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**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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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.

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## NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE55

## Monitoring the Effectiveness of Maintenance at Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations for monitoring the effectiveness of maintenance programs at commercial nuclear power plants. The current regulations require that nuclear power plant licensees evaluate performance and condition monitoring activities and associated goals and preventive maintenance activities at least annually. This amendment changes the time interval for conducting evaluations from a mandatory once every year to at least once every refueling cycle, but not to exceed 24 months.

**EFFECTIVE DATE:** July 10, 1996.

**ADDRESSES:** Copies of comments received on the proposed rule may be inspected and copied for a fee at the Public Document Room located at 2120 L Street, NW. (Lower Level), Washington, DC.

Single copies of the environmental assessment are available from Joseph J. Mate, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 292–3795.

**FOR FURTHER INFORMATION CONTACT:** Joseph J. Mate, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3795.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 10, 1991 (56 FR 31324) the NRC published the final rule "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants" (§ 50.65). The final rule, which will become effective July 10, 1996, requires commercial nuclear power plant licensees to monitor the effectiveness of maintenance activities for safety-significant plant equipment in order to minimize the likelihood of failures and events caused by the lack of effective maintenance. Section 50.65 (a)(3) requires nuclear power plant licensees to evaluate the overall effectiveness of their maintenance activities on an annual basis. An industry consensus guidance document and a regulatory guide to provide an acceptable methodology for implementing the final rule are expected to be published by June 30, 1993.

### Discussion

Since the Maintenance Rule was published in July 1991, two events have occurred that led the Commission to reconsider the annual evaluation requirements in § 50.65(a)(3).

First, in the Summer of 1991, the Nuclear Management Resources Council (NUMARC) Steering Group was formed to develop an industry guide for implementing the Maintenance Rule. While developing the guide, the Steering Group suggested to the NRC in a public meeting held on February 26, 1992, that instead of annual assessment requirements, the NRC should consider assessments based on a refueling cycle interval. The NUMARC Steering Group stated that:

(1) Significantly more data would be available during refueling cycles than is available on an annual basis;

(2) Key data from some surveillance tests can only be obtained during refueling outages and is not available on an annual basis; and

(3) Adjustments to maintenance activities that may be made after such an evaluation would be typically performed after a refueling outage.

The NUMARC Steering Group further added that the evaluation process is a time consuming activity and that with limited data available, the annual evaluation would not provide for meaningful results. With only limited data, changes to maintenance programs will likely not be made because there would not be sufficient information available for spotting trends or doing trend analysis.

Second, the NRC conducted a regulatory review to eliminate or revise unnecessarily burdensome regulations and published a final rule on August 31, 1992 (57 FR 39353) that amended several regulations identified by its Committee to Review Generic Requirements (CRGR). One of those amended regulations was 10 CFR 50.71 (e) (Final Safety Analysis Report Updates) where the frequency of licensee reporting to the NRC was changed from annually to once per refueling cycle. The change was made because the use of a refueling cycle interval provided a more coordinated and cohesive update since a majority of design changes and major modifications were performed during refueling outages. In addition, it had no adverse impact on the public health and safety and reduced the regulatory burden on the licensees.

The Commission is now changing the required frequency of maintenance activity evaluations from annually to once per refueling outage. Evaluation of data collected over the period of a refueling cycle will provide a substantially better basis for detecting problems in degraded performance of structures, systems, and components (SSC's) and weakness in maintenance practices. Evaluations conducted on a refueling cycle basis would also consider and integrate data available only during refueling outages with the data available during operations; under the existing requirements this may not occur depending on whether the annual assessment coincides with the refueling outage. Furthermore, evaluations of data accumulated over the period of a refueling cycle, as opposed to the shorter annual period required by the rule, will provide a more meaningful basis for the recognition and interpretation of trends. The Commission understands that a normal frequency of refueling outage ranges from 15 to 18 months; however, the conditions may vary from plant to plant. In order to ensure that an indefinite period of time does not occur between maintenance evaluations, the Commission is establishing an upper limit of 24 months between the

maintenance evaluations. This would address those licensees that have extended their refueling cycle beyond 24 months for any reason including numerous short outages or extended shutdown periods. Although the Commission believes that it is generally the case that maintenance evaluations will be more effective if conducted in conjunction with refueling outages, licensees would still have the option of conducting them more frequently.

In light of the above discussion, the NRC is changing the requirement for evaluation of the overall effectiveness of maintenance activities to be performed once per refueling cycle provided the interval between evaluations does not exceed 24 months.

**Summary and Analysis of Public Comments**

On March 22, 1993 (58 FR 15303), the NRC published a notice of the proposed rulemaking for public comment. The comment period expired on May 6, 1993. The NRC received 17 comments on the proposed rule. All of the comments except for one favored the change identified in the proposed rule. The comments on the proposed rule came primarily from public utilities with comments also received from a public utilities representative and a private citizen. The NRC has identified and grouped all comments into six broad issues. For each broad issue, the NRC has included a summary of the comments received and their resolution as follows:

1. *Comment.* One commenter stated that the proposed change in the rule would unfairly require nuclear plants on an annual refueling cycle to perform twice as many evaluations as plants on a 24-month cycle. The commenter believes that the NRC should consider a fixed maximum period of 2 years and give the utilities the latitude to manage the timing of the evaluation within that framework.

*Response.* The intent of the proposed modification of the maintenance rule is to allow sufficient flexibility in the scheduling of Maintenance Programs evaluations so that the additional information available from the refueling activities could be factored into the evaluation. The refueling cycle has also been adopted as the basis for FSAR updates. It is recognized that those licensees who refuel more frequently will have to conduct these activities more frequently than others. The Commission believes that this is neither an undue burden nor one that is outside the control of the licensee to impact by reducing the frequency of refueling.

2. *Comment.* Some commenters stated that, as a result of the verification and validation program to test the proposed industry guidelines, it was determined that several systems are neither risk-significant nor able to be monitored for performance by currently known plant level performance criteria. Some commenters believe that these systems have no public health or safety significance and that they should be excluded from the scope of the rule and the rule modified accordingly.

*Response.* The suggestion to change the scope of the rule to exclude those systems that have no public health or safety significance or that have no current plant level performance criteria is clearly beyond the scope of the rule, and cannot be considered at this time. However, if, as a result of any further verification and validation programs, changes to the rule or regulatory guidance are warranted, the NRC will consider such changes at that time.

3. *Comment.* One commenter stated, "one of the clear lessons learned from the recently completed verification and validation program is that the major expense of the rule's implementation will be the detailed documentation (for NRC audit purposes) of performance monitoring * * *".

*Response.* The documentation developed by a licensee in response to 10 CFR 50.65 is that level which the licensee determines necessary to support the program developed by the licensee to monitor performance of a structure, system or component. The purpose of this rule modification is not to address the level of documentation required for NRC audit purposes. It is merely to provide more flexibility in the timing of Maintenance Program evaluations.

4. *Comment.* One commenter stated that "The NRC is mesmerized by a suggestion by NUMARC (Nuclear Management and Resources Council), to extend the annual assessment of plant maintenance from an annual schedule to a refueling outage schedule." The commenter further stated that the extension does not provide an improvement in safety and may help hide maintenance that was improperly deferred.

*Response.* As stated earlier, the NRC decided to make the proposed change in the assessment requirement for the following reasons: (1) Evaluation of data collected over the period of a refueling cycle will provide a substantially better basis for detecting problems in degraded performance of SSC's and weakness in maintenance practices; (2) Evaluations conducted on a refueling cycle basis would also consider and integrate data available only during refueling outages with the data available during operations; under the existing requirements this may not occur depending on whether the annual assessment coincides with the refueling outage; and (3) Evaluation of data accumulated over the period of a refueling cycle, as opposed to the shorter annual period required by the rule, will provide a more meaningful basis for the recognition and interpretation of trends. In addition, adjustments to maintenance activities that may be made after such a review and evaluation would be typically performed after a refueling outage. Periodic evaluation of maintenance activities is a time consuming process and with limited data available, the annual evaluations not conducted in conjunction with a refueling would not provide for as meaningful a result. These conclusions have been reached based on the NRC's independent assessment. Therefore, the commenter incorrectly implies that the NRC simply accepts NUMARC's suggestions without independent review and consideration.

Another reason for changing the annual assessment of plant maintenance concerned a change made by the NRC in August of 1992. As part of the regulatory review to eliminate or revise unnecessary burdensome regulations, the NRC revised the frequency of licensee reporting of the Final Safety Analysis Reports from annually to once per refueling cycle. This change was made because the NRC believes that the use of a refueling cycle interval provided a more coordinated and cohesive update since the majority of the design changes and modifications were made during refueling outages. This was not a rationale relied upon by NUMARC and further contradicts the commenter's view that the NRC accepts the suggestions of NUMARC without independent consideration.

In summary the Commission disagrees with the commenter's view that the extension does not improve safety. The change in requirements will improve the quality of assessments by ensuring that each assessment will include a review of all maintenance activities conducted during the refueling cycle including the refueling outage.

5. *Comment.* One commenter stated that effective maintenance is an ongoing duty and need and that allowing licensees to put off monitoring the effectiveness of maintenance from annually to 18 to 24 months sends the wrong message that the NRC does not care about safety.

*Response.* The NRC agrees that effective maintenance is an ongoing duty and need. The NRC does not agree, however, that the rule change allows licensees to put off monitoring the effectiveness of maintenance. Section 50.65 (a)(1) which is not being changed, requires licensees to monitor the performance or conditions of SSC's against licensee-established goals, in a manner sufficient to provide reasonable assurance that these SSC's are capable of fulfilling their intended functions. It also requires appropriate corrective action to be taken when the performance of the SSC does not meet established goals. The only thing that is being changed is the frequency of the periodic evaluation of the maintenance program. The NRC does care about safety and it does not agree with the commenter that changing the evaluation cycle sends the wrong message to the industry. The NRC believes that this additional flexibility will not result in any increase in risk to public health and safety, and in fact, should result in a more effective maintenance and improved plant safety.

6. *Comment.* One of the commenters stated that the amendments' maximum time period of 24 months would be restrictive for those plants planning to increase their refueling cycle to 24 months. The commenter explained that the Standard Technical Specification, Revision 0, retains the option for performance of surveillance requirements within 1.25 times the interval specified and thus, could extend the refueling outage interval of plants with a 24-month refueling cycle by upwards of 6 months. Accordingly, the refueling cycle for these plants would not meet the maximum time period of 24 months allowed by the amendment. Another commenter stated that this rule could be further improved by the elimination of the requirement for a specific time interval.

*Response.* The NRC believes that it is necessary to assure that maintenance effectiveness is periodically assessed and that this period is not unacceptably long nor indefinite. Thus, a balance was necessary between obtaining the improved reviews associated with assessments conducted during refueling outages and the extended or indefinite periods associated with plants with extended plant cycles or experiencing extended plant shutdown or outages. In weighing this balance, the Commission established an upper limit of 24 months between maintenance evaluations in order to obtain improved evaluations for the majority of the plants having a frequency of refueling cycle from 15 to 18 months, and yet not allow maintenance effectiveness to continue without being assessed for periods in excess of 2 years. The NRC does not agree that the rule could be improved further by elimination of the requirement of a specific time interval.

**Finding of No Significant Environmental Impact: Availability**

The Commission has determined that, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, is not a major Federal action that significantly affects the quality of the human environment and therefore an environmental impact statement is not required.

The final amendment does not require any change to nuclear power plant design or require any modifications to a plant. Nor does the rule change the scope of the maintenance rule or affect the nature of the activities to be performed, e.g., monitoring, corrective action, and assessments of compliance. The final rule change only extends the time period for performing evaluations of the effectiveness of licensees' maintenance program from at least once a year to at least once every refueling cycle, not to exceed 24 months. The extension should not result in any significant or discernible reduction in the effectiveness of a licensee's maintenance program; rather the change will increase the meaningfulness and quality of the maintenance evaluations. For these reasons, the Commission finds that the final amendment will not result in any significant increase in either the probability of occurrence of an accident or the consequences of an accident and therefore concludes that there will be no significant effect on the environment as a result of the amendment.

The environmental assessment is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Single copies of the environmental assessment are available from Joseph J. Mate, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–3795.

**Paperwork Reduction Act Statement**

This final rule amends the information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Because the rule relaxes existing requirements related to the assessment of maintenance activities, the public burden for this collection of information is expected to be reduced by 150 hours per licensee. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0011), Office of Management and Budget, Washington, DC 20503.

**Regulatory Analysis**

The Nuclear Regulatory Commission has considered the costs and benefits of the final rule. With respect to benefits, the amendment will allow those licensees who choose to exercise the option to perform evaluations of their maintenance program in conjunction with refueling outages but no less frequently than every 24 months. The Commission believes that this additional flexibility will not result in any increase in risk to the public health and safety, and may result in a more effective maintenance and improved plant safety.

Under the rule, the frequency of periodic assessments would change from annually to at least once per refueling cycle but not to exceed 24 months. Because most refueling outages normally occur in the 15- to 18-month range, the time between periodic assessments assuming a 16-month average would be increased by about 33 percent. Therefore, the licensee staff hours to accomplish a periodic assessment under the proposed rule would be reduced from approximately 460 staff hours to about 310 staff hours per plant. This would save the licensee approximately 150 staff hours per plant. There are no additional changes in costs to be incurred by the NRC. The foregoing constitutes the regulatory analysis for this final rule.

**Regulatory Flexibility Certification**

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Nuclear Regulatory Commission certifies that, this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of

"small entities" as set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in the regulations issued by the Small Business Administration at 13 CFR part 121.

**Backfit Analysis**

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule and, therefore, that a backfit analysis is not required for this final rule because this amendment does involve any provisions which would impose backfits as determined in 10 CFR 50.109.

**List of Subjects in 10 CFR Part 50**

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552, 553, the NRC is adopting the following amendment to 10 CFR part 50.

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

**Authority:** Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat, 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.65, paragraph (a)(3) is revised to read as follows:

**§ 50.65 Requirements for monitoring the effectiveness of maintenance at nuclear power plants.**

(a) * * *

(3) Performance and condition monitoring activities and associated goals and preventive maintenance activities shall be evaluated at least every refueling cycle provided the interval between evaluations does not exceed 24 months. The evaluations shall be conducted taking into account, where practical, industry-wide operating experience. Adjustments shall be made where necessary to ensure that the objective of preventative failures of structures, systems, and components through maintenance is appropriately balanced against the objective of minimizing unavailability of structures, systems, and components due to monitoring or preventative maintenance. In performing monitoring and preventative maintenance activities, an assessment of the total plant equipment that is out of service should be taken into account to determine the overall effect on performance of safety functions.

* * * * *

Dated at Rockville, Maryland, this 9th day of June 1993.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Executive Director for Operations.*

[FR Doc. 93–14759 Filed 6–22–93; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### 30 CFR Part 75

**RIN 1219–AA11**

### Safety Standards for Underground Coal Mine Ventilation; Extension of Effectiveness

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Extension of effectiveness.

**SUMMARY:** This notice postpones the expiration date of three ventilation standards for underground coal mines to allow the completion of any necessary rulemaking action concerning the provisions in them.

**EFFECTIVE DATE:** Effective June 23, 1993, the effectiveness of 30 CFR 75.314, 75.315, and 75.345 is extended until July 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

**SUPPLEMENTARY INFORMATION:** On May 15, 1992, MSHA published a final rule revising its safety standards for ventilation of underground coal mines (57 FR 20868). These standards were to take effect on August 16, 1992. To allow mine operators sufficient time to effectively plan and implement necessary changes, the effective date of the rule was delayed until November 16, 1992 (57 FR 34683).

On November 13, 1992, as a result of discussions with the mining community, MSHA delayed the effective date of §§ 75.313 and 75.344(a)(1) until July 1, 1993 (57 FR 53856). This notice also provided that §§ 75.314, 75.315, and 75.345 were to continue in effect until July 1, 1993. On June 7, 1993 (58 FR 31908), MSHA extended the stay of §§ 75.313 and 75.344(a)(1) until July 1, 1994. The June 7, 1993, extension of stay, however, did not specifically provide that §§ 75.314, 75.315, and 75.345 would remain in effect during the stay.

By this notice, MSHA is clarifying that §§ 75.314, 75.315, and 75.345 will remain in effect until July 1, 1994.

This document is issued under 30 U.S.C. 811.

Dated: June 17, 1993.

**Edward C. Hugler,**

*Acting Assistant Secretary for Mine Safety and Health.*

[FR Doc. 93–14773 Filed 6–22–93; 8:45 am]

BILLING CODE 4510–43–P

## POSTAL RATE COMMISSION

### 39 CFR Part 3001

**[Docket Nos. RM93–2 and MC91–1; Order No. 979]**

### Amendments to Domestic Mail Classification Schedule: Pre-barcoded Flats Discounts, 1991

**AGENCY:** Postal Rate Commission.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the May 5, 1992, decision by the Governors of the Postal Service approving the Commission's Docket No. MC91–1 recommended decision, the Commission is publishing the changes made in the Domestic Mail Classification Schedule (DMCS). As a result of the Docket No. MC91–1 proceeding, a number of changes were made in the classification provisions for postal services. The Commission is also taking this opportunity to correct a number of typographic errors in the

Domestic Mail Classification Schedule as it appears in the Code of Federal Regulations.

**EFFECTIVE DATE:** September 20, 1992.

**ADDRESSES:** Correspondence should be sent to Charles L. Clapp, Secretary of the Commission, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 (telephone: 202/789–6840).

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, Acting Legal Advisor, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 (telephone: 202/789–6820).

**SUPPLEMENTARY INFORMATION:** On June 21, 1991, the Postal Service initiated a proceeding, pursuant to 39 U.S.C. 3622–23, requesting classification and rate changes for certain categories of pre-barcoded flat-shaped mail. The Commission invited interested parties to comment and participate in the proceeding. 56 FR 29983 (July 1, 1992). Twenty-eight intervenors and the Commission's Office of the Consumer Advocate participated. The Commission held three sets of formal, on-the-record hearings, receiving testimony from twelve witnesses. In addition to oral argument, interested parties submitted briefs and reply briefs.

The rate and classification changes provide discounts for mailers of First-, second- and third-class mailers who put a barcode on their flat-size pieces before presenting them for entry into the mailstream. Flats have larger dimensions than letters, but are small enough to be processed through the Postal Service's flat sorting machines. The presence of the barcode assists the Postal Service in its plans to increase efficiency through the use of automation.

The amendments to the DMCS which are published in this order reflect the Governors' decision of May 5, 1992. The Commission is also taking this opportunity to correct a number of typographic errors in the Domestic Mail Classification Schedule as it appears in the Code of Federal Regulations. Consistent with the Commission's explanation in the rulemaking (Docket No. RM85–1) which led to the publication of the DMCS in the Federal Register, this addition is published as a final rule, since procedural safeguards and ample opportunities to have different viewpoints considered have already been afforded to all interested persons.

**List of Subjects in 39 CFR Part 3001**

Administrative practice and procedure, Postal Service.

## PART 3001—RULES OF PRACTICE AND PROCEDURES

1. The authority citation for 39 CFR part 3001 continues to read as follows:

**Authority:** 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662, 84 Stat. 759–762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

### Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

**Appendix A to Subpart C—[Amended]**

The following changes in the Domestic Mail Classification Schedule published as appendix A to subpart C (39 CFR 3001.61 through 3001.68) of the Commission's rules of practice and procedure are adopted:

2. In the table of contents for appendix A, revise the first line to read as follows: General Definitions—Sections .01 through .11.

3. Revise the entry for 500.02 in the table of contents for appendix A to read as follows: 500.02 Description of Services.

4. Under the heading "GENERAL DEFINITIONS," delete the semicolon following "b. The preferred rates" under ".08 Phased Rates."

5. Revise 100.020 to read as follows:

100.020 Regular Mail

Regular First-Class Mail consists of mailable matter posted at First-Class Mail regular rates, weighing 11 ounces or less, and not mailed or eligible for mailing under sections 100.0201, 100.0203, 100.0204, 100.0205, 100.0206, 100.021, 100.0211, or 100.023.

