects at 125 mg/kg/day.

4. Anovulatory activity was observed at the mid and high dose levels in a 24-month chronic feeding study in the rat, with a NOEL of 65 mg/kg/day.

5. MGK also reported increased incidences of certain benign tumors in rat and mouse chronic studies. These included tubular adenomas of the mouse ovary, lung adenomas in the male mouse, and testicular interstitial cell tumors in the rat.

The Agency has conducted preliminary assessments of margins of exposure (MOE) for the effects identified in points 1 through 4 above. These assessments suggest that MOE's may be inadequate, given the use of Repellent R-11 as a repellent directly on the skin of humans and animals.

Under section 6(f)(1) of FIFRA, registrants may request at any time that EPA cancel any of their pesticide registrations. EPA must publish in the **Federal Register** a notice of the receipt of such request before the request can be granted. (Although MGK's letter of March 2, 1990 indicates that MGK has cancelled its registration for MGK Repellent 11, section 6(f)(1) makes clear that cancellation can only be effectuated by EPA. Accordingly, EPA has treated the March 2nd letter as a request for voluntary cancellation.) Because of the potential health concerns adverted to in MGK's correspondence with the Agency, EPA intends to grant the requests for voluntary cancellation of products containing Repellent R-11 effective June 14, 1990.

This notice of requests for voluntary cancellation involves only registrations of Repellent R-11 held by MGK; it does not directly affect the registration status of end-use products containing Repellent R-11 held by other registrants. It should be noted, however, that in light of MGK's request for cancellation, and the indication that MGK will no longer support the reregistration of Repellent R-11, there is no longer any registrant that has agreed in accordance with FIFRA section 4(d) to generate all the data necessary to support reregistration of Repellent R-11. The Agency is therefore issuing pursuant to section 4(d)(5)(B) of FIFRA a separate notice of intent to cancel all registrations of products that contain Repellent R-11 and to remove Repellent R-11 from the list of active ingredients to be reregistered pursuant to FIFRA section 4(c)(2)(C) (List C).

II. Existing Stocks Determination

In its letter of March 2, 1990, MGK stated that it believed that negligible stocks of end-use products containing Repellent R-11 are currently in existence, and that the Agency could therefore allow the orderly depletion of existing stocks of such consumer products. MGK did not request that any further sale or use of the MGK Repellent 11 technical product itself be allowed, although MGK did express its belief that little inventory of MGK Repellent 11 remains throughout the chain of distribution. Nor did MGK request in its letter of April 25, 1990 that the Agency permit further sale or use of existing stocks of the registered products for which cancellation was requested in that letter.

In light of the information provided to the Agency by MGK, EPA cannot conclude that sale or use of existing stocks of the products containing Repellent R-11 listed in Table 1 would not result in unreasonable adverse effects on the environment or would be consistent with the purposes of FIFRA. The Agency has similar concerns concerning sale or use of the end-use products which remain registered. Given these concerns, and the fact that the Agency is issuing a notice of intent to cancel all end-use products pursuant to FIFRA section 4(d), the Agency does not believe it prudent to allow continued sale or use of the products listed in Table 1 in order to formulate additional quantities of end-use products. Accordingly, the Agency will not permit, and is issuing a cancellation order expressly prohibiting, the distribution, sale, or reformulation of existing stocks of the products containing Repellent R-11 listed in Table 1 effective June 14, 1990.

It should be noted that although the information provided to the Agency by MGK raises a significant question as to whether further use (i.e., reformulation) of the products listed in Table 1 will result in unreasonable adverse effects on the environment or be inconsistent with the purposes of FIFRA, the level of information provided has not allowed EPA to reach any definitive conclusions on these matters. While EPA does not believe it should now permit continued use of these products, the Agency believes it appropriate under all the circumstances of this case to provide an opportunity for adversely affected persons to attempt to demonstrate to the Agency that continued use of the products listed in Table 1 should be permitted. EPA will therefore reconsider the prohibition on the use of existing stocks contained in this Cancellation Order for products containing Repellent R-11 if any person requests reconsideration on or before August 13, 1990. In order for a reconsideration request to be considered, the person submitting the request must specify why he or she believes that continued use of cancelled products containing Repellent R-11 would not result in unreasonable adverse effects on the environment and would be consistent with the purposes of FIFRA, and must include in the submission the factual bases for such belief. Requests for reconsideration should be sent to: Phil Hutton, PM-17, at the address given under **FOR FURTHER INFORMATION CONTACT.**

If the Agency determines that amendment of the existing stocks provision is warranted, the Agency will publish an amended Cancellation Order. The existing stocks provision of this Cancellation Order of June 7, 1990 will remain in effect unless and until the Agency issues an amendment to such Order.