6. Add new 100.0205 and 100.0206 to read as follows:

100.0205 Nonpresorted Pre-barcoded Flats

Nonpresorted pre-barcoded First-Class Mail flats consist of properly prepared First-Class Mail flat size pieces which are presented in mailings of 250 or more pieces, bear a barcode as prescribed by the Postal Service, and meet the flats machinability and address readability specifications of the Postal Service. Such flats must be presented for mailing in a manner which does not require cancellation.

100.0206 Presorted Pre-barcoded Flats

Presorted pre-barcoded First-Class Mail flats consist of properly prepared First-Class Mail flat size pieces which are presented in mailings of 500 or more pieces, bear a barcode as prescribed by the Postal Service, are presorted to the 3⅘-digit ZIP Code level in a manner prescribed by the Postal Service, and meet the flats machinability and address readability specifications of the Postal Service. Such flats must be presented for mailing in a manner which does not require cancellation.

7. In 100.021ciii, delete all the material following "and uniform."

8. Revise 100.041 to read as follows:

100.041 First-Class Mail mailed under sections 100.0203, 100.0204, 100.0206, 100.0214 and 100.0232 must be presorted in accordance with regulations prescribed by the Postal Service.

9. Revise 100.042 to read as follows:

100.042 First-Class Mail mailed under sections 100.0203, 100.0204, 100.0206, 100.0214 and 100.0232 must be prepared as follows:

a. All pieces in a mailing must be presented in a manner specified by the Postal Service that preserves the presort and uniform orientation of the pieces.

b. All pieces in a mailing must bear markings identifying them as presorted First-Class Mail, as required by the Postal Service.

10. Revise 100.047 to read as follows:

100.047 Pieces mailed under sections 100.0201, 100.0202, 100.0203, 100.0204, 100.0205, 100.0206, 100.0211, and 100.023 must be prepared as follows:

a. All pieces in a mailing must be presented in a manner specified by the Postal Service.

b. All pieces in a mailing must bear markings as required by the Postal Service.

c. Pieces not within the same postage increment may be mailed at ZIP + 4 rate category or pre-barcoded ZIP + 4 presorted mail rates or presorted pre-barcoded flat rates only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

d. Pieces mailed at presorted ZIP + 4 rate category or pre-barcoded ZIP + 4 presorted mail rates or presorted pre-barcoded flat rates must be properly prepared and presorted as prescribed by the Postal Service.

11. Revise 100.100 to read as follows:

100.100 A presorted mailing fee as set forth in Rate Schedule 1000 must be paid once each year at each office of mailing by any person who mails presorted mail, including presorted ZIP + 4 rate category mail and pre-barcoded ZIP + 4 presorted mail.

12. Delete the footnote reference "1" in section 200.0201b.

13. Revise the first two sentences of section 200.042 to read as follows:

200.042 First- or third-class mail may be attached to or enclosed with second-class mail if additional postage is paid for the attachment or enclosure as if it had been mailed separately. If postage is not paid at the appropriate First- or third-class rate, the combined piece is subject to the next higher rate which can be applied to the attachment or enclosure. * * *

14. Revise 200.043 to read as follows:

200.043 Second-class mail must be identified as required by the Postal Service.

15. Add a new 200.098 to read as follows:

200.098 Pre-barcoded Flats

Pre-barcoded second-class mail flats which are properly prepared and presorted, which bear a barcode as prescribed by the Postal Service, and which meet the flats

machinability and address readability specifications of the Postal Service, are eligible for the applicable discounts for pre-barcoded second-class flats set forth in Rate Schedules 200, 201, 202, and 203.

16. Revise the second full sentence of 300.02121e to read as follows: "The organization may further and advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests."

17. Revise the first sentence of 300.02122 to read as follows:

300.02122 An organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations may mail only its own matter at these rates. * * *

18. Revise 300.023 to read as follows:

300.023 Bulk Rate Presort Categories

Bulk rate mail sent under section 300.021 must meet the conditions of sections 300.0231, 300.0232, 300.0233, 300.0234, 300.0235, 300.0236, 300.0237, 300.0238, 300.0239, 300.02310, or 300.02311 to be eligible for the applicable presort level rate.

19. Add a new 300.0238 to read as follows:

300.0238 Pre-barcoded Flats

Pre-barcoded third-class mail flats consist of bulk rate third-class mail flat size pieces which are properly prepared and presorted, bear a barcode as prescribed by the Postal Service, and meet the flats machinability and address readability specifications of the Postal Service. Such flats must be presented for mailing in a manner which does not require cancellation.

20. Revise 400.021i to read as follows:

"Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students."

21. Revise the second paragraph of 400.0221 to read as follows:

"The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations:".

22. Revise 400.080c to read as follows:

c. COD.....SS–6

23. Revise the word "through" in 6.0201c to read "though."

24. Revise 14.020 to read as follows:

14.020 Registered mail service is available to mailers of prepaid mail sent under Classification Schedule 100 except that registered mail must meet the minimum requirements for length and width regardless of thickness.

25. Revise 14.023a to read as follows:

"All delivery points because of the high security required for registered mail; in addition, not all delivery points will be available for registry and liability is limited in some geographic areas."

26. Revise the "Letters" section of Rate Schedule 100 to read as follows:

Letters
Nonpresort
  First ounce
  Basic
  ZIP + 4 Letters [2,3]
  Nonstandard surcharge
  Additional ounce [4]
  Pre-barcoded Flats [9]
Presort [5]
  First ounce
  3 and 5 Digit [6]
  Basic
  ZIP + 4 Letters [3]
  Pre-barcoded Letters—3 Digit
  Pre-barcoded Letters—5 Digit
  Pre-barcoded Flats—3/5 Digit
  Carrier Route
Nonstandard Surcharge
Additional ounces [4]
* * * * *

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[1] * * *

[2] Nonpresorted ZIP + 4 mail must be properly prepared and submitted in mailings of at least 250 pieces.

[3] ZIP + 4 mail must be properly prepared and submitted in a single mailing of at least 250 pieces, except where the presort minimum of 500 applies. ZIP + 4 rates are not available for carrier route presort mail.

[4] Rate applies through 11 ounces. Heavier pieces are subject to Priority Mail rates.

[5] For presorted mailings weighing more than 2 ounces, subtract 4.2 cents per piece.

[6] Mail presorted to ZIP code and prepared in mailings of 500 pieces or more as prescribed by the Postal Service.

* * * * *

[9] Nonpresorted pre-barcoded flat mail must be properly prepared and submitted in mailings of at least 250 pieces.

27. Revise the word "Country" in the title of Rate Schedule 200 to read "County".

28. Revise the Automation Discounts section of Rate Schedule 200 to read as follows:

Rate Schedule 200—Second-Class Mail:
* * *
* * * * * *
Automation Discounts for Automation Compatible Mail [10]
From Required:
  ZIP + 4 Letter Size; Piece
  Pre-barcoded Letter Size; Piece
  Pre-barcoded Flats; Piece
From 3/5 Digit:
  ZIP + 4 Letter Size; Piece
  3-Digit Pre-barcoded Letter Size; Piece
  5-Digit Pre-barcoded Letter Size; Piece
  Pre-barcoded Flats; Piece

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* * * * *

[10] For automation compatible mail meeting applicable Postal Service regulations.

29. Revise the Automation Discounts section of Rate Schedule 201 to read as follows:

Rate Schedule 201—Full Rates—* * *
* * * * * *
Automation Discounts for Automation Compatible Mail [4]
From Required:
  ZIP + 4 Letter Size
  5-Digit Pre-barcoded Letter Size
  3/5 Digit Pre-barcoded Flats

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* * * * *

[4] For automation compatible pieces meeting applicable Postal Service regulations.

30. Revise the Automation Discounts section of Rate Schedule 202 to read as follows:

Schedule 202—Full Rates— * * *
* * * * * *
Automation Discounts for Automation Compatible Mail [8]
From Required:
  ZIP + 4 Letter Size; Piece
  Pre-barcoded Letter Size; Piece
  Pre-barcoded Flats; Piece
From 3/5 Digit:
  ZIP + 4 Letter Size; Piece
  3-Digit Pre-barcoded Letter Size; Piece
  5-Digit Pre-barcoded Letter Size; Piece
  Pre-barcoded Flats; Piece

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* * * * *

[8] For automation compatible mail meeting applicable Postal Service regulations.

31. Revise the Automation Discounts section of Rate Schedule 203 to read as follows:

Rate Schedule 203—Full Rates—* * *
Automation Discounts for Automation Compatible Mail [8]
From Required:
  ZIP + 4 Letter Size; Piece
  Pre-barcoded Letter Size; Piece
  Pre-barcoded Flats; Piece
From 3/5 Digit:
  ZIP + 4 Letter Size; Piece
  3-Digit Pre-barcoded Letter Size; Piece
  5-Digit Pre-barcoded Letter Size; Piece
  Pre-barcoded Flats; Piece

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* * * * *

[8] For automation compatible mail meeting applicable Postal Service regulations.

32. Revise the Non-Letter Size section of Rate Schedule 301 to read as follows:

Rate Schedule 301—Third-Class Mail: * * *
* * * * * *1
Non-Letter Size:
  Piece Rate [6]
Discounts (per piece)
Destination Entry
  BMC
  SCF
  Delivery Office [2]
Presort Level
  3/5 Digit
  Carrier Route

125-Piece Walk Sequence
Saturation
Automation [7]
Barcode [4]
Basic
3/5 Digit

[1] All footnotes to appear at end of table.

| | Piece rates (cents) | Pound rates (cents) |
|---|---|---|
| Pound Rate [6] | ..... | ..... |
| Pound Rate plus per Piece Rate | ..... | ..... |
| Discounts | ..... | ..... |
| Destination Entry (per pound) | ..... | ..... |
| BMC | ..... | ..... |
| SCF | ..... | ..... |
| Delivery Office [2] | ..... | ..... |
| Presort Level (per piece) | ..... | ..... |
| 3/5 Digit | ..... | ..... |
| Carrier Route | ..... | ..... |
| 125-Piece Walk Sequence | ..... | ..... |
| Saturation | ..... | ..... |

[1] * * *

[2] Applies only to carrier route presort, 125-piece walk sequence and saturation mail.

* * * * *

[4] Among ZIP + 4 and barcode discounts, only one discount may be applied.

* * * * *

[6] Mailer pays either the piece or the pound rate, whichever is higher.

[7] For flat-size pieces meeting applicable Postal Service regulations.

33. Revise the Non-Letter Size section of Rate Schedule 302 to read as follows:

Rate Schedule 302—Full Rates—* * *

* * * * * [1]

Non-Letter Size
Piece Rate [6]
Discounts (per piece)
Destination Entry:
BMC
SCF
Delivery Office [2]
Presort Level
3/5 Digit
Carrier Route
125-Piece Walk Sequence
Saturation
Automation [7]
Barcode
3/5 Digit

[1] Footnotes to appear at end of table.

| | Piece rate (cents) | Pound rate (cents) |
|---|---|---|
| Pound Rate [6] | ..... | ..... |
| Pound Rate plus Per-Piece Rate | ..... | ..... |
| Discounts | ..... | ..... |
| Destination Entry (per pound): | ..... | ..... |
| BMC | ..... | ..... |
| SCF | ..... | ..... |
| Delivery Office [2] | ..... | ..... |
| Presort Level (per piece) | ..... | ..... |
| 3/5 Digit | ..... | ..... |
| Carrier Route | ..... | ..... |
| 125-Piece Walk Sequence | ..... | ..... |
| Saturation | ..... | ..... |
| Automation (per piece) [7] | ..... | ..... |
| Barcode [4] | ..... | ..... |
| Basic. | | |
| 3/5 Digit. | | |

[1] * * *

[2] Applies only to carrier route presort and saturation mail.

* * * * *

[4] Among ZIP + 4 and barcode discounts, only one discount may be applied.

* * * * *

[6] Mailer pays either the piece or the pound rate, whichever is higher.

[7] For flat-size pieces meeting applicable Postal Service regulations.

Issued by the Commission on June 9, 1993.

Cyril J. Pittack,

*Acting Secretary.*

[FR Doc. 93–14730 Filed 6–22–93; 8:45 am]

BILLING CODE 7710–FW–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CO–930–4210–06; COC–28584]

### 43 CFR Public Land Order 6987

### Opening of Lands, Under Section 24 of the Federal Power Act, in the Executive Order Dated July 2, 1910, Which Established Powersite Reserve No. 92; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order opens, subject to the provisions of Section 24 of the Federal Power Act, 0.96 acre withdrawn by an Executive Order which established Power Site Reserve No. 92. This action will permit disposal of two parcels of land by sale and retain the power rights to the United States. The lands have been and continue to be open to mineral leasing and, under the provisions of the Mining Claims Rights Restoration Act of 1955, to mining.

**EFFECTIVE DATE:** July 23, 1993.

**FOR FURTHER INFORMATION CONTACT:** Bob Barbour, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, 303–239–3708.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, section 24, as amended, 16 U.S.C. 818 (1988), and pursuant to the determinations by the Federal Energy Regulatory Commission in DVCO–537 and DVCO–538, it is ordered as follows:

1. At 9 a.m. on July 23, 1993, the following described parcels of land withdrawn by Executive Order dated July 2, 1910, which established Powersite Reserve No. 92, will be opened to disposal subject to the provisions of section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission in determinations DVCO–537 and DVCO–538, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law:

**Sixth Principal Meridian**

T. 11 S., R. 79 W.,
Sec. 31, lot 79.
T. 13 S., R. 79 W.,
Sec. 24, lot 1 (formerly a part of W½SE¼).

The areas described aggregate approximately 0.96 acre in Lake and Chaffee Counties.

2. The State of Colorado has waived its 90-day preference right to file, under any statute or regulation applicable thereto, an application for a public highway right-of-way or material site for the lands described in this order.

Dated: June 14, 1993.

Bob Armstrong,

*Assistant Secretary of the Interior.*

[FR Doc. 93–14720 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–JB–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 93–45; RM–8186]

### Radio Broadcasting Services; Kealakekua, HI

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 268C1 for Channel 268C3 at Kealakekua, Hawaii, at the request of Visionary Related Entertainment, Inc. See 58 FR 15461, March 23, 1993. Channel 268C1 can be allotted to Kealakekua in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.8 kilometers (13.6 miles) north of the community. The coordinates for Channel 268C1 at Kealakekua are North Latitude 19–42–56 and West Longitude 155–55–00. With this action, this proceeding is terminated.

**DATES:** Effective August 2, 1993.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 93–45, adopted June 4, 1993, and released June 17, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 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, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

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

Radio broadcasting.

**PART 73—[AMENDED]**

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 268C3 and adding Channel 268C1 at Kealakekua.

Federal Communications Commission.

**Michael C. Ruger,**

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

[FR Doc. 93–14701 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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**47 CFR Part 73**

**[MM Docket No. 92–204; RM–8058, RM–8081, RM–8126]**

## Radio Broadcasting Services; Chenoa, Lincoln and Pontiac, IL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 230B1 for Channel 230A at Lincoln, Illinois, and modifies the license for Station WESZ(FM) to specify operation on Channel 230B1; and substitutes Channel 229B1 for Channel 229A at Pontiac, Illinois, and modifies the license for Station WJEZ(FM) to specify operation on Channel 229B1 at the request of L & M Broadcasting Company, Inc. and Livingston County Broadcasters, Inc., respectively. See 57 FR 41912, September 14, 1992. Channel 230B1 can allotted to Lincoln in compliance with the Commission's minimum distance separation requirements with a site restriction 19.1 kilometers (11.9 miles) southwest in order to avoid a short-spacing to Station WKZW(FM), Channel 227B, Peoria, Illinois. The coordinates for Channel 230B1 at Lincoln are North Latitude 40–00–00 and West Longitude 89–29–00. Channel 229B1 can be allotted to Pontiac in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.2 kilometers (8.2 miles) south, in order to avoid short-spacing to Station WJTW(FM), Channel 228A, Joliet, Illinois, and Station WGFA(FM), Channel 231B, Watseka, Illinois. The coordinates for Channel 229B1 at Pontiac are North Latitude 40–45–53 and West Longitude 88–35–28. With this action, this proceeding is terminated.

**DATES:** Effective August 2, 1993.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 92–204, adopted June 4, 1993, and released June 17, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 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, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street, NW., suite 140, Washington, DC 20037.

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

Radio broadcasting.

**PART 73—[AMENDED]**

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 230A and adding Channel 230B1 at Lincoln, and by removing Channel 229A and adding Channel 229B1 at Pontiac.

Federal Communications Commission.

**Michael C. Ruger,**

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

[FR Doc. 93–14703 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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**47 CFR Part 73**

**[MM Docket No. 93–83; RM–8191]**

## Radio Broadcasting Services; Pocomoke City, MD

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 223A to Pocomoke City, Maryland, as that community's second FM service, in response to a petition filed by Robert L. Purcell. See 58 FR 16644, March 30, 1993. The coordinates for Channel 223A at Pocomoke City are 38–04–30 and 75–34–12. With this action, this proceeding is terminated.

**DATES:** Effective August 2, 1993. The window period for filing applications for Channel 223A at Pocomoke City, Maryland, will open on August 3, 1993, and close on September 2, 1993.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 93–83, adopted June 7, 1993, and released June 17, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, NM, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

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

Radio broadcasting.

**PART 73—[AMENDED]**

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by adding Channel 223A at Pocomoke City.

Federal Communications Commission.

**Michael C. Ruger,**

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

[FR Doc. 93–14698 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 921106–3100; 020893B]

American Lobster Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing Amendment 3 to the American Lobster Fishery Management Plan (FMP). This rule modifies the language of the existing regulations to allow lobster traps not constructed entirely of wood to contain a ghost panel with a specified degradable door fastener. The intent is to provide codified regulations to replace an interim action that is effective through July 1, 1993.

EFFECTIVE DATE: July 1, 1993.

ADDRESSES: Copies of Amendment 3, which incorporates the environmental assessment and the regulatory impact review, are available from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (U.S. Rt. 1), Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones (Resource Policy Analyst, Northeast Region, NMFS), 508–281–9273.

SUPPLEMENTARY INFORMATION: The American lobster fishery is managed under the FMP prepared by the New England Fishery Management Council (Council) and its implementing regulations at 50 CFR part 649 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations governing the American Lobster FMP require that lobster traps contain a ghost panel to allow for the escapement of lobster after a trap has been abandoned or lost. Section 649.21(d)(1)(iii) allows the use of the door of the lobster trap to serve as the ghost panel if fastened with a material described in § 649.21(d)(1)(ii); and § 649.21(d)(2) provides the Director, Northeast Region, NMFS (Regional Director), the authority to approve alternative designs and/or materials, at the request of, or after consultation with, the Council's Lobster Oversight Committee (Committee).

This alternative will allow lobster fishermen to comply with the degradable escape panel requirements and allow escapement of lobster after a trap has been abandoned or lost, as well as codify the fastening alternative to the ghost panel regulations. An interim rule was published in the **Federal Register**, (57 FR 30684, July 10, 1992) to implement this alternative, and a regulatory amendment was proposed to provide codified regulations to replace the interim action (57 FR 58781, December 11, 1992). The background and the process followed to authorize this procedure was discussed in the preamble to the proposed rule on December 11, 1992, and is not repeated here.

**Comments and Responses**

No comments were received during the comment period.

**Classification**

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary for the conservation and management of the American lobster fishery and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that this rule is consistent with the FMP. The economic effects of this rule on fishermen are contained within the Regulatory Impact Review (RIR) for Amendment 3. This rule further clarifies the intent of the regulations that implemented Amendment 3. A determination was made for the final rule for Amendment 3 from review of the RIR that the rule was not a major rule under Executive Order 12291.

An environmental assessment (EA) was prepared which concluded that the regulations will not have a significant adverse effect upon the human environment. This rule does not alter the scope or intent of Amendment 3, and the effects of this rule are contained in the EA for Amendment 3. Therefore, this action is categorically excluded from the requirement to prepare an EA by NOAA Administrative Order 216–6.