III. Cancellation Order

On March 2, 1990, McLaughlin Gormley King Company, the sole registrant of a technical grade product containing the active ingredient 2,3,4,5-Bis-(2-butylene)-tetrahydro-2-furaldehyde (sold under the trade name MGK Repellent 11), announced to EPA that it was cancelling its registration for MGK Repellent 11 (EPA Registration No. 1021-402). Because registrants do not have the authority to terminate a registration unilaterally, EPA has decided to treat this letter as a request for voluntary cancellation under section 6(f) of FIFRA.

On April 25, 1990, MGK submitted another letter, requesting cancellation of 29 additional registrations of products containing Repellent R-11. These products are listed in Table 1 above, in order by their EPA Registration Numbers. These products are all manufacturing-use products used by formulators in the production of end-use products.

The requests for voluntary cancellation will be granted effective June 14, 1990.

Because of the health questions raised by material submitted to the Agency by MGK, I am unable to find that continued sale, distribution, or use of manufacturing-use products containing Repellent R-11 would not result in

unreasonable adverse effects on the environment or would be consistent with the purposes of FIFRA.

Accordingly, as of June 14, 1990, no person may distribute or sell for use as a pesticide, or use (i.e., reformulate into an end-use product) any existing stocks of products listed in Table 1. Any such sale or distribution shall be considered a violation of FIFRA sections 12(a)(1)(A) and 12(a)(2)(K). Any use of such products will be considered a violation of FIFRA section 12(a)(2)(K). Holders of existing stocks of products listed in Table 1 are advised that disposal of these products must be in accordance with applicable Federal, State, and local laws and regulations.

This Cancellation Order shall become effective on June 14, 1990.

Dated: June 7, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 90-13695 Filed 6-12-90; 8:45 am]

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federal register

Wednesday
June 13, 1990

Part IV

Environmental Protection Agency

40 CFR Part 52

Assessment of Visibility Impairment; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-3758-3]

Assessment of Visibility Impairment; Final Rule

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's action, EPA announces its decision not to revise the implementation plans for Maine and Utah to include best available retrofit technology (BART) or other control strategies to remedy visibility impairments within the Moosehorn Wilderness and Canyonlands National Park attributable to specific sources. The timing of today's action is in accordance with a settlement agreement with the Environmental Defense Fund (EDF) and others which requires EPA to promulgate appropriate measures to remedy certified visibility impairments in mandatory Class I Federal areas where the impairment in the area is reasonably attributed to specific sources. Under the agreement, EPA had previously deferred a decision on the need to impose BART requirements to remedy impairments in these Class I areas [52 FR 45132 (Nov. 24, 1987) and 53 FR 3595 (Sept. 15, 1988)]. Today's actions were proposed on September 5, 1989 at 54 FR 36948.

EFFECTIVE DATE: This action will be effective on July 13, 1990.

ADDRESSES: Docket: Pursuant to section 307(d)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7607(d)(1)(B), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a docket for this notice, Docket Number A-89-02. Materials related to the development of this notice have been placed in this docket. For background information, materials related to the development of the visibility protection program (40 CFR 51.300 *et seq.*) are available in Docket A-79-40. Also, materials related to the development of the visibility new source review and visibility monitoring strategies are available in Docket A-84-32. Finally, materials related to the visibility long-term strategy, implementation of control strategy, and integral vista program are available in Docket A-85-26. All dockets are available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, Office of General Counsel, room 1500, 401 M Street SW., Washington, DC. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Denise Scott, Air Quality Management Division (MD-15), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, at telephone number (919) 541-0870 or FTS 629-0870.

SUPPLEMENTARY INFORMATION:

Background

A. Regulatory Requirements

Section 169A of the Act, 42 U.S.C. 7491, sets as a national goal "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." Mandatory Class I Federal areas are certain national parks, wildernesses, and international parks as described in section 162(a) of the Act, 42 U.S.C. 7472(a). Section 169A requires that EPA promulgate regulations to assure reasonable progress toward meeting the national goal for mandatory Class I Federal areas where EPA has determined that visibility is an important value. On November 30, 1979, EPA identified 156 areas, including Moosehorn Wilderness in Maine and Canyonlands National Park in Utah, where visibility is an important air quality related value (44 FR 69122). Section 169A specifically requires EPA to promulgate regulations requiring States to amend their State implementation plans (SIP's) to provide reasonable progress toward meeting the national goal for the 156 areas.