The General Counsel of the Department of Commerce has concluded that this regulation would not have a significant economic impact on a substantial number of small entities.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator has determined that this rule is consistent with the approved Coastal Zone Management Program of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. The reason for this determination is that this rule agrees with the intent of the final rule for Amendment 3 implementing the ghost panel requirements. Thus, it was not necessary to submit this rulemaking for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain regulatory provisions with federal implications sufficient to warrant preparation of a federalism assessment.

The Assistant Administrator has determined that good cause exists to make this final rule effective on July 1, 1993, pursuant to section 553(b)(B) of the Administrative Procedure Act, thereby waiving part of the 30-day delayed effectiveness period required by section 553(d) of the Administrative Procedure Act. Lobster fishermen are already familiar with the regulation because it was implemented on a temporary basis from July 10, 1992, through July 1, 1993. A 30-day delay in the implementation of this rule would interrupt continuity in the fishery. There is also good cause to waive part of the 30-day cooling off period before the effectiveness of this rule because it relieves a restriction on lobster fishermen by offering an alternative to the fastener requirement for lobster traps on a permanent basis.

**List of Subjects in 50 CFR Part 649**

Fisheries.

Dated: June 17, 1993.

**Samuel W. McKeen,**

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 649 is amended as follows:

## PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for 50 CFR part 649 continues to read as follows:

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

2. In § 649.21 paragraph (d)(1)(iii) is revised to read as follows:

**§ 649.21 Gear identification and marking, escape vent, and ghost panel requirements.**

* * * * *

(d) * * *

(1) * * *

(iii) The door of the trap may serve as the ghost panel if fastened with:

(A) A bungee cord that is attached with untreated non-stainless/uncoated ferrous metal not greater than 3/32 inches (0.24 cm) in diameter which can serve as the fastener of the trap door. The bungee cord must be attached so that when the untreated material degrades, the door of the trap will pivot open freely; or

(B) A material specified in paragraph (d)(1)(ii) of this section.

* * * * *

[FR Doc. 93–14775 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–22–M

## 50 CFR Part 672

[Docket No. 921107–3068; I.D. 061793C]

## Groundfish of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing the directed fishery for pollock in Statistical Area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second quarterly allowance of the total allowable catch (TAC) for pollock in this area.

**EFFECTIVE DATE:** 12 noon, Alaska local time (A.l.t.), June 18, 1993, through 12 noon, A.l.t., July 1, 1993.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586–7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The second quarterly allowance of pollock TAC in Statistical Area 62 is 5,918 metric tons (mt), determined in accordance with § 672.20(a)(2)(iv).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1993 second quarterly allowance of pollock TAC in Statistical Area 62 will soon be reached. The Regional Director established a directed fishing allowance of 5,326 mt, and has set aside the remaining 592 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, directed fishing for pollock in Statistical Area 62 is prohibited, effective from 12 noon A.l.t., June 18, 1993, through 12 noon, A.l.t., July 1, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

### Classification

This action is taken under 50 CFR 672.20, and is in compliance with E.O. 12291.

### List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: June 17, 1993.

**David S. Crestin,**

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

[FR Doc. 93–14774 Filed 6–18–93; 1 10 pm]

BILLING CODE 3510–22–M

# Proposed Rules

Federal Register
Vol. 58, No. 119
Wednesday, June 23, 1993

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.

## FARM CREDIT ADMINISTRATION

### 12 CFR Ch. VI

### Statement on Regulatory Burden

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of intent; request for comment.

**SUMMARY:** The Farm Credit Administration is requesting comments regarding the appropriateness of the requirements it imposes on the Farm Credit System. This action is being taken to improve the regulatory environment in which the Farm Credit System operates. Comments are sought on the requirements that duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived.

**DATES:** Comments must be submitted on or before September 21, 1993.

**ADDRESSES:** Comments should be mailed or delivered (in triplicate) to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all comments received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:** Eric Howard, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4481, TDD (703) 883–4444.

**SUPPLEMENTARY INFORMATION:** The Farm Credit Administration (FCA) is the Federal agency responsible for regulating the institutions that comprise the Farm Credit System (FCS). As a government-sponsored enterprise (GSE), the FCS primarily provides loans to farmers, ranchers, aquatic producers, and agricultural cooperatives. The FCS institutions also provide loans for rural housing and rural utilities.

Several Federal regulatory agencies responsible for the commercial banking and savings and loan industries recently announced plans to reduce loan documentation requirements for their highest quality lenders. They did so in response to expressed concerns that certain regulatory requirements have contributed to limited credit availability. Specifically, the concern is that the financial regulators have gone too far in their efforts to promote safety and soundness by making loan documentation and other requirements too burdensome, resulting in (1) A significant financial cost to lenders, and (2) an increased reluctance to lend. The Board of the FCA has considered whether or not it should adopt an approach similar to that recently adopted by the other regulators.

The FCA Board has decided to focus its attention on the broader concerns of the efficiency and the cost effectiveness of regulation of the FCS in general. Marginal modifications to the loan documentation program for a select few institutions do not seem to adequately address the problems and needs of the FCS. Moreover, the FCS, as a GSE, has statutory limitations on the use of its funds, making it difficult to correlate loan documentation that varies from institution to institution and from borrower to borrower, to a reluctance to lend money. Accordingly, the FCA is interested in hearing from the public, as outlined in this statement, about requirements it imposes that duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived.

#### Loan Documentation

The FCA is interested in identifying those documents required by the FCA that exceed those necessary to carry out the Farm Credit Act of 1971, as amended, in a safe and sound manner. We request the comments focus on the FCA regulations, bookletters, or examination guidance that impose excess loan documentation requirements, as opposed to statutory requirements or lender procedures that the FCA does not control. For comments to be most helpful, they should be specific and identify the burden created by the documentation requirement. Commenters are asked to suggest alternatives to existing regulations and procedures that could achieve safe and sound underwriting objectives more efficiently.

#### Regulatory Burden

Efforts to reduce unnecessary regulatory burden have been underway for some time. For example, the FCA has reduced the number of matters requiring its "prior approval" by more than 70 percent over the last 5 years. Most remaining matters requiring agency "prior approval," such as charter and funding approvals, are required by statute. Nevertheless, the FCA continues to be interested in learning of any regulatory requirements that the public believes are duplicative, unneeded, or not cost justified.

Please note that there are some regulations which have been through a comment period. Also, a number of the FCA's regulations have recently been published for a public comment period or are about to be published for public comment. These regulations are described below. The FCA would like to receive comments on the regulatory burden of the listed regulations during their designated comment periods. Comments on the effect of other regulations would be especially helpful at this time as the FCA seeks to reduce regulatory burden.

REGULATIONS UNDER CONSIDERATION

| Issue | Explanation | Progress to date | Next action expected |
|---|---|---|---|
| Capital Regulation ..... | Would implement permanent capital-related provisions of the statute pertaining to agreements between Farm Credit Banks and associations on where to count certain allocated equities, held by the Farm Credit Banks, for purposes of computing permanent capital. | The FCA Board adopted the proposed rule in May 1993. | The regulation will be published for a 30-day public comment period in mid-June, and the Board expects to vote on the final rule in the fall of 1993. |
| Other High Risk Assets .. | Would update accounting and reporting requirements, promote consistency with industry practices, and ensure that the regulations are consistent with GAAP. The proposed regulations eliminate the term "nonperforming" and the categories of "other high risk loans" and "other restructured and reduced rate loans.". | An announcement of proposed rulemaking was published in late 1992, comments were received and considered by the agency. The proposed regulation was published for a 30-day public comment period which closes on July 8, 1993. (58 FR 32071). | The Board expects to vote on the final regulation in the fall of 1993, to be effective December 31, 1993. |
| General Financing Agreements. | Would clarify existing regulations to provide uniform guidelines for developing and executing general financing agreements between Farm Credit Banks and direct lending institutions. | Three meetings held—one with association representatives and two with bank representatives in 1992. | A regulatory impact analysis is in progress and the Board anticipates considering the proposed regulation in the fall of 1993. |
| Distressed Loan Notification. | Would amend the regulations regarding the content of borrower rights notices for distressed loans. | The Board adopted the proposed rule in June 1993. It will be published for a 30-day public comment period in mid-July 1993. | The Board expects to vote on a final regulation in the fall of 1993. |
| Termination of Large Associations and Banks. | Would establish regulations under which a bank or large association could terminate its charter as provided for in the Farm Credit Act of 1971, as amended. | The Board adopted the proposed rule in February 1993. The comment period closed in April 1993. (58 FR 15099). | The Board will consider a resolicitation of public comments on the proposed regulation. |

In a related matter, other financial regulators proposed to modify their appraisal rules, (Real Estate Appraisals, 58 FR 31878, June 4, 1993). The FCA Board has directed staff to (1) Analyze this proposal and report to the Board by July 15, 1993, on how the proposed amendments impact the regulated institutions and (2) recommend proposals appropriate to the FCS.

**Information Requirements**

Finally, the FCA believes that a key issue for the FCS is the data which must be provided by the FCS institutions to the FCA on a periodic basis. It has been some time since a comprehensive review of the reporting requirements has been undertaken. In some cases, this data is specifically required by statute. It should be noted that the FCA is in the very early stages of a review of information reporting requirements; nevertheless, we are interested in any preliminary comments you might have as they will assist us in planning our future activities.

In conclusion, the FCA believes that the efforts outlined above, in conjunction with those already underway, will work to improve the regulatory environment within which the FCS must operate by targeting areas for more focused study and revising rules where comments present strong evidence that an FCA requirement is unjustified.

Date: June 16, 1993.

**Curtis M. Anderson,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 93–14583 Filed 6–22–93; 8:45 am]

BILLING CODE 6705–01–P

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**12 CFR Part 615**

**[RIN 3052–AB44]**

## Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations

**AGENCY:** Farm Credit Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes for public comment amendments to part 615 relating to the components of permanent capital for Farm Credit System (Farm Credit or System) banks and associations. These proposed regulations implement amendments to the Farm Credit Act of 1971 (1971 Act), made by the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act). The effect of the proposed regulations is to establish requirements for the agreement between a Farm Credit Bank (FCB) and its related direct lender associations specifying where the earnings held by the FCB and allocated to associations may be counted as permanent capital, specify how these earnings would be counted in the absence of an agreement, provide a date certain for the exclusion from capital of payments by Farm Credit institutions to the Farm Credit System Financial Assistance Corporation (FAC) made in connection with the repayment of Treasury-paid interest, and make other conforming changes to implement the statutory amendments.

**DATES:** Comments must be received by July 22, 1993.

**ADDRESSES:** Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested

parties in the Office of Examination, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:** Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

**SUPPLEMENTARY INFORMATION:** Section 4.3(a) of the 1971 Act requires the FCA to cause System institutions to achieve and maintain adequate capital by establishing minimum levels of permanent capital for System institutions. On September 28, 1988, the Board adopted final regulations amending 12 CFR part 615 that, among other things, established such minimum permanent capital standards. See 53 FR 39229 (October 6, 1988).

Section 615.5210 of those regulations sets forth the method for the computation of the permanent capital ratio. Paragraph (d)(2) provides that, until the end of 1997, an FCB and the direct lender associations in its district may adopt a districtwide plan specifying a percentage allocation of an association's investment in the bank between the bank and the association for the sole purpose of computing the permanent capital ratio. The regulation establishes what the minimum percentage allocation to the bank will be in the years 1993 through 1997. After 1997, all of the association's investment in the bank is considered to be capital of the bank in the permanent capital ratio computation.

On August 13, 1992, the FCA Board suspended those provisions of § 615.5210(d)(2) pertaining to the percentage allocation. See 57 FR 38250 (August 24, 1992). The suspension became effective on October 7, 1992. On October 28, 1992, the 1992 Act was enacted. Section 101 of the 1992 Act amended the definition of "permanent capital" in section 4.3A(a)(1)(B) of the 1971 Act to provide that "earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient." A further amendment to the statutory definition of permanent capital added subparagraph (E) in section 4.3A(a)(1), which authorizes the FCA to define as permanent capital "any debt or equity instruments or other accounts that the [FCA] determines appropriate to be considered permanent capital."

Section 301 of the 1992 Act added section 6.9(e)(3)(D) to the 1971 Act to require each bank to enter into or continue an agreement with the FAC under which the bank will make annual annuity-type payments to the FAC in connection with the Capital Preservation Agreements. Subparagraph (D)(ii) provides that the agreement "shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly."

Section 304 of the 1992 Act amended section 6.26(c)(5) of the 1971 Act to require banks to make annual annuity-type payments to the FAC in connection with the FAC's repayment of Treasury-paid interest. An FCB may (and must, if necessary to enable the bank to satisfy its obligations) pass on to its related associations all or part of the assessments "either directly, or indirectly through loan pricing or otherwise," based on the proportionate average accruing retail loan volumes for the preceding year. Subparagraph (G) of that section provides that, until the date that is 5 years prior to the date on which the FAC is required to repay the Secretary of the Treasury for Treasury-paid interest, *i.e.*, until September 27, 2005, all assessments paid by banks to the FAC for the purpose of repaying the Treasury-paid interest, and any part of the obligation to pay future assessments that is recognized as an expense on the books of any System bank or association, shall be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements. Furthermore, 100 percent of the expenses paid or booked will be treated as capital from now until September 27, 2000. In the subsequent 2 years, 60 percent and 30 percent, respectively, will be included; after September 27, 2002, no part of such payments or future payments will be included in capital.

To implement these statutory changes, the Board proposes the following amendments to the regulations:

*A. Allocation Agreement*

Under the amendments made by 1992 Act, FCBs and direct lender associations may continue to utilize the allocation agreements permitted by existing regulations, but they also have some flexibility to make other arrangements. In addition, the 1992 Act authorizes Federal land bank associations, as well as direct lender associations, to enter into agreements with the FCB.

1. *Individual association agreements.* Whereas the existing regulation requires the allocation plan to be on a districtwide basis, the 1992 Act authorizes each individual association to enter into an agreement with its affiliated bank. This means that the terms and conditions of the agreements to which the FCB is a party, particularly the term specifying a percentage allocation, may vary from association to association. For this reason, § 615.5210(e)(2)(ii)(D) of the proposed regulations provides that each agreement must be disclosed to all affiliated associations that are not parties to the agreement. The Board believes that such disclosure among all of these associations will result in an equitable treatment of all parties to the agreements.

The Board notes that neither the 1992 Act nor the proposed regulations would prohibit an FCB and its affiliated associations from entering into or continuing a districtwide agreement.

2. *Application of agreement to allocated equities only.* The allocation agreements permitted by the 1992 Act pertain to allocated earnings, not purchased equities. Therefore, § 615.5210(e)(2)(i) of the proposed regulation continues the existing requirement that all equities of an FCB that have been purchased by other Farm Credit institutions must be counted as capital by the FCB.

3. *Term of agreement.* The proposed regulation would permit agreements for a period of 1 or more years, to be entered into at least 30 days prior to, and commencing on the first day of, the second quarter of the bank's fiscal year. If no agreement is signed at least 30 days prior to the expiration of an existing agreement, and if neither party notifies the FCA of its objection, the existing allocation agreement would be automatically extended for 1 additional year. If one party does notify the FCA of its objection, the agreement would not be extended. Should this occur, the allocation would be determined according to the formula as discussed below.

4. *Amendments.* An agreement may not be amended more frequently than annually, unless the prior written approval of the FCA is received. The Board anticipates that it would grant such approval only under extraordinary circumstances, such as a reorganization or merger of the institutions involved. However, as described more fully below, the parties may be required to

amend their percentage allocation in order to enable a bank to make a payment to the FAC in connection with the Capital Preservation Agreements.

5. *Absence of agreement.* While the Board contemplates that FCBs and direct lender associations will enter into allocation agreements, some institutions may be unable to reach agreement. The existing regulation provides that, in the absence of an allocation agreement, 20 percent of the allocated investment shall be counted as permanent capital for the purpose of computing the permanent capital ratio of the FCB and the remaining 80 percent is counted as permanent capital of the association. This provision was originally intended to be in effect only from 1988 until the end of 1992. It is the Board's view that this allocation for nonagreeing associations is appropriate as a temporary arrangement, but that a permanent provision should be more flexible. Therefore, the Board proposes to replace the existing percentage allocation with a formula whose primary objective is to enable each institution to meet its minimum permanent capital requirement to the extent possible.

The proposed formula would first allot the allocated investment based on what each institution needs to bring its permanent capital ratio to 7 percent. Any remaining amount of allocated investment would then be equally divided between the bank and the association. However, in the event that it is not possible to bring the permanent capital ratios of the FCB and each nonagreeing association up to at least 7 percent, the bank would have priority in achieving the minimum capital requirement based on a *pro rata* allotment from nonagreeing associations.

In the absence of an agreement, there are good reasons for allocating the investment so that the bank reaches its minimum capital requirement. First, a failure of the FCB to meet its minimum permanent capital requirement could have a potential adverse impact on funding costs for the entire System. Second, ensuring service continuity within a district is important. There is no reason to disrupt the operations of an entire district when a limited number of associations fail to agree on an allotment formula and have an equity position below the regulatory minimum. Third, the failure of a FCB to meet minimum capital requirements could have an adverse impact on the operations of any agent Federal land bank association (FLBA) in the district. The prohibition on retirement of the FCB stock in such circumstances would mean that no pass-through stock purchased in connection with a loan made through an FLBA could be retired; consequently, the FLBA would probably be unable to retire a borrower's FLBA stock. Finally, there could also be an adverse impact on all the associations in the district if the FCB's permanent capital ratio dropped below 7 percent because the banks' Contractual Interbank Performance Agreement could require the FCB to make penalty payments to the FAC that may never be reimbursed. Thus, it is in the best interest of the System to have the capital allocated to the bank to the extent necessary to enable it to meet its minimum permanent capital requirements.

The Board recognizes that the inability of an association to meet its minimum permanent capital ratio could adversely affect the operations of that association, by for example, preventing the association from redeeming its stock, which could result in some borrower flight. Nonetheless, it is the Board's view that the potential detrimental effects on the district as a whole are greater when the FCB fails to meet its minimum permanent capital requirement than when individual associations fall below the minimum requirement.[1] Consequently, it is appropriate to prefer the FCB over individual associations when there is not enough capital for the FCB and all nonagreeing associations to have permanent capital ratios of at least 7 percent.

The proposed formula would operate as outlined in the following steps:

*Step 1.* The permanent capital ratio of the FCB would be calculated, including all of the allocated investments it may count as capital under existing allocation agreements but excluding the allocated investments of all nonagreeing associations. The permanent capital ratio of each nonagreeing association would be calculated excluding any of its allocated investment.

*Step 2.* If, under these calculations, the FCB's permanent capital ratio is 7 percent or above, the allocated investment of each nonagreeing association whose ratio is 7 percent or above would be evenly split between the FCB and the association. The allocated investment of each nonagreeing association whose ratio is below 7 percent would be attributed to the association until the association's ratio reaches 7 percent or all of the investment is attributed to the association, whichever occurs first, and any remaining investment would be evenly split between the FCB and the association.

*Step 3.* If the FCB's permanent capital ratio is below 7 percent when calculated according to step 1, a proportionate amount of each nonagreeing association's allocated investment would be attributed to the FCB sufficient to raise the FCB's capital ratio to 7 percent.[2] Then, with respect to each nonagreeing association, a sufficient amount of the allocated investment not yet attributed, if any, would be attributed to the association to raise the association's capital ratio to 7 percent or until all the remaining allocated investment is attributed, whichever occurs first. If there is any remaining allocated investment after the FCB and the nonagreeing association have each met the minimum capital requirements, such remainder would be divided evenly between the FCB and association for capital computation purposes.

The Board wishes to emphasize that the proposed allocation formula would be applied only to associations that have not entered into allocation agreements with the FCB. The formula has no direct impact on associations that have entered into agreements with the FCB and does not affect the allocations set forth in those agreements.

The Board also considered other formulas for determining where capital would be counted in the absence of an allocation agreement. One formula would, in effect, equalize the capital ratios of the FCB and the nonagreeing associations to the extent possible; the advantage of this option would be that it favors neither the bank nor the associations. Another formula would, like the formula in the proposed regulation, first provide that the FCB meets its minimum capital requirements when possible, but would also ensure that the largest possible number of nonagreeing associations meet their minimum capital requirements. In other words, this formula would potentially require a proportionately larger allotment to the FCB from well-capitalized associations than from poorly capitalized associations in order to enable such associations to keep their

[1] The Board notes that a large majority of associations currently meet the 7-percent capital requirement even when an amount of capital equal to their investment in the bank is excluded. Such associations are less likely to be affected than other associations by a formula that ultimately favors the bank.

[2] The total amount required for the FCB to reach the minimum capital ratio would be computed, as well as the percentage that amount represents of the total allocated investments of all nonagreeing associations. That percentage of each nonagreeing association's allocated investment would be attributed to the FCB.

permanent capital ratios above 7 percent.

In selecting the proposed formula, the Board has attempted to balance the various interests of the institutions involved, as well as the district as a whole, without making the allocation process too unwieldy. However, the Board recognizes that any means of determining where capital will be counted in the absence of an agreement may have the effect of providing incentives to one party or the other to enter into an agreement or to reject an agreement. Therefore, the Board specifically seeks comment on the proposed formula for the allocation and also seeks suggestions regarding other ways to allocate the capital in the absence of an agreement, such as, for example, using the alternative formulas described in the previous paragraph; mandating that the FCA shall make the decision as to where capital would be counted; or using a straight percentage allocation that would achieve the Board's objectives consistent with the Act. Should suggestions be made about other methods of allocation, the Board requests that the commenter provide any necessary procedural details.

6. *Assessments paid to the FAC in connection with the Capital Preservation Agreements.* The 1992 Act permits an FCB to skip a payment to the FAC in connection with the FAC's payment of the Capital Preservation Agreements if the payment would cause the bank to fail to meet its minimum permanent capital standards. If a payment is not made, there must be a recalculation of subsequent payments to make up for it. While the Board does not think it likely, an agreement could allot such a large percentage of the associations' investments to the associations that the bank would be unable to make—or would be able to avoid making—the annual payment to the FAC. Consequently, § 615.5210(e)(2)(ii)(G) of the proposed regulations provides that the bank and the association must re-allot the investment to enable the FCB to pay the assessment, provided that the association would still be able to meet its own minimum capital standards. The FCA Board may, at the request of one of the parties, waive this requirement. The FCA Board specifically seeks comments on this proposal.

7. *Other recipients.* The amendment to the definition of "permanent capital" refers to earnings allocated by a "System bank" to associations and "other recipients." Since FCBs allocate earnings to other financing institutions (OFIs), FCBs are now permitted to enter into agreements with affiliated OFIs specifying which institution counts the investment as permanent capital. Furthermore, the reference to "other recipients" could include not just OFI relationships, but also certain relationships between System institutions. The statutory term "System bank" could include a bank for cooperatives (BC) as well as an FCB, and the term "other recipient" could, arguably, include another System institution that is not an association. Thus, the new statutory language covers a situation where an FCB or a BC has a stock investment in another FCB or another BC.

Therefore, proposed § 615.5210(e)(3) provides that, when a System bank and an "other recipient" enter into an allocation agreement, the provisions that apply to an FCB/association agreement are also applicable to such agreement. However, in the absence of an agreement, 100 percent of the allocated investment would be included in the capital of the allocating bank.

*B. Payments to the FAC*

1. *Assessments paid to the FAC in connection with the Capital Preservation Agreements.* This is discussed under item 6 above.

2. *Assessments paid or booked as expenses in connection with Treasury-paid interest.* As described above, all assessments paid or booked to repay the FAC for Treasury-paid interest may be fully included as capital by banks or associations (where the bank has "passed through" the assessment) until September 2000, and part of the assessments are included in capital until 2002. Part or all of the assessments may be passed on by FCBs to their affiliated associations, either directly or indirectly (through loan-pricing or otherwise). If a bank passes on the cost of the assessment directly to an association, the portion of the bank's assessment that may be included in the association's capital (and that may not be included in the bank's capital) will be the amount paid by the association. The Board notes that, if the cost of the bank's assessment is passed on to the association indirectly, this amount must be reported in the Call Reports of both the bank and the association.

*C. Definition of Permanent Capital*

The Board proposes to revise the definition of permanent capital in existing § 615.5201(h) to implement the changes to the statutory definition of permanent capital made by the 1992 Act. As stated above, the FCA now has authority to define as permanent capital any debt or equity instruments or other accounts that it determines are appropriate to be considered as permanent capital. At this time, the Board does not believe that any debt or equity presently issued and outstanding, other than that already considered to be permanent capital, has the requisite "permanence" to be considered as permanent capital. However, it has provided in the proposed regulation that, if the FCA deems such inclusion appropriate on a case-by-case basis, financial assistance that may be provided in the future by the Farm Credit System Insurance Corporation (FCSIC), pursuant to the FCSIC's authority under section 5.61(a)(1) of the Act, will be considered to be permanent capital.

Furthermore, the Board is considering specifying by regulation that subordinated debt or other securities issued by a Farm Credit institution to the FCSIC will be considered to be permanent capital. The Board solicits comments on the appropriateness of designating these securities as permanent capital and, if so, what types of requirements and limitations might also be appropriate. The Board also seeks comments on whether there are other debt or equity instruments or other accounts, other than those issued to the FCSIC, that could appropriately be defined by regulation to be permanent capital.

**List of Subjects in 12 CFR Part 615**

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

## PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. The authority citation for part 615 continues to read as follows:

**Authority:** Secs. 1.5, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26 of the Farm Credit Act; 12 U.S.C. 2013, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6; sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

### Subpart H—Capital Adequacy

2. Section 615.5201 is amended by redesignating paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) as paragraphs (b), (c), (d), (e), (f), (g), (i), (j), (k), (l), (m), and (n) consecutively; adding new paragraphs (a) and (h); and

revising newly designated (j) to read as follows:

**§ 615.5201 Definitions.**

* * * * *

(a) *Allocated investment* means earnings allocated by a System bank to an association or other recipient and retained by the bank.

* * * * *

(h) *Nonagreeing association* means an association that has not entered into an allocation agreement with a Farm Credit Bank pursuant to § 615.5210(e).

* * * * *

(j) *Permanent capital* means—

(1) Current year retained earnings;

(2) Allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(3) All surplus;

(4) Stock issued by a System institution, except—

(i) Stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder;

(ii) Stock that is protected under section 4.9A of the Act or is otherwise not at risk;

(iii) Preferred stock issued to the Farm Credit System Financial Assistance Corporation to the extent it is issued to offset an impairment of equities protected under section 4.9A of the Act;

(iv) Farm Credit Bank equities required to be purchased by Federal land bank associations in connection with stock issued to borrowers that is protected under section 4.9A of the Act;

(v) Capital subject to revolvement, unless:

(A) The bylaws of the institution clearly provide that there is no express or implied right for such capital to be retired at the end of the revolvement cycle or at any other time; and

(B) The institution clearly states in the notice of allocation that such capital may only be retired at the sole discretion of the board in accordance with statutory and regulatory requirements and that no express or implied right to have such capital retired at the end of the revolvement cycle or at any other time is thereby granted;

(5) Payments to, or obligations to pay, the Farm Credit System Financial Assistance Corporation to the extent permitted by section 6.26(c)(5)(G) of the Act and § 615.5210(d); and

(6) Financial assistance provided by the Farm Credit System Insurance Corporation that the Farm Credit Administration determines appropriate to be considered permanent capital.

* * * * *

3. Section 615.5210 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (f); adding a new paragraph (d); and revising newly designated paragraphs (e)(2) and (e)(3) to read as follows:

**§ 615.5210 Computation of the permanent capital ratio.**

* * * * *

(d) Until September 27, 2002, payments of assessments to the Farm Credit System Financial Assistance Corporation, and any part of the obligation to pay future assessments to the Farm Credit System Financial Assistance Corporation that is recognized as an expense on the books of a bank or association, shall be included in the capital of such bank or association for the purposes of determining its compliance with regulatory capital requirements, to the extent allowed by section 6.26(c)(5)(G) of the Act. If the bank indirectly passes on all or part of the payments to its affiliated associations pursuant to section 6.26(c)(5)(D) of the Act, such amounts shall be included in the capital of the associations and shall not be included in the capital of the bank. After September 27, 2002, no payments of assessments or obligations to pay future assessments may be included in the capital of the bank or association.

(e) * * *

(2) Where a Farm Credit Bank is owned by one or more Farm Credit System institutions, the double counting of capital shall be eliminated in the following manner:

(i) All equities of a Farm Credit Bank that have been purchased by other Farm Credit institutions shall be considered to be permanent capital of the bank.

(ii) Each Farm Credit Bank and each of its affiliated associations may enter into an agreement that specifies, for the purpose of computing permanent capital only, a percentage allotment of the association's allocated investment between the bank and the association. The following conditions shall apply:

(A) The agreement shall be for a term of 1 or more years and shall become effective on the first day of the second quarter of the bank's fiscal year.

(B) The agreement shall be entered into at least 30 days prior to the beginning of the second quarter of the bank's fiscal year.

(C) The agreement may be amended according to its terms, but no more frequently than annually without the prior written approval of the Farm Credit Administration.

(D) A certified copy of the agreement, and any amendments thereto, shall be forwarded to the office of the Farm Credit Administration responsible for examining the institution within 3 days of adoption of the agreement or any amendments by the Farm Credit Bank and the association. A copy shall also be sent within 3 days of adoption to the bank's other affiliated associations.

(E) If the bank and the association have not entered into a new agreement at least 30 days prior to the expiration of an existing agreement, the existing agreement shall automatically be extended for another fiscal year, unless either party notifies the Farm Credit Administration of its objection to the extension prior to the beginning of such fiscal year.

(F) In the absence of an agreement between a Farm Credit Bank and one or more associations, or in the event that an agreement expires and at least one party objects to the continuation of the terms of its agreement, the following formula shall be applied with respect to the allocated investments held by those associations with which there is no agreement (nonagreeing associations), and shall not be applied to the allocated investments held by those associations with which the bank has an agreement (agreeing associations):

(*1*) The permanent capital ratio of the Farm Credit Bank shall be computed excluding the allocated investment from nonagreeing associations but including any allocated investments of agreeing associations that are attributed to the bank under such allocation agreements. The permanent capital ratio of each nonagreeing association shall be computed excluding its allocated investment in the bank.

(*2*) If the permanent capital ratio for the Farm Credit Bank calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is 7 percent or above, the allocated investment of each nonagreeing association whose permanent capital ratio calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is 7 percent or above shall be attributed 50 percent to the bank and 50 percent to the association.

(*3*) If the permanent capital of the Farm Credit Bank calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is 7 percent or above, the allocated investment of each nonagreeing association that is below 7 percent shall be attributed to

the association until the association's capital ratio reaches 7 percent or until all of the investment is attributed to the association, whichever occurs first. Any remaining unattributed allocated investment shall be attributed 50 percent to the Farm Credit Bank and 50 percent to the association.

(*4*) If the permanent capital of the Farm Credit Bank calculated in accordance with paragraph (e)(2)(ii)(F)(*1*) of this section is less than 7 percent, the amount of additional capital needed by the bank to reach a permanent capital ratio of 7 percent shall be determined, and an amount of the allocated investment of each nonagreeing association shall be attributed to the Farm Credit Bank as follows:

(*i*) If the total of the allocated investments of all nonagreeing associations is greater than the additional capital needed by the bank, the allocated investment of each nonagreeing association shall be multiplied by a fraction whose numerator is the amount of capital needed by the bank and whose denominator is the total amount of allocated investments of the nonagreeing associations, and such amount shall be attributed to the bank. A sufficient amount of unattributed allocated investment shall then be attributed to each nonagreeing association to increase its permanent capital ratio to 7 percent, or until all such investment is attributed to the association, whichever occurs first. Any remaining unattributed allocated investment shall be attributed 50 percent to the bank and 50 percent to the nonagreeing association.

(*ii*) If the additional capital needed by the bank is greater than the total of the allocated investments of the nonagreeing associations, all of the remaining allocated investments of the nonagreeing associations shall be attributed to the bank.

(G) If a payment or part of a payment to the Farm Credit System Financial Assistance Corporation pursuant to section 6.9(e)(3)(D)(ii) of the Act would cause a Farm Credit Bank to fall below its minimum permanent capital requirement, the bank and one or more associations shall amend their agreement to increase the allotment of the association's investment to the bank sufficiently to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. In the absence of an allocation agreement, the Farm Credit Administration shall require a revision of the percentage allotment sufficient to enable the bank to make the payment to the Farm Credit System Financial Assistance Corporation, provided that the association would continue to meet its minimum permanent capital requirement. The Farm Credit Administration Board may, at the request of one or more of the institutions affected, waive the requirements of paragraph (e)(2)(ii)(G) of this section if the Board deems it is in the overall best interest of the institutions affected.

(3) A bank and a recipient, other than a direct lender association, of allocated earnings from such bank, may enter into an agreement specifying a percentage allotment of the recipient's allocated earnings in the bank between the bank and the recipient. Such agreement shall comply with the provisions of paragraph (e)(2) of this section, except that, in the absence of an agreement, the allocated investment shall be allotted 100 percent to the allocating bank and 0 percent to the recipient. All equities of a bank that are purchased by a recipient shall be considered as permanent capital of the allocating bank.

* * * * *

Dated: June 15, 1993.

**Curtis Anderson,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 93–14494 Filed 06–22–93; 8:45 am]

BILLING CODE 6705–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 93–NM–54–AD]**

### Airworthiness Directives; Aerospatiale Model ATR42–200 and –300 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200 and –300 series airplanes. This proposal would require modification of the autopilot disengagement wiring. This proposal is prompted by reports that flight crews attempted to use the pitch trim control while the autopilot was engaged, which caused the autopilot to move the elevator control in the opposite direction of trim movement. The actions specified by the proposed AD are intended to prevent a severe out-of-trim condition, which could lead to reduced controllability of the airplane.

**DATES:** Comments must be received by August 17, 1993.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1320.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered 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 must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–54–AD." The

postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Aerospatiale ATR42–200 and –300 series airplanes. The DGAC advises that there have been several instances in which the flight crew attempted to use the pitch trim control while the autopilot was engaged. This action can cause the autopilot to move the elevator control in the opposite direction of trim movement, and may cause a severe out-of-trim condition if the autopilot is later disconnected. This condition, if not corrected, could lead to reduced controllability of the airplane.

Aerospatiale has issued Service Bulletin ATR42–22–0012, dated April 2, 1990, and Revision 1, dated October 12, 1992, that describe procedures for modifying the autopilot disengagement wiring located at shelf 82VU. Modification of such wiring will reduce the effects of manual use of the pitch trim control while the autopilot is engaged. The DGAC classified this service bulletin as mandatory and issued French Airworthiness Directive 92–197–049(B), dated September 30, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the autopilot disengagement wiring. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 126 airplanes of U.S. registry would be affected by this AD. The FAA has been advised that all 126 affected airplanes have been modified in accordance with the requirements of this AD. Therefore, currently, this AD action imposes no additional economic burden on any U.S. operator.

However, should an unmodified airplane be imported and placed on the U.S. Register in the future, it would take approximately 4 work hours per airplane to accomplish the proposed actions, at an average labor rate of $55 per work hour. Required parts would be supplied by the manufacturer to the operators at no cost. Based on these figures, the total cost impact of the AD is estimated to be $220 per airplane.

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 "significant rule" under the 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 regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

**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—AIRWORTHINESS DIRECTIVES

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

**Authority:** 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

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

**Aerospatiale:** Docket 93–NM–54–AD.

*Applicability:* Model ATR42–200 and –300 series airplanes; serial numbers 3 through 179, inclusive; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent a severe out-of-trim condition, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the autopilot disengagement wiring located at shelf 82VU, in accordance with Aerospatiale Service Bulletin ATR42–22–0012, dated April 2, 1990; or Revision 1, dated October 12, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

**Note:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 17, 1993.

**David G. Hmiel,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 93–14747 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 103, 129, 165, and 184

**[Docket No. 88P–0030]**

### Beverages; Bottled Water; Consumer Surveys; Availability; Reopening of Comment Period

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the

availability of two surveys concerning consumer perception of spring water which FDA received in response to a proposal that published in the **Federal Register** of January 5, 1993 (58 FR 393), to establish a standard of identity for bottled water. The Mountain Valley Spring Co. and the Crystal Geyser Water Co. submitted the surveys. FDA is reopening the comment period for 30 days to give interested persons a fair opportunity to comment specifically on these surveys.

**DATES:** Written comments by July 23, 1993.

**ADDRESSES:** Submit written comments and requests for single copies of the surveys to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments and requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist the branch in processing your requests. After the comment period shown above, copies of the surveys will be available at cost from the Freedom of Information Staff (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857. The surveys 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:** Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5112.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of January 5, 1993 (58 FR 393), FDA published a proposal to establish a standard of identity in proposed § 165.110 for bottled water. Among other things, the agency proposed to define "artesian water," "distilled water," "mineral water," "purified water," "spring water," and "well water." FDA proposed these actions in response to a petition submitted by the International Bottled Water Association. Interested persons were initially given until March 8, 1993, to comment on the proposal. In the **Federal Register** of March 9, 1993 (58 FR 13041), the comment period was extended to April 7, 1993.

FDA is announcing that it has received the results of two recent surveys by private companies pertaining to consumer perception of what constitutes spring water. The Mountain Valley Spring Co. submitted a report entitled "Consumer Research Report on Bottled Water" on April 7, 1993 (C302 in this docket). The Crystal Geyser Water Co. submitted a report entitled "Topline Analysis of Alpine Spring FDA Research" at a meeting with the agency on April 14, 1993 (MM5 in this docket).

FDA is reopening the comment period for 30 days to allow interested persons the opportunity to comment specifically on these surveys. Only comments pertaining to the surveys will be considered. FDA is taking this action because the Mountain Valley Spring Co. submitted its survey on the last day of the comment period, and the Crystal Geyser Water Co. submitted its survey after the comment period had ended. This action will not delay the issuance of a final rule.

Interested persons may, on or before July 23, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1993.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

[FR Doc. 93–14756 Filed 6–18–93; 10:29 am]

**BILLING CODE 4160–01–F**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Ch. I

**[FRL–4669–6]**

### Wood Furniture Manufacturing Industry Negotiated Rulemaking Advisory Committee; Establishment and Open Meeting

**AGENCY:** Environmental Protection Agency.

**ACTION:** Establishment of advisory committee and notice of open meeting.

**SUMMARY:** As required by section 9(a)(2) of the Federal Advisory Committee Act (FACA), EPA is giving notice of the establishment and first meeting of an advisory committee to develop specific recommendations with respect to rules for hazardous air pollutants (HAP's) under section 112 and control techniques guidelines (CTG's) to control volatile organic compounds (VOC's) under section 183 of the Clean Air Act, as amended. EPA has determined that the establishment of this committee is in the public interest and will assist the Agency in performing its duties under sections 112 and 183 of the Clean Air Act as amended. Copies of the Committee's charter have been filed with the appropriate committees of Congress and the Library of Congress in accordance with section 9(c) of FACA.

The Committee solicits anyone who believes their interest would be significantly affected by a rule and/or CTG for wood furniture manufacturing, who also believes that interest is not adequately represented on the Committee, to apply for membership on it.

**DATES:** The Committee will meet on July 8 and 9, 1993. The meeting will run from 9 a.m. until 5 p.m. on the first day, and from 8:30 a.m. until 3 p.m. on the second. Applications for membership must be postmarked by the close of business on July 23, 1993.