On December 2, 1980, EPA promulgated the required visibility regulations (45 FR 80084, codified at 40 CFR 51.300 *et seq.*). In broad outline, the visibility regulations require the 36 States listed in § 51.300(b), including Maine and Utah, to: (1) Coordinate SIP development with the appropriate Federal land managers (FLM's), (2) develop a program to assess and remedy visibility impairment from new and existing sources, (3) develop a long-term (10 to 15 years) strategy to assure reasonable progress toward the national goal, (4) develop a visibility monitoring strategy to collect information on visibility conditions, and (5) consider in all aspects of visibility protection any "integral vistas" (important views of landmarks or panoramas that extend outside of the boundaries of the Class I area) identified by the FLM's as critical to the visitor's enjoyment of the Class I areas. The affected States were required to submit revised SIP's satisfying these provisions by September 2, 1981. See 45 FR 80091, codified at 40 CFR 51.302(a)(1).

The second requirement listed above is of particular relevance to today's action. 40 CFR 51.302(c)(2) requires that each affected State include in its SIP such emission limitations, schedules of compliance, and other measures as may be necessary to make reasonable progress toward the national visibility goal. In addition, under 40 CFR 51.302(c)(1), an FLM may certify to a State that there exists impairment of visibility in any mandatory Class I Federal area. Pursuant to 40 CFR 51.302(c)(4)(i), where impairment is certified at least 6 months prior to plan submission, an affected State must (1) identify each existing stationary facility which may "reasonably be anticipated to cause or contribute" to any such impairment, and (2) analyze for BART any facility so identified. "Reasonably attributable" impairment is impairment "attributable by visual observation or any other technique the State deems appropriate" (40 CFR 51.301(s)). Where a State defaults on its obligations under the visibility regulations, EPA may act in place of the State pursuant to a Federal implementation plan (FIP) under section 110(c) of the Act, 42 U.S.C. 7410(c).[1] In such cases, all of the rights and duties that would otherwise fall to the State accrue instead to EPA. Thus, EPA may utilize attribution techniques it deems appropriate; must identify "reasonably attributable" sources of impairment, conduct BART analyses, adopt BART requirements; and may promulgate such other control strategies that EPA, in its discretion, deems necessary to make reasonable progress toward the national visibility goal.

In December 1982, environmental groups, including EDF, filed a citizen's suit in the United States District Court for the Northern District of California alleging that EPA had failed to perform a nondiscretionary duty under section 110(c) of the Act, 42 U.S.C. 7410(c), to promulgate visibility FIP's for the 35 States [2] that, at that time, had failed to

[1] Section 110(c) requires EPA to promulgate FIP's whenever (a) a State fails to submit an implementation plan (or portion thereof) which meets the requirements of section 110; (b) the Administrator determines that a plan (or portion) is not in accordance with the requirements of section 110; or (c) the State fails to revise its plan within 60 days after notification by the Administrator (or some longer period, if so prescribed by the Administrator) in accordance with section 110(a)(2)(H).

[2] The State of Alaska had submitted a SIP which was approved on July 5, 1983 at 48 FR 30623.

submit SIP's to EPA as called for by the 1980 visibility regulations (*EDF* v. *Reilly*, No. C82-6850 RPA).

The EPA and the plaintiffs negotiated a settlement agreement for the remaining States which the court approved by order of April 20, 1984. For more information on the provisions of the settlement, including a schedule of actions by EPA, see EPA's announcement of the agreement at 49 CFR 20647 (May 16, 1984).

B. Settlement Agreement

The settlement agreement required EPA to promulgate FIP's on a specified schedule for those States that had not submitted visibility SIP revisions to EPA. Specifically, the first part of the agreement required EPA to promulgate FIP's which cover the monitoring and new source review (NSR) provisions of 40 CFR 51.305 and 51.307. The EPA promulgated its monitoring strategy for 23 States and its NSR provisions for 21 States (50 FR 28544, 51 FR 5504, and 51 FR 22937). In separate notices, EPA approved the SIP's of the other States with respect to monitoring and NSR.

The second part of the settlement agreement required EPA to determine the adequacy of the SIP's to meet the remaining provisions of the visibility regulations. These provisions are the general plan provisions, including BART and other implementation control strategies (§ 51.302), integral vista protection (§ 51.302-307), and long-term strategies (§ 51.306). The settlement agreement required EPA to promulgate FIP's to remedy any deficiencies on a specified schedule.

On November 14, 1985, the U.S. Department of the Interior (DOI) certified to EPA, under 40 CFR 51.302(c)(1), the existence of visibility impairment in Moosehorn Wilderness and identified a pulp and paper mill as the probable source of this impairment. On March 24, 1986, the DOI sent another letter to EPA pursuant to 40 CFR 51.302(c)(1) supplementing its November 1985 certification. This letter certified the existence of visibility impairment in Canyonlands National Park and identified the Navajo Generating Station (NGS), a 2250 megawatt coal-fired power plant located near Page, Arizona, as the probable source of the impairment in this Class I area. Copies of the letters certifying the impairments have been placed in the docket for this rulemaking.

On January 23, 1986, EPA determined that the SIP's of 32 States (including Maine and Utah) were deficient with respect to the remaining visibility provisions (51 FR 3046). Thereafter, EPA and the plaintiffs negotiated revisions to the settlement agreement which extended the deadlines for proposing FIP's to remedy these deficiencies. The court approved these revisions by its order of September 9, 1986.[3]

In accordance with the revised settlement agreement, on March 12, 1987 (52 FR 7802), EPA proposed to disapprove the SIP's of 32 States (including Maine and Utah) for failing to meet the remaining provisions of the visibility regulations, including general plan requirements (which in turn includes BART and other control strategies (§ 51.302) and long-term strategies (§ 51.306)). Also in accordance with the agreement, on November 24, 1987 (52 FR 45132), EPA took final action disapproving the affected SIP's and promulgating, as FIP measures under section 110(c), general plan requirements and long-term strategies for these States. The EPA's action included findings that BART was unnecessary to remedy impairment in most of the Class I areas. However, under the revised agreement, EPA's decision regarding the need for BART or other control measures in the FIP's for these States to address certified visibility impairments in seven Class I areas which potentially could be reasonably attributed to a specific source in the States of Arizona, Maine, Minnesota, and Utah, was deferred until August 31, 1988 pending acquisition and evaluation of additional monitoring information regarding the potential sources of impairment. The EPA required additional information to determine whether the impairment in any of these Class I areas is "reasonably attributable" to an existing stationary facility, and to enable a BART analysis for any source so identified as causing or contributing to visibility impairment (40 CFR 51.302(c)(4)(i)).

On May 19, 1989, EPA, in accordance with the revised settlement agreement, promulgated decisions concerning certified visibility impairments in four of the seven Class I areas. Based on monitoring conducted in these areas, EPA found that the visibility impairments were not reasonably attributable to any specific source. Therefore, EPA determined that it was not necessary at that time to revise the FIP's for the States of Arizona, Maine, and Minnesota to include BART or other control strategies to remedy impairments in Roosevelt Campobello International Park (Canada), Voyageurs National Park (Minnesota), Saguaro Wilderness (Arizona), and Petrified Forest National Park (Arizona).

Because EPA was unable to resolve certain questions regarding the need to remedy the impairments found in the three remaining Class I areas (the Grand Canyon National Park in Arizona, the Canyonlands National Park in Utah, and the Moosehorn Wilderness in Maine), EPA sought and received a 1-year extension of its August 31, 1988, deadline to address the impairment in these areas. The deadlines for proposed and final action on the need for BART to remedy impairment in the Grand Canyon National Park were further extended by court orders dated July 6, 1989, and January 9, 1990. Today's action does not address BART, EPA's obligations regarding the Grand Canyon National Park; that Class I area will be addressed in separate notices.

C. Summary of Proposal and Comments

On September 5, 1989, EPA proposed not to require the States of Maine and Utah to revise their SIP's to include BART or other limitations to address visibility impairment in Moosehorn Wilderness, Maine, and Canyonlands National Park, Utah (54 FR 36948). Four comments were received on the proposal for the State of Maine. No comments were received regarding the proposal for Utah. A brief summary of the proposal and comments is found below. A detailed discussion of the impairments in both of these Class I areas is continued in the proposal and will not be restated here.

1. Assessment of Visibility Impairment

In the September 5, 1989 proposal, EPA addressed certified visibility impairments in Moosehorn Wilderness, Maine, and Canyonlands National Park, Utah. With respect to Moosehorn Wilderness, the EPA finds that, based on monitoring and photographic data, this impairment was reasonably attributable to a pulp and paper mill owned and operated by the Georgia-Pacific Corporation located in Woodland, Maine. However, due to modifications and related prevention of significant deterioration (PSD) permit requirements for this mill, the EPA anticipates that the impairment will be adequately remedied such that revisions to Maine's FIP are unnecessary at this time. Regarding Canyonlands National Park, EPA does not have any evidence at this time to attribute the visibility impairment to any specific source. Thus, EPA considers it unnecessary at this time to revise the SIP for Utah to include BART requirements or other control measures. Any future information

[3] A copy of the settlement agreement and revisions is available in docket A-85-26 at the address given at the beginning of this notice.

regarding impairment in these Class I areas will be addressed in the periodic reviews required by the respective States' long-term strategies (40 CFR 51.306 and 52.29).

2. General Comments

Four comments were received on the notice of proposed rulemaking regarding Moosehorn Wilderness. All comments were supportive of EPA's proposed rulemaking and Georgia-Pacific's modernization of its mill located in Woodland, Maine, and stated that they believed the PSD permit would enhance air quality in the area.