**ADDRESSES:** The meeting will be held at the Raleigh Marriott Crabtree Valley, 4500 Marriott Drive, Raleigh, NC 27612, (919) 781–7000.

A docket has been established for the advisory committee. Comments concerning the committee and its work should be submitted (in duplicate if possible) to Air Docket Section, Attention Docket A–93–10, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy should also be sent to Madeleine Strum, Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27111. This docket contains materials relevant to this advisory committee, and it may be inspected in room 1500M, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC, between 8:30 a.m. and noon, and 1:30 p.m. until 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Anyone wanting further information on the substantive matters related to the rule or CTG should call Madeleine Strum, Office of Air Quality Planning and Standards at 919–541–2383. Anyone wanting further information on administrative matters such as committee arrangements or procedures should contact the committee's independent co-facilitators, Susan Wildeau of John Lingelbach, at (303) 442–7367.

**SUPPLEMENTARY INFORMATION:** The subject of the negotiation is a proposed national Emission Standard for Hazardous Air Pollutants [NESHAP] targeting reductions in HAP's, and a CTG, to assist the States in achieving

VOC emission reductions from wood furniture manufacturing operations. The agency has conducted informal discussions to review emissions data, the cost of various compliance activities, and their economic impact. The discussions have gone well, and the participants have proposed developing specific recommendations to the agency concerning the regulations and CTG's under the CAAA. EPA now believes that using an advisory committee to make specific recommendations with respect to the Wood Furniture Industry rule and/or CTG would help the agency achieve its statutory mandate. It is therefore establishing the Wood Furniture Manufacturing Industry Negotiated Rulemaking Advisory Committee.

**Background**

The wood furniture industry is expected to include facilities that have operations which fall under the following SIC codes: 2434, 2511, 2512, 2519, 2521, and 2541. The scope will include consideration of traditional limitations, and market-based approaches.

The EPA has expended a considerable effort to develop a CTG for the industry. Chapters from a preliminary draft CTG were presented at a public hearing in 1991. In addition, the EPA has undertaken an extensive information gathering effort to characterize HAP emissions from the wood furniture industry for the purpose of developing a NESHAP.

Based on available data, the EPA estimates the wood furniture industry contributes on the order of 90,000 tons of HAPs per year nationwide, and 60,000 tons of VOC emissions in non-attainment areas. This NESHAP will achieve a reduction in HAP emissions, and the CTG will achieve reductions in VOC emissions in non-attainment areas.

A negotiated rulemaking, whereby development of the data base and regulatory approaches is carried out jointly with the industry, States, environmental groups, and other interested parties affords the opportunity to develop more innovative environmentally effective, and pragmatic approaches. In addition, it permits simultaneously developing the NESHAP and the CTG, two interrelated statutory requirements.

*Statutory Provisions*

The EPA is developing a NESHAP for the wood furniture industry under section 112 of the CAAA. Under section 112(d)(2), the EPA is charged to establish a NESHAP that requires "* * * the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies * * *" The wood furniture NESHAP is required to be finalized no later than November 1994.

Section 183(a) of the CAAA requires the EPA to develop 11 CTG's by November 1993. A CTG is a guidance document developed to assist the states in determining "reasonable available control technology" or RACT for a given source category. A State, through regulation, applies RACT to control VOC emissions from a particular source in an effort to bring the State's non-attainment areas into attainment of the national ambient air quality standard for ozone. Each CTG contains a "presumptive norm" for RACT for the specific source category, based on EPA's evaluation of the capabilities and problems general to that category. The CTG for the wood furniture industry is being developed as one of the 11 CTG's to help fulfill the requirements of the CAAA.

**The Committee and Its Process**

In early 1993, EPA contracted with professional convenors to help determine if the regulatory negotiation approach was feasible and desirable for rules impacting the wood furniture manufacturing industry. In addition to numerous individual contacts with potentially interested parties and interest groups, EPA held five public meetings: December 15, 16; January 26, 27; March 25, 26; May 4, 5; and June 3, 4. EPA and the meeting participants felt the exchanges were mutually beneficial. As a result, EPA now believes it is appropriate to charter an Advisory Committee to make specific regulatory recommendations for implementing sections 112 and 183 of the Clean Air Act with regard to the wood furniture manufacturing industry. EPA has therefore established the Wood Furniture Manufacturing Industry Negotiated Rulemaking Advisory Committee to do so.

The Negotiated Rulemaking Act of 1990 contemplates a "convening" process during which potential parties and issues are identified, publishing a notice of intent to form the committee, waiting 30 days for comments to be submitted responding to the notice, and only then proceeding with the establishment of the committee provided it meets the criteria of the Act. The convening process and five public meetings have accomplished those ends. Significantly affected public and interest groups have been identified, and the issues in controversy have been defined. The convening discussions and public meetings have enabled the agency to determine that the criteria for negotiating rules, as spelled out in the Negotiated Rulemaking Act and the ones that have guided EPA in the past are met for this rule—

- The National Emission Standard for Hazardous Air Pollutants (NESHAP) and CTG is needed, since they are *required* by the CAAA.
- A limited number of identifiable interests will be significantly affected by the rule. Those parties are large, medium and small sized manufacturers, coating manufacturers, environmental organizations, and State and local air pollution control officials.
- Representatives can be selected to adequately represent these interests, as reflected above.
- The interests are willing to negotiate in good faith to attempt to reach a consensus on a proposed rule and/or CTG. This committee is established to enable them to do just that.
- There is a reasonable likelihood that the committee will reach consensus on a proposed rule, and/or CTG within a reasonable time. This determination has been made following the data discussions, and hence is built on the developments to date.
- The use of the negotiation will not delay the development of the rule and/or CTG if time limits are placed on the negotiation. Indeed, its use will expedite it and the ultimate acceptance of the rule and/or CTG.

EPA is not proposing to issue a separate notice of intent to form a negotiated rulemaking committee for this rule. Given the evolution of this committee, the publication of such a notice would only slow down the rulemaking process, and its functions have either already been met or are provided for in this notice. Moreover, section 581 of the Act [Pub. L. 101–648, 11–29–90] specifically provides that its provisions are not mandatory.

The Act does anticipate outreach to ensure that people who were not contacted during the convening of the committee can come forward to explain why they believe they would be significantly affected and yet not represented on the committee or to argue why they believe the rule should not be negotiated. As discussed below,

anyone who believes they meet these criteria are invited to apply for membership on the committee.

**Committee Membership**

*Industry Representatives*

Business and Institutional Furniture
William Deal, Bernhardt Furniture Company
Susan E. Perry, Business & Institution Furniture Manufacture Association
Kitchen Cabinets
Paul J. Eisele, Ph.D., MASCO Corporation
Richard Titus, Kitchen Cabinet Manufacture Association
Residential Furniture
Bill Sale, Broyhill Furniture
Mike Soots, Kincaid Furniture, Inc.
Coatings
G.M. Currier, AKZO Coatings Inc.
William Dorris, Lilly Industries
Andy Riedell, PPG Industries
Resins
John P. DeVido, Aqualo
Peter Nicholson, Rohm and Haas
Medium Sized Furniture Companies
Randall B. Shepard, McGuire Furniture
Small Business Representatives
Jack Burgess, Pridgen Cabinet Works, Inc.
David Rothermel, Stylecraft Corporation
John Zeltsman, Architectural Woodwork Institute

*Federal Agencies*

Jack Edwardson, Emission Standards Division, U.S. EPA

*States*

Terry Black, Planning Section, Pa. Dept. of Environmental Resources
Jon Heinrich, Wisconsin Department of Natural Resources
Alan Klimek, North Carolina Department of Environment
Gary Hunt, North Carolina Office of Waste Reduction

*Environmental and Public Interest Groups*

Freeman Allen, Sierra Club
Janet Vail, West Michigan Environmental Action Council
Stephen Wilcox, American Lung Association of North Carolina
Brian Morton, North Carolina Environmental Defense Fund

*Application for Membership and Opportunity to Comment*

Anyone who would like to comment on the wisdom of proceeding by negotiation is invited to do so. Anyone who believes they would be significantly affected by a National Emission Standard or CTG for the Wood Furniture Industry, and who believes their interest would not be adequately represented by the committee described above, is invited to apply for membership on the committee or to nominate someone else for membership. An application for membership should include:

1. The name of the applicant or nominee and a description of the interest(s) such person will represent.

2. Evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposes to represent.

3. A commitment that the applicant or nominee will actively participate in good faith in the development of the standards.

4. The reason that the members of the committee who are described above do not adequately represent the interests of the person submitting the application or nomination.

To be considered, any comments or applications must be received by the close of business on July 23, 1993. Send comments and applications to Madeleine Strum, Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711.

EPA will give full consideration to all comments, applications, and nominations. The decision to add a person to the committee will be based on whether an interest of that person will be significantly affected by the proposed rules, whether that interest is already adequately represented on the committee, and if not, whether the applicant or nominee would adequately represent it.

**Schedule**

The committee will meet on July 8 and 9, 1993 at the times and location indicated earlier in this notice. Additional meetings are scheduled for August 25–27 and October 21–22. We will announce the precise locations and starting and ending times of these meetings in separate advance notices. All meetings are open to the public without advance registration. Members of the public may attend, make statements during the meeting to the extent time permits, and submit written documents to the committee for its consideration. On each day the committee will work to fashion specific recommendations with regard to National Emission Standards and CTG for the Wood Furniture Manufacture Industry.

Dated: June 16, 1993.

**Chris Kirtz,**

*Director, Consensus and Dispute Resolution Program.*

[FR Doc. 93–14584 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–M

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**40 CFR Part 86**

**[FRL–4670–5]**

## Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Regulations Requiring On-Board Diagnostic Systems on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public workshop and reopening of comment period.

**SUMMARY:** This notice announces that on July 14, 1993, the Environmental Protection Agency (EPA) will hold a public workshop to address certain issues that have been raised in connection with EPA's Notice of Proposed Rulemaking (NPRM) for On-Board Diagnostic Systems (OBD) that was published in the **Federal Register** on September 24, 1991. The public workshop is being conducted so that EPA and interested parties can discuss certain issues pertaining to the requirement of section 202(m)(5) of the Clean Air Act (CAA) that emission-related repair information be made available to "any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines." Specifically, the issues to be discussed will include the following: The use of the National Technical Information Service (NTIS) as a clearinghouse for service information; clarification of certain terms, including Programmable Read Only Memory (PROM) computer chips, engine calibration, component calibration, recalibration, reprogramming, data stream information, indirect information, functional control strategies, and bi-directional control; emission-related service information to be made available; the organization of service information in electronic format; and the availability of manufacturers' enhanced diagnostic equipment and the use of an electronic data interchange (EDI) system. This notice also announces that the docket in this proceeding shall be reopened for thirty days following the workshop for the filing of written comments pertaining to issues discussed at the workshop.

**DATES:** The workshop will convene at 9 a.m. on July 14, 1993, and will adjourn after the time necessary to complete the

presentations and discussion, but no later than the close of business on July 14, 1993. Persons interested in making presentations at the workshop should notify the Agency contact person listed below at least five days prior to the workshop so that a final agenda can be prepared. At the workshop, issues will be addressed individually in the order in which they appear in this notice. Persons who want to make presentations are asked to come prepared to address each issue separately and bring with them 50 copies of their presentations. Individual presentations on any one issue will be limited to ten minutes. Interested parties may submit written comments pertaining to the issues addressed at the public workshop on or before August 13, 1993.

**ADDRESSES:** The workshop will be held at the Domino's Farms Conference Facility, Ulrich Room, Lobby E, 24 Frank Lloyd Wright Dr., Ann Arbor, Michigan 48105, (313) 930–4258. Written comments must be sent in duplicate to: EPA Air Docket LE–131, Attention: Docket No. A–90–35, U.S. Environmental Protection Agency, room M–1500, 401 M Street SW., Washington, DC 20460, (202) 382–7548. This docket is located at the above address on the first floor of Waterside Mall and is open for public inspection weekdays from 8:30 to 12 noon and from 1:30 p.m. to 3:30 p.m. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying services.

**FOR FURTHER INFORMATION CONTACT:** Cheryl F. Adelman, Certification Division, U.S. EPA National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668–4434.

**SUPPLEMENTARY INFORMATION:** EPA is holding this workshop to provide EPA and the public with an opportunity to further discuss EPA's proposals regarding certain issues related to the availability of emission-related service, diagnostic and repair information, and for the public to offer suggestions or alternatives to EPA's proposals. These issues were discussed previously at a public hearing that was held on November 6, 1991, and in a workshop held on June 30, 1992. Copies of the transcripts of the hearing and the workshop are available in the docket. A court reporter will be present at the workshop announced here to make a written transcript of the proceedings and a copy will be placed in the docket following the workshop.

**1. Background**

Section 202(m) of the CAA directs EPA to promulgate a rule that requires all light-duty vehicles and light-duty trucks manufactured in model years 1994 and thereafter to contain an on-board diagnostic (OBD) system which will monitor emission-related components for malfunction or deterioration. To assure the repair and service industry will have the information needed to perform necessary emission-related repairs, section 202(m)(5) of the CAA directs EPA to promulgate regulations that require "manufacturers to provide promptly to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines * * * any and all information needed to make use of the emission control diagnostics system * * * and such other information including instructions for making emission-related diagnosis and repairs." On September 24, 1991, EPA published an NPRM in the Federal Register proposing regulations to implement section 202(m) of the Act, including regulations to implement section (202)(m)(5) of the Act (56 FR 48272). Based on the comments received in response to both the proposal and the June 30 workshop, EPA believes that certain issues related to the proposed regulations implementing section 202(m)(5) require clarification by EPA and a further opportunity for public comment.[1] These issues will be discussed below.

First, EPA requests comment on the use of the National Technical Information Service (NTIS) as a clearinghouse for service information. EPA received numerous comments regarding the use of an information clearinghouse to distribute information. While several manufacturers and one information publisher opposed the use of an information clearinghouse, a few manufacturers and many sectors of the aftermarket supported the establishment of a clearinghouse.

Second, EPA requests comment on the definitions and/or descriptions of certain terms used throughout the NPRM. These terms include the following: PROM computer chips; engine calibration; component calibration; recalibration; reprogramming; data stream information; functional control strategies; bi-directional control; and indirect information. Based on the comments received, EPA believes that these terms warrant further clarification to ensure that there is a uniform understanding throughout the automotive industry as to their meaning in the context of this rulemaking. Such clarification will also help reduce questions regarding what service, repair and diagnostic information vehicle manufacturers are required to make available pursuant to section 202(m)(5) of the CAA.

Third, EPA requests comment on the extent of emission related service information to be provided by vehicle manufacturers to the aftermarket. Based on comments received, EPA believes that some confusion exists within the industry as to the systems, components and parts for which emission-related information must be made available. Clarification is needed to ensure that the aftermarket receives all of the information needed to service, diagnose and repair emission-related problems.

EPA proposes that emission-related service, diagnostic and repair information would include, but not be limited to, any system, component or part of a vehicle that controls emissions and any system, components and/or part associated with the powertrain system, including, but not limited to, the fuel system and ignition system. Information would also have to be provided for any system, component, or part that could have a reasonably foreseeable impact on emissions, such as transmission systems.

Fourth, EPA requests comment on issues related to the organization of service information in electronic format. First, EPA requests comment on whether it should wait to adopt SAE recommended practice J2008 when it is finalized or whether EPA should develop its own electronic format for the organization of service information. EPA is concerned that delays in the adoption of J2008 could impede the conversion of information to an electronic format. Second, in accordance with section 202(m)(5), vehicle manufacturers are required to provide the same information to the aftermarket as they provide to their dealerships. Therefore, it is proposed that if vehicle manufacturers "deeply tag" the electronic service information provided to their dealerships, i.e., provide information at a more specific level than the organizational level required by J2008, they will be required to provide the same "deeply tagged" information to the aftermarket.

Last, EPA requests comment on whether each vehicle manufacturer should be required to make available to the aftermarket its enhanced diagnostic equipment. Technicians who use enhanced diagnostic equipment will be

[1] A Final Rule implementing the remainder of section 202(m) was published in the Federal Register on February 19, 1993 (58 FR 9468).

able to diagnose and repair vehicles more effectively and efficiently than technicians who do not have such equipment. Therefore, EPA believes that all technicians should have access to enhanced diagnostic equipment. EPA also believes that vehicle manufacturers should have the option of providing repair and diagnostic information through an EDI or similar system. EDI is a means of transmitting business transactions between computers in standard data formats.

**A. The NTIS as an Information Clearinghouse**

The proposed regulations require manufacturers to ensure that emission-related service and repair information, whether distributed by the manufacturer or an intermediary, is reasonably accessible to all persons who service and repair motor vehicles. In response to this proposal, EPA received several comments on the use of a clearinghouse to receive and distribute service information. While some commenters opposed the use of an information clearinghouse, a few manufacturers and many sectors of the aftermarket (e.g., independent technicians) supported the establishment of a clearinghouse. EPA believes that some of the adverse comments indicated that the commenters had concerns as to the entity that would serve as the clearinghouse and whether that entity could adequately handle the large volumes of rapidly changing information.

EPA believes that the use of a clearinghouse would be beneficial to the Agency, the vehicle manufacturers, and the aftermarket. A clearinghouse would enable EPA to verify, by going to one source, that manufacturers are providing the required information. As discussed below, vehicle manufacturers would benefit from the use of a clearinghouse as it would eliminate or modify several of the responsibilities proposed to be required of the manufacturers. A clearinghouse would also benefit the aftermarket as the aftermarket would know where to obtain information needed to service vehicles.

EPA proposes the use of the NTIS as a clearinghouse for service information. The NTIS is a self-sustaining clearinghouse established by the U.S. Department of Commerce. It is the central source for the public sale of U.S. Government-sponsored research, development, and engineering reports, and for sales of foreign technical reports and other analyses prepared by national and local government agencies and their contractors or grantees. It has the capacity to collect, reproduce and distribute the large quantity of service information generated by the vehicle manufacturers.

Vehicle manufacturers would be required to provide initial service, repair, diagnostic and parts information to the NTIS within thirty days of providing it to their franchised dealerships or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Service, repair, diagnostic and parts information, such as technical service bulletins and troubleshooting manuals, issued to dealerships during any subsequent thirty day period would be sent to the NTIS at the end of each such thirty day period.

The NTIS would not amend or otherwise alter the service information it receives prior to distribution—it would only reproduce information in the form in which it was received. As the NTIS' per page reproduction costs are reduced as the volume of information requested increases, the NTIS may require that the public request information in relatively complete sets. For example, for manuals, this could mean that a purchaser must request at least a chapter from a manual or an entire manual. For technical service bulletins, purchasers may have to request the entire bulletin.

To determine what information the NTIS has available, purchasers could either access the NTIS' on-line bulletin board or request a printed list. In the case of printed materials, the cost charged by the NTIS for each information request would be related to the number of pages reproduced.

Each vehicle manufacturer would be required to provide one copy of all information required under the regulations to the NTIS. EPA is proposing that each manufacturer would be required to provide the information to the NTIS free of charge pursuant to a copyright release or other agreement. Vehicle manufacturers could receive royalties for subsequent distribution of the information by the NTIS based on prearranged agreements.

The workshop will allow interested parties the opportunity to present ideas regarding possible royalty arrangements for purchases of information from the NTIS by end users, such as independent technicians, and by intermediaries who intend to condense or otherwise alter the information for resale. For example, where the information is sold to an intermediary who resells the information, the royalty arrangement could be between the intermediary and the vehicle manufacturer and could be at a different percentage than that for information sold by the NTIS to an end user. Another option would be to have the NTIS only provide information to end users, while vehicle manufacturers would provide information directly to intermediaries under separate arrangements. The workshop will allow interested parties the opportunity to present ideas regarding whether the amount of the royalty should be tied to certain factors, such as the format in which the information is provided to the NTIS and the number of requests for a vehicle manufacturer's materials.