One commenter summarized the history of the PSD permitting process and conditions in the permit. This commenter stated that State and Federal agencies had been actively involved in careful review and oversight in the permitting process. The FLM for Moosehorn Wilderness had been present at the public hearing on the permit and had concluded, the commenter contended, that the emissions allowed by the permit would not result in visibility impairment in Moosehorn. This commenter stated that the permit and modifications at the Georgia-Pacific facility would result in significant reductions in air emissions and improvements to air quality.

In a letter to the State of Maine's Department of Environmental Protection commenting on the proposed modification to the Georgia-Pacific mill, the DOI (FLM for Moosehorn Wilderness) stated that the proposed permit action will not contribute to an adverse impact on visibility in the Class I area. In addition, the DOI stated the remaining visibility impacts in Moosehorn Wilderness will be addressed under section 169A of the Clean Air Act. A copy of this letter has been placed in Docket A-89-02.

The EPA believes that the modifications and related PSD permit requirements for the mill will reduce emissions responsible for the documented visibility impairment in Moosehorn Wilderness. If additional visibility impairment is certified to EPA following modifications at the mill, it will be addressed in the periodic review of the State of Maine's long-term strategy. Therefore, EPA is affirming its decision not to revise the implementation plan for Maine to include BART or other control at this time.

D. Today's Action

In today's action, EPA is affirming without change the proposed decisions of September 5, 1989, that BART or other control measures are unnecessary to remedy visibility impairment in Moosehorn Wilderness and Canyonlands National Park. Consequently, EPA likewise is affirming its decision not to require the States of Maine and Utah to revise their implementation plans to include emission limits representing BART or other control strategies at this time. Any future certification of impairment will be addressed in the State's periodic review.

Classification

The Administrator certifies, pursuant to the provisions of 5 U.S.C. 605(b), that the attached rule will not have a significant economic impact on a substantial number of small entities.

The rules do not contain any information collection requirements subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980, U.S.C. 3501, *et seq.*

The rule implements part of subpart P (40 CFR 51.300 through 51.307) which was promulgated on December 2, 1980. An economic impact assessment was made for promulgation of subpart P and can be found in Docket Number A-79-40.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because: (1) The national annualized costs total less than $100 million; (2) the action does not cause a major increase in prices or production costs; and (3) the action does not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets. This notice was submitted to OMB for review as required by Executive Order 12291. Any written communication between OMB and EPA pertaining to this notice has been put in Docket Number A-89-02.

Dated: June 6, 1990.

F. Henry Habicht,

Acting Administrator.

[FR Doc. 90-13676 Filed 6-12-90; 8:45 am]

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federal register

Wednesday
June 13, 1990

Part V

Department of Justice

Bureau of Prisons

Adult Basic Education; GED Literacy Standard at Half-Day Assignment Pilot Institutions; Modification to List of Bureau of Prisons Institutions; Notices

DEPARTMENT OF JUSTICE

Bureau of Prisons

Adult Basic Education; GED Literacy Standard at Half-Day Assignment Pilot Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: Bureau of Prisons regulations mandate an 8.0 academic grade level as the literacy standard for inmates. In this document, the Bureau is announcing the implementation of pilot program to assess the impact on institution resources and operations of increasing the literacy standard to a high school diploma or equivalency (GED).

EFFECTIVE DATE: June 13, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 760, 320 First Street NW., HOLC room 760, Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

SUPPLEMENTARY INFORMATION: Bureau of Prisons regulations currently require an 8.0 academic grade level as a literacy standard for inmates (see 28 CFR 544). However, the trend in the free-world community is to require higher academic requirements for almost all entry level jobs, to at least the high school diploma level. The Bureau needs to continue to establish literacy standards which reflect those in communities to which federal prisoners will be released and which will help them to compete for available jobs and cope with post-release community, family and related responsibilities.

In order to expand its academic programs, the Bureau is establishing pilot half-day assignment programs at selected institutions (including, but not limited to, Fairton, McKean, Morgantown, Lexington, Jesup, Bastrop, El Reno, Sandstone, Sheridan, and Pleasanton). This document announces that, effective with the initiation of the institution's half-day program, a pilot program is being established to assess the merits of implementing a minimum requirement of a high school diploma or equivalency (GED) as the literacy standard for inmates. The pilot program is intended to help determine the number of inmates affected by the increase, the adequacy of educational resources, and the effect of the expanded program on other institution operations. At the conclusion of the pilot project, a proposed rule may be published requesting public comment on adopting this change for all institutions.

Dated: May 2, 1990.

J. Michael Quinlan,

Director, Federal Bureau of Prisons.