By using the NTIS as a clearinghouse, several requirements which were proposed to be the responsibility of the vehicle manufacturers would be deleted or amended. First, vehicle manufacturers would not be responsible for information distributed by intermediaries or other parties. This is due to the fact that all persons would have access to the NTIS which would have a complete library of information. Second, vehicle manufacturers would not be required to continually inform the aftermarket about the availability of their service information through advertisements or other efforts, since the aftermarket would, within a short period of time, become aware through their associations or other channels that service information can be obtained from the NTIS. Third, by using the NTIS as a clearinghouse, vehicle manufacturers would not be required to submit a detailed certification plan. EPA and other interested parties would be able to determine whether the required information is being made available by reviewing the information supplied to one source, the NTIS. Fourth, the requirement that vehicle manufacturers provide information in a timely manner would be satisfied by providing information to the NTIS on the designated schedule as described above. Last, the requirement that information be provided at a reasonable cost could, at least in part, be addressed by the NTIS' sale of information. Whether the cost requirement would be satisfied depends on whether and to what extent royalties are paid to vehicle manufacturers and the ability of the NTIS to provide its services at an affordable price, taking into consideration the amount of information requested by various parties.

Although EPA would require submission of information to the NTIS, vehicle manufacturers would not be precluded from providing service information through any other distribution mechanism. Manufacturers would still have the option of selling information directly to intermediaries, dealerships or the aftermarket. The

workshop will allow interested parties the opportunity to present their ideas regarding the use of the NTIS as an information clearinghouse.

**B. Descriptions/Definitions**

At the time the NPRM was published, EPA believed that certain terms used in the NPRM had descriptions and/or definitions that were widely recognized and accepted throughout the automotive industry. These terms include the following: PROM computer chips; engine calibration; component calibration; recalibration; reprogramming; data stream information; functional control strategies; bi-directional control; and indirect information.

Based on the comments received, however, it appears that there is some confusion within certain sectors of the industry as to the meaning of these terms. As a result, EPA believes some confusion exists as to the service information that is required to be provided pursuant to section 202(m)(5) and service information that is proprietary. To eliminate such confusion, EPA is proposing descriptions and/or definitions for these terms to ensure that there is a uniform understanding throughout the automotive industry as to the information that vehicle manufacturers will be required to make available.

In describing and/or defining the terms below, EPA has indicated that it believes certain categories of information are proprietary. The workshop will allow interested parties the opportunity to present their ideas as to which of the following terms include proprietary information, what that proprietary information is, why it is or isn't proprietary, and why the information should or shouldn't be made available.

*PROM Computer Chips:* PROM is a form of memory for a vehicle's engine control computer ("module"). It is stored on a computer chip within the module and contains the instructions the module uses for operating many of the engine systems (e.g., fuel, spark, and emission). The instructions in a PROM consist of preset values and algorithms and are permanently stored (i.e., unchangeable) within the computer chip.

Erasable PROMs (EPROM) are the same as PROMs, except that the preset values and algorithms found in the instructions can be erased and replaced with new values. An EPROM can only be erased by removing it from a vehicle and exposing it to ultraviolet light.

Electronically Erasable PROMs (EEPROM) are the same as an EPROM, except that the preset values and algorithms can be erased and replaced electronically. The values and algorithms on EEPROMs can be completely or selectively erased.

"Flash" Electronically Erasable PROMs ("Flash" EEPROM) are the same as EPROMs, except that all information contained in the computer chip, including the instructions (values and algorithms), are erased and replaced electronically, rather than by ultraviolet light.

*Engine Calibration:* An engine calibration is the set of instructions the module uses for operating many of the engine systems (e.g., fuel, spark, and emission). These instructions are made up of preset values and algorithms that are located in a computer chip. The preset values are normally in the form of look-up tables. Look-up tables are tables that typically list a set of variables or values (i.e., X and Y) that express some type of relationship between the values. An example of a look-up table is a table for cold engine starting that compares fuel injector pulsewidth values (X) with engine temperature values (Y). The module uses the preset calibration values along with predetermined algorithms (i.e., equations) in processing input data from various engine sensors to determine instructions to be sent to various vehicle actuators, e.g., fuel injectors, EGR valves, etc. Pursuant to sections 202(m)(5) and 208(c) of the CAA, engine calibrations are proprietary, unless that information is made available by vehicle manufacturers to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

*Component Calibrations:* Component calibrations are the mechanical, electrical or electromechanical attributes of a component necessary for that component to perform its specific design function. This also includes a description of components' specifications or physical attributes, e.g., size, shape, material, etc. An example of a component calibration for a Manifold Absolute Pressure sensor would include a curve of required voltage output with tolerances versus engine manifold vacuums (i.e., the module would interpret a specific voltage level as a particular manifold vacuum level).

*Recalibration:* Recalibration is the act of revising the preset values and/or algorithms for an existing engine calibration in a particular vehicle model/engine configuration. An example of a recalibration would be a change made to the existing calibration for vehicle models/engine configurations experiencing start-up problems during excessively cold weather. The recalibration would change some of the pre-set values for a specific look-up table that compares the amount of fuel injector pulsewidth with engine coolant temperature. By changing the calibration so that a longer pulsewidth occurs at a specific temperature, additional fuel will be added at the engine coolant temperature where the start-up problem occurs and alleviate the problem.

Recalibrations are design changes to vehicle model/engine configurations performed by engineers at engineering facilities, not changes to specific vehicles performed at service centers. Vehicle manufacturers typically develop recalibrations to address driveability or emission problems. Some vehicle manufacturers and aftermarket part manufacturers also develop recalibrations to enhance vehicle performance. Pursuant to sections 202(m)(5) and 208(c), recalibrations are proprietary, unless that information is made available by vehicle manufacturers to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.

*Reprogramming:* Reprogramming is the act of installing a "new" engine calibration (i.e., a recalibration) into the module of a specific vehicle. If the calibration exists on a PROM computer chip, it means the physical removal of the existing chip and replacing it with a chip that has the "new" calibration or the complete replacement of the module with a new module that contains the new PROM and its calibration. To change the engine calibration on EEPROM or "Flash" EEPROM computer chips, the calibration must be erased and replaced electronically. No physical hardware changes are required to reprogram a recalibration into an EEPROM or "Flash" EEPROM.

*Data Stream Information:* Data stream information are messages transmitted between a network of modules and/or intelligent sensors (i.e., a sensor that contains and is controlled by its own module) connected in parallel with either one or two communication wires. Messages on the communication wires can be broadcast by any module or intelligent sensor.

Data stream information generally consists of messages and parameters originated within the vehicle by a module or intelligent sensors. The information is broadcast over the communication wires for use by other modules (e.g., chassis, transmission, etc.) to conduct normal vehicle operation or for use by diagnostic tools.

Data stream information does not include engine calibration related information.

*Functional Control Strategies:* Functional control strategies are descriptions of how and when various engine systems operate. Typically, it is a written explanation or flow diagram that describes the interaction of the module and the various sensors and actuators as proscribed by the engine calibration. An example of a functional control strategy would be that for a particular fuel system, the fuel system does not go into closed-loop operation until: (1) The engine coolant temperature has reached 180F; (2) the module observes an active oxygen sensor signal; (3) and 30 seconds has elapsed after reaching that temperature.

*Bi-Directional Control:* Bi-directional control is the capability of a diagnostic tool to send messages on the data bus that temporarily overrides the module's control over a sensor or actuator and gives control to the diagnostic tool operator. An example of bi-directional control is the ability to increase or decrease the idle speed by using the diagnostic tool to vary the idle by-pass motor. This allows a technician to quickly verify that the idle by-pass motor responds to commands from the module. Bi-directional controls do not create permanent changes to engine or component calibrations.

*Indirect Information:* Indirect information is any information that is not specifically contained in the service literature, but is contained in items such as parts or other equipment provided to franchised dealers (or others).

The workshop will provide interested parties the opportunity to comment on these definitions and descriptions.

**C. Emission-Related Service Information**

Based on the comments received in response to the NPRM and the June 30, 1992 workshop, EPA believes that clarification is warranted as to the systems, components and parts for which emission-related service, diagnostic and repair information must be provided by the vehicle manufacturers to the aftermarket. For purposes of this rule, EPA proposes that emission-related service, diagnostic and repair information would include, but not be limited to, any system, component or part of a vehicle that controls emissions and any system, components and/or part associated with the powertrain system, including, but not limited to, the fuel system and ignition system. Information would also have to be provided for any system, component, or part that could have a reasonably foreseeable impact on emissions, such as transmission systems.

In addition, EPA will monitor the results of Inspection and Maintenance programs[2] for failures resulting from systems, components, or parts other than those described here. If EPA determines that a substantial number of I/M failures are occurring due to systems, components, or parts other than those described here, the extent of emission-related service information will be expanded in a subsequent rulemaking to include such items.

**D. Electronic Format**

EPA proposed that beginning in model year 1996 vehicle manufacturers would be required to use the service information format being developed by SAE. Entitled "Recommended Organization of Service Information" (J2008), this format establishes a recommended practice for organizing service information within an electronic data base.

Due to various factors, SAE has not yet adopted J2008. EPA anticipates that SAE will adopt J2008 by mid-1994. If J2008 is adopted in a form that meets the needs of EPA, EPA would propose to incorporate J2008 into the service information regulations after further notice and comment. However, if J2008 is not adopted by mid-1994, or if the final version of J2008 does not meet the needs of EPA, EPA may propose to adopt its own format that vehicle manufacturers would be required to follow. EPA believes that such action could be necessary to prevent delays in the conversion of service information to an electronic format.

Further, in accordance with section 202(m)(5), vehicle manufacturers are required to provide the same information to the aftermarket as they provide to their dealerships. Therefore, in the rulemaking specifying whether J2008 or another electronic format will be required, EPA will propose that if vehicle manufacturers "deeply tag" the electronic service information provided to their dealerships, i.e., provide information at a more specific level than is required under J2008, they will be required to provide the same "deeply tagged" information to the aftermarket.

The workshop will provide interested parties the opportunity to present suggestions regarding the adoption of J2008 and the additional requirement for aftermarket distribution of "deeply tagged" information.

[2] 56 FR 52950, November 5, 1992.

**E. Availability of Enhanced Diagnostic Equipment**

According to section 202(m)(5) of the CAA, emission-related information provided by vehicle manufacturers indirectly to franchised dealers must also be provided to any person engaged in the repairing or servicing of motor vehicles. Some vehicle manufacturers are or will be providing their dealers the ability to diagnose malfunctions and/or reprogram vehicle modules via enhanced diagnostic equipment. This equipment will not allow dealers to view the recalibrations, but will allow them to reprogram vehicles using the recalibrations.

EPA believes that the enhanced diagnostic equipment provides franchised dealers indirectly with information that is needed to make emission-related diagnosis and repairs. EPA believes that vehicle manufacturers should provide this information to the aftermarket in the same form in which it is provided to franchised dealers. Therefore, EPA proposes to require that vehicle manufacturers offer their enhanced diagnostic equipment for sale to the aftermarket. This would enable vehicle manufacturers to comply with the requirements of section 202(m)(5) that information be made available to the aftermarket if it is made available to dealerships or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines while simultaneously protecting the proprietary interest of the vehicle manufacturers. It would also provide the aftermarket with the same capabilities as dealerships without divulging proprietary engine calibrations or recalibrations.

EPA proposes that manufacturers' enhanced diagnostic equipment must be made available to the aftermarket at the same price at which it is sold to authorized dealerships. As EPA discussed in the September 24, 1991 NPRM, the requirement that information be made available to the aftermarket entails a corollary requirement that the information be made available at a reasonable price. In this case, EPA believes that a reasonable price to charge the aftermarket is the same price at which the equipment is offered to franchised dealerships.

Based on previous comments provided to EPA, vehicle manufacturers' enhanced diagnostic equipment is sold to dealerships independent of their franchise agreements. Therefore, the cost of such equipment can be readily determined. If this is not the case for some manufacturers, the workshop will provide an opportunity for those

manufacturers to provide suggestions for determining the price of their equipment. EPA proposes to give vehicle manufacturers a one-year lead time to prepare for aftermarket sales of enhanced equipment.

EPA expects that dealerships will provide effective and timely reprogramming services to independent technicians who elect not to purchase vehicle manufacturer enhanced diagnostic equipment.

EPA also proposes that vehicle manufacturers should have the option of providing service, repair and diagnostic information through an EDI or similar system.

### II. Issues

EPA believes that given the issues discussed above, the following subject areas are likely to be discussed at the workshop:

—Factors to be considered in using NTIS as a clearinghouse for service information.

—The extent to which vehicle manufacturers should receive royalties from the NTIS (to ensure that the cost of information remains reasonable and, therefore, available but to avoid unreasonable interference with manufacturers' copyright protection).

—Descriptions and definitions of terms.

—Exactly what information is proprietary and reasons why such information should or should not be considered proprietary.

—Adoption of J2008.

—Providing deeply tagged information to the aftermarket.

—Availability of vehicle manufacturers' enhanced diagnostic equipment.

—Other issues that EPA may identify.

### III. Format of Workshop

The workshop will be conducted informally. EPA will make a presentation highlighting the information availability provisions in the September 1991 NPRM. After EPA's presentation, attendees will be encouraged to make oral presentations and participate in a discussion of issues in the order that they are presented in this workshop notice. A court reporter will be present to make a written transcript of the proceedings. A copy of the transcript and all documents received at the workshop will be placed in the docket. The docket in this proceeding shall be reopened for thirty days following the workshop for comments pertaining to issues discussed at the workshop.

Dated: June 17, 1993.

**Michael H. Shapiro,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 93–14812 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–P

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**40 CFR Part 300**

**[FRL–4668–4]**

## National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 15

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") proposes to add new sites to the NPL. This 15th proposed revision to the NPL includes 7 sites in the General Superfund section and 10 in the Federal Facilities section. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This action does not affect the 1,199 sites currently listed on the NPL (1,076 in the General Superfund Section and 123 in the Federal Facilities Section). However, it does increase the number of proposed sites to 71 (51 in the General Superfund Section and 20 in the Federal Facilities Section). Final and proposed sites now total 1,270.

**DATES:** Comments must be submitted on or before July 23, 1993, for South Weymouth Naval Air Station (Weymouth, Massachusetts), Materials Technology Laboratory (U.S. Army, Watertown, Massachusetts), and Portsmouth Naval Shipyard (Kittery, Maine). For the remaining sites in this proposal, comments must be submitted on or before August 23, 1993.

**ADDRESSES:** Mail original and three copies of comments (no facsimiles) to Docket Coordinator, Headquarters; U.S. EPA CERCLA Docket Office; OS–245; Waterside Mall; 401 M Street, SW., Washington, DC 20460; 202/260–3046. For additional Docket addresses and further details on their contents, see Section I of the "Supplementary Information" portion of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS–5204G), U.S. Environmental Protection Agency, 401 M Street, SW. Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424–9346 or (703) 920–9810 in the Washington, DC, metropolitan area.

**SUPPLEMENTARY INFORMATION:**

I. Introduction
II. Purpose and Implementation of the NPL
III. Contents of This Proposed Rule
IV. Regulatory Impact Analysis
V. Regulatory Flexibility Act Analysis

### I. Introduction

*Background*

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, 100 stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to

as the "Superfund") and financed by other persons are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which is appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances, pollutants, and contaminants to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA promulgates a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites." CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on October 14, 1992 (57 FR 47180).

The NPL includes two sections, one of sites being evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining if the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

*Deletions/Cleanups*

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 50 sites from the General Superfund Section of the NPL, most recently the Woodbury Chemical Co., Commerce City, Colorado (58 FR 15287, March 22, 1993).

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL. Inclusion of a site on the CCL has no legal significance.

In addition to the 50 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 112 sites are also in the NPL CCL, all but one from the General Superfund Section. Thus, as of April 1992, the CCL consists of 161 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of March 30, 1993, EPA had conducted 568 removal actions at NPL sites, and 1,921 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 17 sites to the NPL. The General Superfund Section includes 1,076 sites, and the Federal Facilities Section includes 123 sites, for a total of 1,199 sites on the NPL. Final and proposed sites now total 1,270. These numbers reflect EPA's decision to remove the Hevi-Duty Electric Co., in Goldsboro, North Carolina, and the Court's removal of the Tex-Tin Corp. site, in Texas City, Texas, from the NPL.

*Public Comment Period*

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this rule. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours. Note that the Headquarters docket, although it will be moving during the comment period, will remain open for viewing of sites included in this rule.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS–245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260–3046.

Ellen Culhane, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–5729.

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, 212/264–6696.

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7904.

Beverly Fulwood, Region 4, U.S. EPA Library, Room G–6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347–4216.

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7-J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214.

Bart Canellas, Region 6, U.S. EPA 1445 Ross Avenue, Mail Code 6H-MA, Dallas, TX 75202–2733, 214/655–6740.

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7241.

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598.

Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets. Interested parties may view documents, by appointment only, in the Headquarters or the appropriate Regional docket or copies may be requested from the Headquarters or appropriate Regional docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988). EPA will make final listing decision after considering the relevant comments received during the comment period.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 57 FR 4824 (February 7, 1992).) Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

## II. Purpose and Implementation of the NPL

### *Purpose*

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

### *Implementation*

After initial discovery of a site at which a release or threatened release may exist, EPA begins a series of increasingly complex evaluations. The first step, the Preliminary Assessment ("PA"), is a low-cost review of existing information to determine if the site poses a threat to public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA will generally perform a more extensive study called the Site Inspection ("SI"). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites which warrant placement on the NPL and further study. EPA may perform removal actions at any time during the process. To date EPA has completed approximately 34,000 PAs and approximately 17,000 SIs.

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990). EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although the ranking of sites by HRS scores is considered, it does not, by itself, determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to

determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(b)(2), 55 FR 8845, March 8, 1990). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways; only those presenting significant risk or sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study ("RI/FS") that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990)). It takes into account the amount of contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 (55 FR 8842, March 8, 1990) and 40 CFR 300.430 (55 FR 8846, March 8, 1990). After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Trust Fund-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries. The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge of the geographic extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the contamination at a site reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

*Limitations on Payment of Claims for Response Actions*

Sections 111(a)(2) and 122(b)(1) of CERCLA authorize the Fund to reimburse certain parties for necessary costs of performing a response action. As is described in more detail at 58 FR 5460 (January 21, 1993), 40 CFR part 307, there are two major limitations placed on the payment of claims for response actions. First, only private parties, certain potentially responsible parties (including States and political subdivisions), and certain foreign entities are eligible to file such claims. Second, all response actions under sections 111(a)(2) and 122(b)(1) must receive prior approval, or "preauthorization," from EPA.

**III. Contents of This Proposed Rule**

Table 1 identifies the 7 NPL sites in the General Superfund Section and table 2 identifies the 10 NPL sites in the Federal Facilities Section being proposed in this rule. Both tables follow this preamble. All these sites are proposed based on HRS scores of 28.50 or above. The sites in table 1 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the General Superfund Section of the NPL. Sites in the Federal Facilities Section are also presented by group number based on groups of 50 sites in the General Superfund Section.

*Statutory Requirements*

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. 6901–6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

*Releases From Resource Conservation and Recovery Act (RCRA) Sites*

EPA's policy is that non-Federal sites subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to Subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in the past (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add one site to the General Superfund Section of the NPL that may be subject to RCRA Subtitle C corrective action authorities,

the Alcoa (Point Comfort)/Lavaca Bay site in Point, Comfort, Texas. Material has been placed in the public docket establishing that portions of the site formerly were operated as an "interim status" facility under RCRA (referred to in the NPL/RCRA deferral policy as "converters), and that the full extent of EPA's authority to address off-site contamination under RCRA is untested. Listing of the Lavaca Bay site on the NPL under these circumstances is consistent with EPA's NPL/RCRA deferral policy.

*Releases From Federal Facility Sites*

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA Subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

This rule proposes to add ten sites to the Federal Facilities Section of the NPL.

## IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites to the NPL. EPA believes that the kinds of economic effects associated with this proposed revision to the NPL are generally similar to those identified in the regulatory impact analysis ("RIA") prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

*Costs*

This proposed rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine any party's liability for site response costs. Costs that arise out of responses at sites in the General Superfund Section result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs that may be associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed by a search for potentially responsible parties and an RI/FS to determine if remedial actions will be undertaken at a site. Selection of a remedial alternative, and design and construction of that alternative, may follow completion of the RI/FS, and operation and maintenance ("O&M") activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and remedial action, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Trust Fund-financed actions is governed by CERCLA section 104(c). For nonpublicly-operated sites, EPA will pay from the Trust Fund for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For sites operated by a State or political subdivision, the State's share is at least 50% of all response costs at the site, including the cost associated with the RI/FS, remedial design, and construction and implementation of the remedial action selected. After construction of the remedy is complete, costs fall into two categories:

- For restoration of ground water and surface water, EPA will pay from the Trust Fund a share of the start-up costs according to the cost-allocation criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3). After that, the State assumes all O&M costs. 40 CFR 300.435 (f)(1).
- For other cleanups, EPA will pay from the Trust Fund a share of the costs of a remedy according to the cost-allocation criteria in the previous paragraph until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

| Cost category | Average total cost per site [1] |
|---|---|
| RI/FS | 1,300,000 |
| Remedial Design | 1,500,000 |
| Remedial Action | [3] 25,000,000 |
| Net present value of O&M [2] | 3,770,000 |

[1] 1988 U.S. Dollars
[2] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate
[3] Includes State cost-share

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Possible costs to States associated with today's proposed rule for Trust Fund-financed response action arise from the required State cost-share of:

(1) For privately owned sites at which remedial action involving treatment to restore ground and surface water quality are undertaken, 10% of the cost of constructing the remedy, and 10% of the cost of operating the remedy for a period up to 10 years after the remedy becomes operational and functional;

(2) For privately-owned sites at which other remedial actions are undertaken, 10% of the cost of all remedial action, and 10% of costs incurred within one year after remedial action is complete to ensure that the remedy is operational and functional; and

(3) For sites publicly-operated by a State or political subdivision at which response actions are undertaken, at least 50% of the cost of all response actions. States must assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-operated and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately $28 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on

past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $25 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this proposed amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the National level, as was the case in the 1982 RIA.

*Benefits*

The real benefits associated with today's proposal to place additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Proposing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

**V. Regulatory Flexibility Act Analysis**

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NCP, it is not a typical regulatory change since it does not automatically impose costs. As stated above, proposing sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

NATIONAL PRIORITIES LIST PROPOSED RULE NO. 15

General Superfund Section

| State | Site name | City/county | NPLGr[1] |
|---|---|---|---|
| MS | Chemfax, Inc. | Gulfport | 11 |
| OH | North Sanitary Landfill | Dayton | 4/5 |
| OR | McCormick & Baxter Creosoting Co. (Portland Plant) | Portland | 1 |
| PA | UGI Columbia Gas Plant | Columbia | 4 |
| TX | Alcoa (Point Comfort)/Lavaca Bay | Point Comfort | 4/5 |
| WA | Vancouver Water Station t1 Contamination | Vancouver | 4/5 |
| WI | Ripon City Landfill | Fond Du Lac County | 11 |

Number of Sites Proposed to General Superfund Section: 7

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

NATIONAL PRIORITIES LIST PROPOSED RULE NO. 15

Federal Facilities Section

| State | Site name | City/county | NPLGr[1] |
|---|---|---|---|
| AK | Fort Richardson (US Army) | Anchorage | 4/5 |
| AL | Redstone Arsenal (US Army/NASA) | Huntsville | 4/5 |
| MA | Naval Weapons Industrial Reserve Plant | Bedford | 4/5 |
| MA | South Weymouth Naval Air Station | Weymouth | 4/5 |
| MA | Materials Technology Laboratory (US Army) | Watertown | 5 |

NATIONAL PRIORITIES LIST PROPOSED RULE NO. 15—Continued

Federal Facilities Section

| State | Site name | City/county | NPLGr[1] |
|---|---|---|---|
| ME | Portsmouth Naval Shipyard | Kittery | 1 |
| OR | Fremont National Forest/White King & Lucky Lass Uranium Mines (USDA). | Lake County | 4/5 |
| WA | Jackson Park Housing Complex (US Navy) | Kitsap County | 4/5 |
| WA | Port Hadlock Detachment (US Navy) | Indian Island | 4/5 |
| WV | Allegany Ballistics Laboratory (US Navy) | Mineral County | 4/5 |

Number of Sites Proposed to Federal Facilities Section: 10

[1]Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

**List of Subjects in 40 CFR Part 300**

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

**Authority:** 42 U.S.C. 9605-9657; 33 U.S.C. 1321(c)(2); E.O. 11777, 56 FR 54757, 3 CFR, 1971—1975 Comp., p. 793; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 14, 1993.

**Richard Guimond,**

*Assistant Surgeon General, USPHS Acting Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 93-14422 Filed 6-18-93; 8:45 am]

BILLING CODE 6560-50-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### 42 CFR Part 59

### Standards of Compliance for Abortion-Related Services in Family Planning Service Projects

**AGENCY:** Public Health Service, DHHS.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** The Public Health Service is reopening for 45 days the public comment period on the rules proposed to establish compliance standards for abortion-related services provided by family planning projects funded under title X of the Public Health Service Act. The proposed rules were published in the **Federal Register** on February 5, 1993. DHHS is taking this action in response to requests from the public for further information on prior policies and to obtain more helpful public comment on the proposed rules. DHHS will make a statement of the prior policies available as set forth below.

**DATES:** Written comments must be received on or before August 9, 1993.

**ADDRESSES:** *Written comments:* Submit written comments to Mr. Gerald Bennett, Acting Deputy Assistant Secretary for Population Affairs, DHHS, P.O. Box 23783, Washington, DC 20036-3783.

*Policy statement:* A statement of the policies will be available for inspection and copying at the following regional and central office locations which appear in the Supplementary Information section.

Written comments will be available for public inspection during normal business hours at 200 Independence Ave., SW., room 736E, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald Bennett, 202-690-8335.

**SUPPLEMENTARY INFORMATION:** On February 5, 1993, the Department of Health and Human Services published in the **Federal Register**, at 58 FR 7464, a notice of proposed rulemaking which proposed revised standards of compliance to replace the so-called "Gag Rule" issued on February 2, 1988, at 53 FR 2922. The proposed rule would re-establish for family planning projects funded under title X of the Public Health Service Act, 42 U.S.C. 300 *et seq.*, the standards for compliance with section 1008 of that Act, 42 U.S.C. 300a-6, that applied prior to February 2, 1988. Also published on February 5 was an interim rule which, in part, made applicable to title X projects the pre-1988 policies during the pendency of the rulemaking. As explained in the notice of proposed rulemaking, those policies derive from previous guidelines and opinions of the Department concerning section 1008.

A statement of the policies will be available for inspection and copying at the following regional and central office locations:

**Regional Offices**

DHHS/PHS Region I (CT, ME, MA, NH, RI, VT), JFK Federal Bldg. Rm. 1826, Government Center, Boston, MA 02203

DHHS Region II (NJ, NY, PR, VI), 26 Federal Plaza, Rm. 3337, New York, NY 10278

DHHS Region III (DE, D.C., MD, PA, VA, WV), 3535 Market St., Rm. 10200, Philadelphia, PA 19104

DHHS Region IV (KY, MS, TN, AL, FL, GA, SC), 101 Marietta Tower, Suite 1106, Atlanta, GA 30323

DHHS Region V (IL, IN, MI, MN, OH, WI), 105 West Adams, 17th Floor, Chicago, IL 60603

DHHS Region VI (AR, LA, NM, OK, TX), 1200 Main Tower Bldg., Rm. 1800, Dallas, TX 75202

DHHS Region VII (IA, KS, MO, NE), Federal Office Building, 601 East 12th Street, Rm. 501, Kansas City, MO 64106

DHHS Region VIII (CO, MT, ND, SD, UT, WY), Federal Building, 1961 Stout Street, Room 498, Denver, CO 80294

DHHS Region IX (AZ, CA, HI, NV, GU, AS, Trust Territories), 50 United Nations Plaza, Rm. 327, San Francisco, CA 94102

DHHS Region X (AK, ID, OR, WA), Blanchard Plaza, 2201 Sixth Avenue, Rm. 710A, Seattle, WA 98121-2500

Washington, DC

Office of Population Affairs, 200 Independence Ave., SW., Room 736E, Washington, DC 20201

The policy statement will be available for public inspection and copying during normal business hours at the above addresses.

The comment period on the proposed rules closed on April 6, 1993. During the comment period, the Department received several requests for further information on the specific details of the pre-1988 policies. The Department agrees that provision of the information requested would promote more informed and helpful public comment on the proposed rules. Accordingly, in order to provide the policies in a convenient and complete manner and to facilitate a more informed public comment on the issues, the Department is making available a statement of those policies for public inspection and copying at the above addresses and reopening the public comment period for an additional 45 days.

Dated: May 20, 1993.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 93–14676 Filed 6–22–93; 8:45 am]

BILLING CODE 4160–17–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 93–160, RM–8238]**

### Radio Broadcasting Services; Window Rock, AZ

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Western Indian Ministries, Inc., permittee of Station KHAC–FM, Channel 276A, Window Rock, Arizona, seeking the substitution of FM Channel 274C1 for Channel 276A and modification of its authorization accordingly. Coordinates for this proposal are 35–35–00 and 109–02–00.

Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 274C1 at Window Rock, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

**DATES:** Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Western Indian Ministries, Inc., Attn: Laurence Harper, General Director, P.O. Box F, Window Rock, Arizona 86515.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–160, adopted May 25, 1993, and released June 16, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (room 239), 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, Inc., (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.

**Michael C. Ruger,**

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

[FR Doc. 93–14705 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

### 47 CFR Part 73

**[MM Docket No. 93–158, RM–8239]**

### Radio Broadcasting Services; Hazlehurst, Utica and Vicksburg, MS

**AGENCY:** Federal Communication Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by St. Pe' Broadcasting, Inc., proposing the substitution of Channel 265C3 for Channel 225A at Utica, Mississippi, and modification of the license for Station WJXN(FM) to specify operation on the higher class channel. The coordinates for Channel 265C3 at Utica are 32–06–09 and 90–29–56. In accordance with Section 1.420(g) of the Commission's Rules we shall propose to modify the license for Station WJXN(FM) as requested. However, should another party indicate an interest in the C3 allotment, the modification cannot be implemented unless an equivalent class channel is also allotted. To accommodate the upgrade at Utica, we shall propose to substitute Channel 267A for Channel 266A at Vicksburg, Mississippi, at coordinates 32–21–34 and 90–50–08 and substitute Channel 225A for Channel 265C3 at Hazlehurst, Mississippi, at coordinates 31–53–34 and 90–24–08.

**DATES:** Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Timothy K. Brady, P.O. Box 986, Brentwood, Tennessee 37027–0986.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–158 adopted May 25, 1993, and released June 16, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street NW., suite 140, Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply 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* contact.

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.

**Michael C. Ruger,**

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

[FR Doc. 93–14704 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

### 47 CFR Part 73

**[MM Docket No. 93–165, RM–8247]**

### Radio Broadcasting Services; Athens, OH

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by James Phillips seeking the allotment of Channel 240A to Athens, Ohio, as the community's second local commercial

FM service. Channel 240A can be allotted to Athens in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.6 kilometers (7.2 miles) east-northeast, at coordinates North Latitude 39–22–08 and West Longitude 81–58–42, to avoid a short-spacing to Station WHOK, Channel 238B, Lancaster, Ohio, and Station WKWS, Channel 241B, Charleston, West Virginia. Canadian concurrence in the allotment is required since Athens is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

**DATES:** Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

**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: Arthur V. Belendiuk, Esq., Smithwick & Belendiuk, P.C., 1900 M Street, NW., Suite 510, Washington, DC 20036 (Counsel to petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–165, adopted June 4, 1993, and released June 17, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (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.

**Michael C. Ruger,**

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

[FR Doc. 93–14699 Filed 6–22–93; 8:45 am]

**BILLING CODE 6712–01–M**

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**47 CFR Part 73**

**[MM Docket No. 93–163; RM–8251]**

## Radio Broadcasting Services; Wilson Creek, WA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Wilson Creek Broadcasting Company seeking to substitute Channel 277C3 for Channel 277A at Wilson Creek, Washington, and the modification of Station KVYF–FM's construction permit accordingly. Channel 277C3 can be allotted to Wilson Creek in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilometers (16.6 miles) southeast at the petitioner's requested site. The coordinates for Channel 277C3 at Wilson Creek are North Latitude 47–22–00 and West Longitude 119–00–30. Since Wilson Creek is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been requested. See Supplementary Information *infra.*

**DATES:** Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

**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: Brett E. Miller, 11608 Blossomwood Court, Moorpark, California 93021 (Petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–163, adopted June 4, 1993, and released June 17, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 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, Inc., (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 277C3 at Wilson Creek or require the petitioner to demonstrate the availability of an additional equivalent class channel.

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.

**Michael C. Ruger,**

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

[FR Doc. 93–14072 Filed 6–22–93; 8:45 am]

**BILLING CODE 6712–01–M**

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**47 CFR Part 73**

**[MM Docket No. 93–164; RM–8248]**

## Radio Broadcasting Services; Williamstown, WV

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by James Phillips seeking the allotment of Channel 245A at Williamstown, West Virginia, as its first local aural transmission service. Channel 245A can be allotted to Williamstown in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.9 kilometers (4.3 miles) southwest of the community to avoid a short-spacing to Station WRRK, Channel 245B, Braddock, Pennsylvania. The coordinates for Channel 245A at Williamstown are North Latitude 39–22–18 and West Longitude 81–31–04. Since Williamstown is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government been requested.

**DATES:** Comments must be filed on or before August 9, 1993, and reply comments on or before August 24, 1993.

**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: Arthur V. Belendiuk, Esq., Smithwick & Belendiuk, P.C., 1990 M Street NW., suite 510, Washington, DC 20036 (Counsel for Petitioner).

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–164, adopted June 4, 1993, and released June 17, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 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, Inc., (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.

**Michael C. Ruger,**

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

[FR Doc. 93–14700 Filed 6–22–93; 8:45 am]

**BILLING CODE 6712–01–M**

# Notices

Federal Register
Vol. 58, No. 119
Wednesday, June 23, 1993

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

### Packers and Stockyards Administration

### Deposting of Stockyards

Notice is hereby given, that the livestock markets named herein, originally posted on the dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under the Act and are therefore, no longer subject to the provisions of the Act.

| Facility No. | Name and location of stockyard | Date of posting |
|---|---|---|
| CA–175 | Barstow Sales Yard, Barstow, CA. | July 1, 1981. |
| CA–141 | Los Angeles Producers Stockyards, Ontario, CA. | Dec. 31, 1970. |
| NC–149 | Gus Z. Lancaster Stockyards, Inc., Dunn, NC. | Oct. 18, 1978. |

This notice is in the nature of a change relieving a restriction and, thus, may be made effective in less than 30 days after publication in the **Federal Register** without prior notice or other public procedure. This notice is given pursuant to section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and is effective upon publication in the **Federal Register.**

Done at Washington, DC this 17th day of June, 1993.

**Harold W. Davis,**

*Director, Livestock Marketing Division.*

[FR Doc. 93–14733 Filed 6–22–93; 8:45 am]

BILLING CODE 3410–KD–M

### Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

CA–185 .... Dairyman's & Cattleman's Beef Auction, Bakersfield, CA.
CA–186 .... Newman Livestock Market, Newman, CA.
LA–144 .... Avoyelles Cattle Co., Inc. Avoyelles Parish, LA.
LA–145 .... Stanley Brothers Livestock, Inc., Bastrop, LA.
NY–171 .... Town & Country Auction Service, Schuylerville, NY.
TN–190 .... H Bar M Horse Auction, Athens, TN.
VA–160 .... Abingdon Stockyard Exchange, Inc., Abingdon, VA.

Pursuant to the authority under section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, room 3408-South Building, U.S. Department of Agriculture, Washington, DC 20250 by July 2, 1993.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 17th day of June, 1993.

**Harold W. Davis,**

*Director, Livestock Marketing Division.*

[FR Doc. 93–14731 Filed 6–22–93; 8:45 am]

BILLING CODE 3410–KD–M

### Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below are stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards are subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

| Facility No. | Name and location of stockyard | Date of posting |
|---|---|---|
| DE–101 | Dill's Auction Service, Wyoming, DE. | Dec. 11, 1991. |
| NC–162 | Walking Acres Auction, Plymouth, NC. | Oct. 23, 1991. |
| TN–188 | Burrell Horse Auction, Inc., Cleveland, TN. | May 26, 1993. |
| VA–159 | Courtland Stockyard, Inc., Courtland, VA. | Dec. 22, 1992. |

Done at Washington, DC this 17th day of June, 1993.

**Harold W. Davis,**

*Director, Livestock Marketing Division.*

[FR Doc. 93–14732 Filed 6–22–93; 8:45 am]

BILLING CODE 3410–KD–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### U.S. Department of Agriculture et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

*Docket Number:* 93–007. *Applicant:* U.S. Department of Agriculture,

Greenbelt, MD 20770–1433. *Instrument:* Mass Spectrometer and Elemental Analyzer System, Model OPTIMA. *Manufacturer:* VG Isogas, Ltd., United Kingdom. *Intended Use:* See notice at 58 FR 14559, March 18, 1993. *Reasons:* The foreign instrument provides: (1) internal precision of 0.03 per mil for 3 bar µl samples of $CO_2$, (2) sensitivity to 1 ion detected per 1500 molecules of $CO_2$ and (3) an elemental analyzer. *Advice Received From:* National Institutes of Health, May 4, 1993.

*Docket Number:* 93–024. *Applicant:* University of Alabama at Birmingham, Birmingham, AL 35294. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* Perkin Elmer-Sciex, Canada. *Intended Use:* See notice at 58 FR 17863, April 6, 1993. *Reasons:* The foreign instrument provides: (1) triple quadrupole MS, (2) atmospheric pressure ionization, (3) liquid chromatography at flow rates to 200 µl per minute and (4) mass range to 2400. *Advice Received From:* National Institutes of Health, May 4, 1993.

*Docket Number:* 93–018. *Applicant:* Saint Louis University, St. Louis, MO 63103. *Instrument:* Seismograph. *Manufacturer:* G. Streckeisen, Switzerland. *Intended Use:* See notice at 58 FR 17862, April 6, 1993. *Reasons:* The foreign instrument provides: (1) a bandwidth of 0.003 to 5.0 Hz, (2) a dynamic range of 140 dB and (3) deployment on the surface of the earth. *Advice Received From:* U.S. Bureau of Mines, March 6, 1993 (comparable case).

*Docket Number:* 93–029. *Applicant:* University of Colorado, Boulder, Boulder, CO 80309–0449. *Instrument:* Field Portable Spectrometer, Model PIMA II. *Manufacturer:* Integrated Spectronics Pty. Ltd., Australia. *Intended Use:* See notice at 58 FR 21973, April 26, 1993. *Reasons:* The foreign instrument provides in situ measurements in the 1.3 to 2.5 µm region with acquisition time less than 30s, 200 channels, a built-in light source and spectral resolution to 10.0 nm. *Advice Received From:* U.S. Geological Survey, May 25, 1993.

The National Institutes of Health, U.S. Bureau of Mines and U.S. Geological Survey advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 93–14822 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–DS–F

## Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

*Docket Number:* 93–010. *Applicant:* Children's Medical Center, 5300 East Skelly Drive, Tulsa, OK 74135. *Instrument:* Cytoscan Computer Processor. *Manufacturer:* Applied Imaging, United Kingdom. *Intended Use:* The instrument will be used for the studies of chromosomes from cancer cells in experiments which relate to the examination of several common human cancers (breast, colon, ovarian and malignant melanoma) for the location of recurring sites of chromosome change. In addition, the instrument will be used for teaching purposes in the course Cancer Genetics and Cytogenetics, Cancer Biology which primarily emphasizes the role played by chromosomal alterations in human cancers (i.e. cytogenetics). *Application Received by Commissioner of Customs:* February 5, 1993.