[FR Doc. 90-13685 Filed 6-12-90; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Modification to List of Bureau of Prisons Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646-76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960-81, Reorganization Regulations, published in the **Federal Register** October 27, 1981 (at 46 FR 52339 *et seq.*) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prisons institutions. In this present document, the Bureau is publishing a consolidated listing of its institutions, and is designating a new Federal Deportation Center at Oakdale, Louisiana (Oakdale II), a temporary Federal Detention Center at Fort Gordon, Georgia, and a new Federal Prison Camp at Millington, Tennessee. These facilities recently became operational. In addition, the Bureau is designating new Federal Correctional Institutions at Jesup, Georgia, and Three Rivers, Texas. These facilities are scheduled to become operational later this year. The Bureau is also designating the Federal Prison Camps at Big Spring, Texas, and Boron, California, as Federal Correctional Institutions in order to reflect a change in their mission.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, 320 First Street NW., HOLC room 760, Washington, DC 20534 (202-307-3062).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, sec. 1(a).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 3621, 4001, 4003, 4042, 4081, and 4082 (repealed in part October 12, 1984) and delegated to the Director, Bureau of Prisons, by 28 CFR 0.96(r), it is hereby ordered as follows:

The following institutions are established and designated as places of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries.

(1) Atlanta, Georgia
(2) Leavenworth, Kansas
(3) Lewisburg, Pennsylvania
(4) Lompoc, California
(5) Marion, Illinois;
(6) Terre Haute, Indiana.

B. The Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutions.

(1) Ashland, Kentucky
(2) Bastrop, Texas
(3) Big Spring, Texas
(4) Boron, California
(5) Butner, North Carolina
(6) Danbury, Connecticut
(7) El Reno, Oklahoma
(8) Englewood, Colorado
(9) Fairton, New Jersey
(10) Fort Worth, Texas
(11) Jesup, Georgia
(12) La Tuna, Texas
(13) Lexington, Kentucky
(14) Loretto, Pennsylvania
(15) Marianna, Florida
(16) McKean, Pennsylvania
(17) Memphis, Tennessee
(18) Milan, Michigan
(19) Morgantown, West Virginia
(20) Otisville, New York
(21) Oxford, Wisconsin
(22) Petersburg, Virginia
(23) Phoenix, Arizona
(24) Pleasanton, California
(25) Ray Brook, New York
(26) Safford, Arizona
(27) Sandstone, Minnesota
(28) Seagoville, Texas
(29) Sheridan, Oregon
(30) Talladega, Alabama
(31) Tallahassee, Florida
(32) Terminal Island, California
(33) Texarkana, Texas
(34) Three Rivers, Texas
(35) Tucson, Arizona

C. The Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps.

(1) Alderson, West Virginia
(2) Allenwood, Pennsylvania
(3) Bryan, Texas
(4) Duluth, Minnesota
(5) Eglin Air Force Base, Florida
(6) Ft. Bliss, El Paso, Texas
(7) Homestead Air Force Base, Homestead, Florida
(8) Lompoc, California
(9) Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama
(10) Millington, Tennessee
(11) Nellis Air Force Base, Las Vegas, Nevada
(12) Saufley Field, Pensacola, Florida
(13) Seymour-Johnson Air Force Base, North Carolina
(14) Tyndall Air Force Base, Panama City, Florida

(15) Yankton, South Dakota.

D. The Bureau of Prisons institutions at the following locations are designated as Metropolitan Correctional Centers.

(1) Chicago, Illinois
(2) Miami, Florida
(3) New York, New York
(4) San Diego, California

E. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

F. The Bureau of Prisons institution at Rochester, Minnesota is designated as the Federal Medical Center.

G. The Bureau of Prisons institutions at the following locations are designated as Federal Detention Centers.

(1) Fort Gordon, Georgia
(2) Oakdale, Louisiana (Oakdale I)

H. The Bureau of Prisons institution at Oakdale, Louisiana (Oakdale II) is designated as the Federal Deportation Center.

I. The Bureau of Prisons institution at Los Angeles, California is designated as the Metropolitan Detention Center.

Date: May 21, 1990.

Wade B. Houk,

Acting Director, Federal Bureau of Prisons.

[FR Doc. 90-13684 Filed 6-12-90; 8:45 am]

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federal register

Wednesday
June 13, 1990

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation (FAR); Travel Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Travel Costs

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR 31.205–46 to clarify the maximum allowable contractor per diem travel costs.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 13, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., room 4041, Washington, DC 20405. Please cite FAR Case 90–26 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR Case 90–26.

SUPPLEMENTARY INFORMATION:

A. Background

It has come to the attention of the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council that FAR 31.205–46(a)(4) has been erroneously interpreted to mean that the maximum allowable contractor per diem travel costs must be calculated in the same manner as the "lodging-plus" method contained in the Federal Travel Regulations. The FAR Councils never intended to impose Government administrative procedures upon contractors. Accordingly, it is proposed that subparagraph (d)(4) be grammatically rearranged to prevent erroneous interpretation.

Another minor editorial correction recognizes that subparagraph (a)(1) contains allowability criteria.

A new subparagraph (a)(6) is proposed to define reasonable per diem costs for partial travel days and when no lodging costs are incurred. Appropriate downward adjustments in maximum per diem rates are generally required under these circumstances.

B. Regulatory Flexibility Act

The proposed revisions to FAR 31.205–46 are not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) because they merely improve language that has been erroneously interpreted and further define cost reasonableness in specific circumstances. No change in meaning or existing interpretations of reasonableness is intended.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 6, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR parts 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Section 31.205–46 is amended by revising the first sentence in paragraph (a)(1); by revising paragraph (a)(4); and by adding paragraph (a)(6) to read as follows:

§ 31.205–46 Travel costs.

(a)(1) Costs for transportation, lodging, meals, and incidental expenses incurred by contractor personnel on official company business are allowable subject to the limitations contained in this subsection. * * *

* * * * *

(4) Subparagraphs (a)(2) and (a)(3) of this subsection do not incorporate the regulations cited in subdivisions (a)(2)(i), (ii), and (iii) in their entirety. Only the maximum per diem rates, the definitions of lodging, meals, and incidental expenses, and the regulatory coverage dealing with special or unusual situations are incorporated herein.

* * * * *

(6) The maximum per diem rates referenced in subparagraph (a)(2) of this subsection do not constitute a reasonable daily charge when no lodging costs are incurred and on partial travel days (e.g., day of departure and return).

[FR Doc. 90–13702 Filed 6–12–90; 8:45 am]

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federal register

Wednesday
June 13, 1990

Part VII

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Formaldehyde; Extension of Administrative Stay

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AA 82

Occupational Exposure to Formaldehyde; Extension of Administrative Stay

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of administrative stay.

SUMMARY: On December 4, 1987, the Occupational Safety and Health Administration (OSHA) published a final rule in the **Federal Register** on occupational exposure to formaldehyde (29 CFR 1910.1048, 52 FR 46168). In response to numerous public comments which indicated confusion about the hazard warning provisions of the newly revised Formaldehyde Standard, on December 13, 1988, OSHA announced an administrative stay of paragraphs (m)(1)(i) through (m)(4)(ii) for a period of nine months. OSHA also announced its intention to revoke paragraphs (m)(1)(i) through (m)(4)(ii) and invite comments on replacing them with the Hazard Communication Standard (29 CFR 1910.1200) or another equally protective alternative which would be less confusing to the public (53 FR 50198).

The stay was subsequently extended until June 13, 1990 (54 FR 35639, August 29, 1989). OSHA is completing its re-evaluation of the need to stay these paragraphs. More time is needed to complete this evaluation. Consequently, the stay is extended an additional 60 days so that OSHA may complete this process. While this stay is in effect, affected employers must continue to comply with the provisions of OSHA's Hazard Communication Standard.

EFFECTIVE DATES: The administrative stay of 29 CFR 1910.1048 (m)(1)(i) through (m)(4)(ii) will be effective until August 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, U.S. Department of Labor, room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

Authority and Signature

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington DC 20210.

This action is taken pursuant to section 4(b), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1597, 1599; 29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 1-90 (55 FR 9033) and 29 CFR part 1911.

List of Subjects in 29 CFR Part 1910

Formaldehyde, Occupational safety and health, Chemicals, Cancer, Health, Risk assessment.

§ 1910.1048 [Stayed in part]

Therefore, 29 CFR 1910.1048 (m)(1)(i) through (m)(4)(ii) is stayed until August 13, 1990.

Signed at Washington, DC this 11th day of June 1990.

Gerard F. Scannell,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 90-13915 Filed 6-12-90; 12:08 pm]

BILLING CODE 4510-26-M

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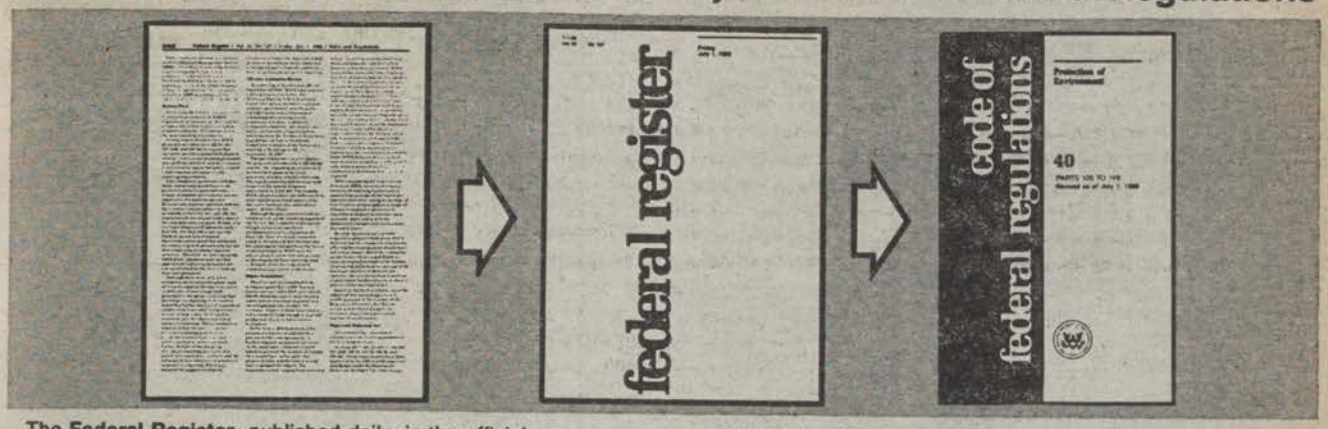

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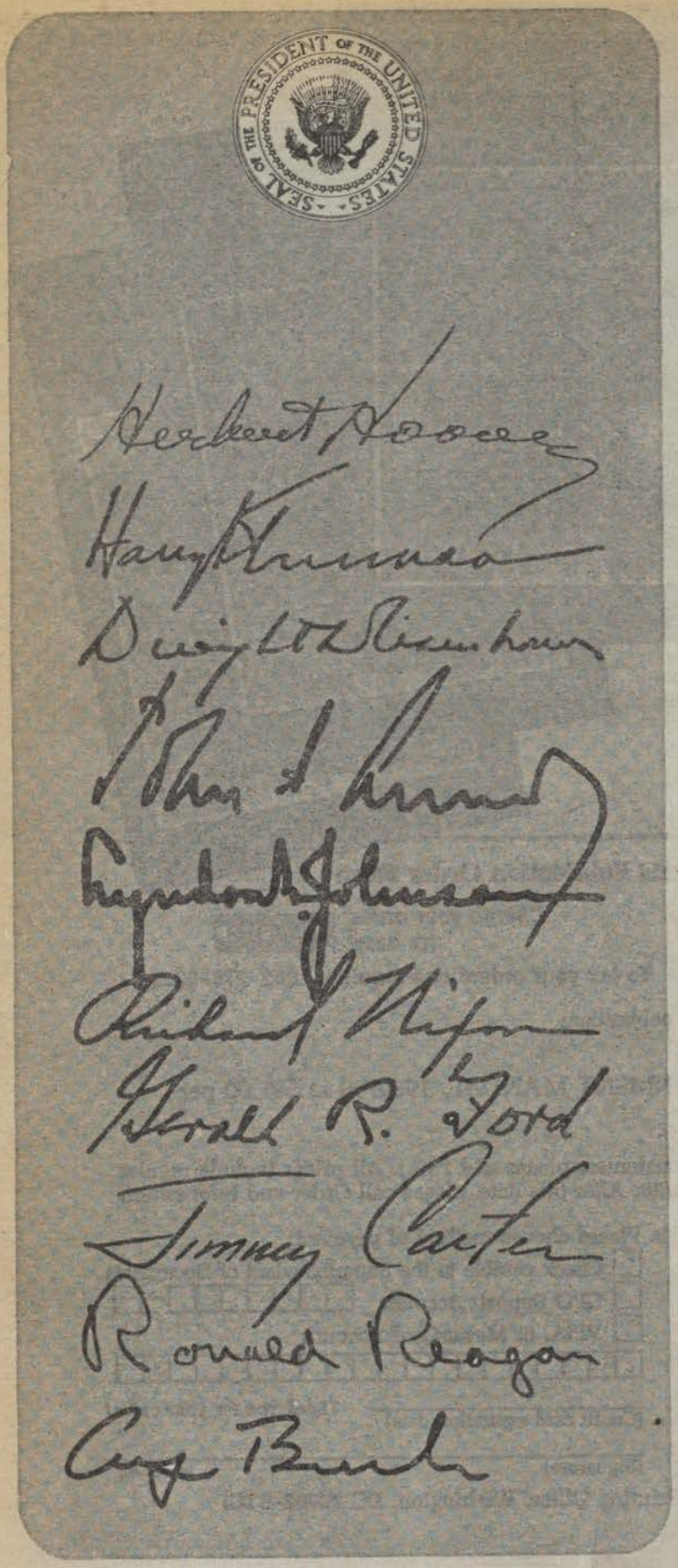

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