*Docket Number:* 93–047. *Applicant:* State University of New York, Research Foundation, Stony Brook, NY 11794. *Instrument:* In-Situ Large Volume Filtration System. *Manufacturer:* Challenger Oceanic Systems and Services, United Kingdom. *Intended Use:* The instrument will be used to measure the naturally occurring isotopes of thorium which are present in very low concentrations dissolved in seawater and on suspended particles. *Application Received by Commissioner of Customs:* May 6, 1993.

*Docket Number:* 93–048. *Applicant:* University of Maryland Baltimore County, 5401 Wilkens Avenue, Baltimore, MD 21228–5398. *Instrument:* Spectrofluorimeter System, Model SF-61. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used for the determination of kinetic parameters pertaining to enzymatic or other biological reactions which are carried out with the biological test samples generated by students and faculty in the Chemical Engineering Department. In addition, the instrument will be used for educational purposes in the courses ENCH 468 - Undergraduate Research, ENCH 648 - Special Problems in Chemical Engineering, ENCH 799 - M.S. Thesis Research and ENCH 899 - Ph.D. Thesis Research. *Application Received by Commissioner of Customs:* May 6, 1993.

*Docket Number:* 93–050. *Applicant:* Lamont-Doherty Earth Observatory of Columbia University, Rte. 9W, Palisades, NY 10964. *Instrument:* Multi-Sensor Core Logger. *Manufacturer:* GEOTEK, United Kingdom. *Intended Use:* The instrument will be used to conduct studies of deep-sea, lake and other terrestrial sediments and geological material in efforts to further the understanding of earth systems related to climate change and its affect on the environment, oceanography, geochemistry and associated fields. Students in graduate programs will also have access to the instrument in the pursuit to their thesis work. *Application Received by Commissioner of Customs:* May 12, 1993.

*Docket Number:* 93–055. *Applicant:* LSU-Pennington Biomedical Research Center, 6400 Perkins Road, Baton Rouge, LA 70808. *Instrument:* Xenon Flashlamp System, Model XF-10. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the effects of release of biologically active compounds inside the individual living cells. Specifically, the system will allow the release of caged compounds, such as enzymes and active compounds, inside cells where the effects can be studied. *Application Received by Commissioner of Customs:* May 20, 1993.

*Docket Number:* 93–057. *Applicant:* Hampden-Sydney College, Department of Chemistry, Hampden-Sydney, VA 23943. *Instrument:* Electron Spin Resonance Spectrometer, Model JES-RE1X. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used in four chemistry laboratory courses for educational purposes of developing scientific inquiry skills by having third- and fourth-year students

engage in a series of four one-semester research-style projects. *Application Received by Commissioner of Customs:* May 21, 1993.

*Docket Number:* 93–059. *Applicant:* University of Colorado at Boulder, Department of EPO Biology, 122 Ramaley, Boulder, CO 80309–0334. *Instrument:* Portable Chlorophyll Fluorometer and Accessories, Model PAM-2000. *Manufacturer:* Heinz Walz GmbH, Germany. *Intended Use:* The instrument will be used for the examination of plants and other photosynthetic organisms under natural conditions and in the laboratory, assessing the parameters, the functioning of the photosynthetic apparatus, the reduction state of photosystem II, the photodamage to the photosynthetic apparatus, and the photoprotection through thermal energy dissipation associated with the xanthophyll cycle and other potential processes. Experiments will be conducted to learn more about the functioning of the photosynthetic apparatus under various environmental conditions. In addition, the instrument will be used in the laboratory courses to accompany Plant Ecophysiology and Ecophysiology of Photosynthesis course to show students how the non-intrusive determination of the above parameters can be used to assess the status and response of the photosynthetic apparatus to various environmental factors including light, water availability and temperature. *Application Received by Commissioner of Customs:* May 28, 1993.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 93–14825 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–DS–F

## Good Samaritan Hospital and Medical Center et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

*Docket Number:* 92–180. *Applicant:* Good Samaritan Hospital and Medical Center, Portland, OR 97202–1595. *Instrument:* Motion Analysis System, Model Elite. *Manufacturer:* Bioengineering Technology and Systems, Italy. *Intended Use:* See notice at 58 FR 7546, February 8, 1993. *Reasons:* The foreign instrument provides measurement of movement patterns based on infrared light without connecting wires.

*Docket Number:* 92–187. *Applicant:* Mary Free Bed Hospital and Rehabilitation Center, Grand Rapids, MI 49503. *Instrument:* Kinematic Analysis Instrumentation, Model Elite 3D. *Manufacturer:* Bioengineering Technology and Systems, Italy. *Intended Use:* See notice at 58 FR 7547, February 8, 1993. *Reasons:* The foreign instrument provides: (1) A 100 Hz scanning rate, (2) 1.0 mm accuracy and (3) less than 1.0 mm precision at 2800 mm field of view.

*Docket Number:* 92–189. *Applicant:* Scripps Clinic and Research Foundation, La Jolla, CA 92037. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE Sciex, Canada. *Intended Use:* See notice at 58 FR 7547, February 8, 1993. *Reasons:* The foreign instrument provides: (1) Triple quadrupole mass spectrometry, (2) liquid chromatography with flow rates to 200 ml per minute and (3) mass range to 2400.

*Docket Number:* 93–005. *Applicant:* Centers for Disease Control and Prevention, Atlanta, GA 30333. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE/Sciex, Canada. *Intended Use:* See notice at 58 FR 14559, March 18, 1993. *Reasons:* The foreign instrument provides: (1) Superior selectivity and sensitivity, (2) a heated nebulizer, (3) a flow rate of 1.0 ml per minute and (4) 100 samples per day throughput.

*Docket Number:* 93–006. *Applicant:* University of Wisconsin-Milwaukee, Milwaukee, WI 53201. *Instrument:* Light Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan MAT GmbH, Germany. *Intended Use:* See notice at 58 FR 14559, March 18, 1993. *Reasons:* The foreign instrument provides an internal precision of 0.006 per mil for 100 bar µl samples of $CO_2$.

The National Institutes of Health advises in its memoranda dated May 4, 1993, that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

**Frank W. Creel,**

*Director, Statutory Import Programs Staff.*

[FR Doc. 93–14827 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–DS–F

## University of Georgia Research Foundation et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

*Docket Number:* 93–004. *Applicant:* University of Georgia Research Foundation, Athens, GA 30602–7411. *Instrument:* GC/IR Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 58 FR 17862, April 6, 1993. *Reasons:* The foreign instrument provides an internal precision of 0.005 per mil for 70 bar µl samples of $CO_2$ and a 6-element collector array.

*Docket Number:* 93–019. *Applicant:* Washington State University, Pullman, WA 99164. *Instrument:* Gas Source Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan, MAT, Germany. *Intended Use:* See notice at 58 FR 17863, April 6, 1993. *Reasons:* The foreign instrument provides: (1) A 6-element multicollector, (2) an automated bank of inlet ports, (3) superior linearity and (4) an internal precision of 0.006 per mil for 20 bar µl samples of $CO_2$.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent

scientific value to either of the foreign instruments.

Frank W. Creel,

*Director, Statutory Import Programs Staff.*

[FR Doc. 93–14824 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–DS–F

## National Oceanic and Atmospheric Administration

[Docket Number 930497–3097A]

## Announcement of Opportunities for Research Funding in the National Estuarine Research Reserve System for Fiscal Year 1994

**AGENCY:** Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice.

**SUMMARY:** The Sanctuaries and Reserves Division of the Office of Ocean and Coastal Resource Management is soliciting proposals for funding research within the National Estuarine Research Reserve System. The focus of funding for the upcoming annual grant period is the assessment of the effect of non-point source pollution on estuarine and estuarine-like ecosystems. This notice sets forth funding priorities, selection criteria, and procedures for proposal submission.

**DATES:** Pre-proposals must be submitted and be postmarked no later than July 15, 1993. Notification regarding the disposition of the pre-proposals will be issued on or about September 1, 1993. Final proposals must be postmarked no later than November 1, 1993.

**FOR FURTHER INFORMATION CONTACT:** For further information on research opportunities under the National Estuarine Research Reserve System, contact the on-site personnel listed in Appendix I or CAPT Francesca M. Cava of the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, 1305 East-West Highway, SSMC4, #12520, Silver Spring, MD 20910, Attn: FY94 NERRS Research; 301–713–3125.

**SUPPLEMENTARY INFORMATION:**

### I. Authority and Background

Section 315 of the Coastal Zone Management Act (CZMA), (16 U.S.C. § 1461), establishes the National Estuarine Research Reserve System (NERRS). Subsection 315(e)(1)(B) authorizes the Sanctuaries and Reserves Division (SRD) of the Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration (NOAA), to make grants to any public or private person or coastal state for purposes of supporting research within the NERRS. This program is listed in the Catalog of Federal Domestic Assistance under "Coastal Zone Management Estuarine Research Reserve," Number 11.420.

### II. Information on Established National Estuarine Research Reserves

The NERRS consists of estuarine areas of the United States which are designated, developed, and managed for research and educational purposes. Each National Estuarine Research Reserve (Reserve) within the NERRS is chosen to reflect regional differences and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR part 921.

Each Reserve is suited to support a wide range of beneficial uses of ecological, economic, recreational, and aesthetic value which are dependent upon maintenance of a healthy ecosystem. Each site provides habitat for a wide range of ecologically and commercially important species of fish, shellfish, birds, and other aquatic and terrestrial wildlife. Each Reserve has been designed to ensure its effectiveness as a conservation unit and as a site for long-term research and monitoring. As part of a national system, the Reserves collectively provide an excellent opportunity to address research questions and estuarine management issues of national significance. For a detailed description of the sites, contact individual site Managers and/or Research Coordinators. The on-site contacts and addresses of the National Estuarine Research Reserves are provided in appendix 1.

### III. Availability of Funds

Funds are available on a competitive basis to any public or private university, qualified public or private institution, individual, or coastal state (including Great Lakes States, Puerto Rico, Virgin Islands, Guam, American Samoa, and the Northern Marianas) to conduct research within National Estuarine Research Reserves. NERRS research funds are normally awarded through a cooperative agreement. Managers and Research Coordinators at NERRS sites are ineligible to submit competitive research proposals under this Announcement. In FY92 and 93, SRD provided funding in the amount of approximately $700,000, each year, for research in the NERRS. The approximate range of funding per successful project in recent years has been between $30,000 and $60,000. In FY94, it is expected that approximately $300,000 will be available for funding new one-year projects at similar levels. Federal funds requested must be matched by the applicant by at least 30% of the total cost of the project, not just the Federal share. For example, if the total project cost is $10,000, the Federal share is $7,000, match is $3,000.

**Note:** The match requirement was decreased from 50% to 30% by Coastal Zone Act Reauthorization Amendments of 1990.

The required match must be with cash or the value of goods and services directly benefiting the project in accordance with 15 CFR part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments," or OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." It is anticipated that projects receiving funding under this announcement will begin in the spring/summer of 1994. Earliest anticipated start date is May 1. Applicants not familiar with the requirements of a cooperative agreement or who need additional information on application requirements are encouraged to contact the applicable Reserve Manager or SRD.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (1) The delinquent account is paid in full; (2) A negotiated repayment schedule is established and at least one payment is received; or (3) Other arrangements satisfactory to the Department of Commerce are made. In addition, any researchers who are past due for submitting acceptable final reports of any previous SRD-funded research will be ineligible to be considered for new awards until final reports are received, reviewed and deemed acceptable by SRD. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

### IV. Purpose and Priorities

Research funds are used to support management-related research that will enhance scientific understanding of Reserve environments, provide

information needed by Reserve Managers and coastal zone decision makers, and improve public awareness of estuaries and estuarine management issues. Research projects may be oriented to specific Reserves; however, projects that will benefit more than one Reserve in the national system will be given a higher priority than Reserve-specific projects.

The ten-year primary research objective is the study of natural and anthropogenically-induced change in the ecology of estuarine and estuarine-like ecosystems that comprise the NERRS. All research funded through SRD should be designed to provide information of significant value to the development and implementation of management policy governing the U.S. coastal zone, for which NOAA's Office of Ocean and Coastal Resource Management has management and regulatory responsibilities. Five two-year research priority categories will serve as foci for the SRD competitive research program over this ten-year period. The first of the two-year research priorities began in FY93 (see below). Every two years, beginning in FY94, SRD will review (and if necessary, revise) its next ten-year set of research priorities. This procedure will ensure a continuous decade-long research agenda which, in turn, will provide the basis for long-term research and monitoring in the NERRS. This procedure will also facilitate long-term interaction with other Federal and state agencies, as well as the academic research community.

**NERRS Research Priorities for FY 1993–2002**

FY 1993, 1994: Non-point Source Pollution (pollution inputs from non-focused or non-identifiable sources).

FY 1995, 1996: Habitat Restoration (restoration of coastal habitats that have been altered by anthropogenic activities and/or inputs).

FY 1997, 1998: Alterations in Habitat Utilization by Coastal Biota (exotic species, commercial species, non-commercial species).

FY 1999, 2000: Alterations in Water Circulation, Transportation and Quality (tidal exchange, fresh water diversion, hydrological budgets, ground water intrusion, biotic species transportation).

FY 2001, 2002: Anthropogenic Inputs and Activities (focused and identifiable human impacts—e.g., dredge spoils, hazardous materials, recreational uses, commercial uses).

Each year's research proposals should be designed to answer the same standardized, management-oriented question. In FY 1994 the question to be addressed is: *"How will non-point source pollution affect estuarine or estuarine-like ecosystems in terms of (a) functional biodiversity, (b) functional ecology, (c) human health, (d) eutrophication, and/or (e) commercial fisheries?"*

Research proposals submitted in response to this announcement must address coastal management issues identified as having regional or national significance, must relate them to the National Research Priorities described in this announcement, and be conducted (at least partially) within one or more designated NERRS sites. Research projects are normally funded for a duration of either one or two years. Multi-year funding will always be initiated in the first year of a two-year priority. One year projects may be submitted in either year of a two-year priority. This will ensure that no site is automatically locked out of research funds in the second year of a priority period and will ensure infusion of "fresh ideas" each year. Therefore, all proposals submitted under this announcement for FY 94 funding must be of one year duration.

If an application is selected for funding, the Department of Commerce (DOC) has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of DOC. However, funding priority will be given to the second year of multi-year proposals upon satisfactory completion of the first year of research.

The research topic and the Reserve must be carefully chosen to ensure that the resource management issues of primary concern to the Reserve and the NERRS are addressed. Thus, it is very important that all prospective researchers contact the appropriate Reserve manager of research coordinator before submitting a proposal responding to this announcement.

**V. Guidelines for Proposal Preparation, Proposal Review and Evaluation and Reporting Requirements**

Applicants for SRD research funds must follow the guidelines presented herein when preparing pre-proposals and proposals for research in Reserves. Pre-proposals and proposals not following these guidelines will be returned to the applicant without further review.

Proposals for research in the NERRS are solicited annually for award the following fiscal year. Proposal due dates and other pertinent information are contained in this announcement of research opportunities. All proposals sent to SRD must cite and reference this **Federal Register** notice. Proposers must submit an original and two (2) copies of each proposal and all supporting documents (curricula vitae, literature referenced, etc.).

Each proposal will be reviewed only as a one-year project. Applicants whose pre-proposals are approved for further review must submit an original and two (2) copies of their full proposals as well. Those researchers funded for multi-year projects under the FY 93 announcement must re-submit all NOAA forms, certifications, detailed budgets with justifications, milestone schedules, and any changes in the Statement of Work for second year funding by the full proposal deadline (November 1, 1993).

*A. Pre-proposals*

Pre-proposals will be used by SRD to evaluate the applicability of the research plan with regard to the goals of this announcement. Pre-proposals may not exceed 8 double-spaced pages including the abstract, introduction, objectives, statement of hypothesis, brief methods description, and discussion of anticipated results and benefits. A discussion of coordination with other research in progress or proposed would also be helpful. Each pre-proposal must include a cover page which lists principal investigator(s) name(s), address(es) and telephone number(s), proposal title, name of institution providing matching funds, amount of Federal funds requested and amount of match, requested start date (month), and site(s) where research is to be conducted. Curricula vitae (not to exceed 3 pages each) for each researcher must be included. The 8 double-spaced pages do not include budget description showing matching funds, cover page, curriculum vitae, literature cited section, and any tables or figures. No Federal forms need be submitted with a pre-proposal. The original and 2 copies of the pre-proposal and additional sections should be submitted to: CAPT Francesca M. Cava, Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, SSMC4, #12520, Silver Spring, MD 20910; Attn: FY94 NERRS Research. All pre-proposals must be postmarked no later than July 15, 1993. Receipt of all pre-proposals will be acknowledged and a copy sent to the appropriate Reserve Manager. All pre-proposals will be reviewed by SRD research staff, the SRD Headquarters Regional Managers and their staff, and the Reserve Manager, Research Coordinator, and their research advisory committees. Pre-proposals will be rated using the criteria

listed in section C below, "Proposal Review and Evaluation." Applicants will be notified by mail as to the disposition of their pre-proposals on or about September 1, 1993. Applicants whose research projects are deemed by SRD to warrant further consideration will be requested to submit a full proposal.

Incomplete pre-proposals will be returned to the Principal Investigator without further review.

*B. Full Proposals*

Full proposals may be submitted only by those individuals requested to do so following review of pre-proposals. Unsolicited full proposals will be returned without review. Full proposals must be postmarked no later than November 1, 1993. One (1) original and two (2) copies of the proposal (including all forms, curricula vitae, etc.) must be submitted to the same address as the pre-proposals. The proposal may not exceed 20 double-spaced pages, excluding Federal forms, table of contents, title page, literature cited, curricula vitae, and figures and tables. Incomplete proposals will be returned without further review.

Proposal Content

*1. Cover Sheet.* A Standard Form 424 (revised 4/88) with all blocks completed must be submitted as a cover sheet to the proposal. An SF–424A and SF–424B, Budget and Assurances must also be submitted. These forms will be supplied upon request for a full proposal. Specification of a proposed starting date does not ensure receiving an award by that date. Therefore, work on a project should not begin before the effective date on the official notification of the award from the NOAA Grants Officer. If any costs are incurred prior to an award being made, the applicant does so at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

A proposal must be signed and dated by the organizational official authorized to contractually obligate the submitting organization and by the principal investigator.

*2. Peer Reviewers.* Applicants are requested to include the names, addresses, and telephone numbers of five (5) individuals who, in their opinion, are especially well qualified to evaluate the proposal objectively.

*3. Title Page.* Each proposal must include a title page which lists principal investigator(s) name(s), address(es) and telephone number(s), proposal title, name of institution providing matching funds, amount of Federal funds requested and amount of match, requested start date (month), and site(s) where research is to be conducted.

*4. Table of Contents, Lists of Figures and Tables.* These should list the major contents of the proposal and the appropriate page numbers.

*5. Abstract.* A one-page abstract must be included. The abstract should state the research objectives, scientific methods to be used, the significance of the project to a particular Reserve, the NERRS program, and the national research priorities.

*6. Project Description.* The main body of the proposal should be a detailed statement of the work to be undertaken, and include the following headings and components:

(a) Introduction. This section should introduce the reviewer to the research setting and environment. It should include a brief review of pertinent literature, and describe the research problem in relation to relevant coastal management issues and the FY94 research priority identified in this Request for Proposals.

(b) Objectives. This section should discuss the overall study objectives, the specific research objectives, and the relationship of research project objectives to site-specific and NERRS program objectives. This section should also present the primary hypothesis upon which the project is focused, as well as any additional or component hypotheses which will be addressed by this research.

(c) Methods. This section should state the methods(s) to be used to test the hypotheses and accomplish the specific research objectives including a systematic discussion of what, when, where, and how the data are to be collected, analyzed, and reported. Field and laboratory methods should be scientifically valid and reliable and accompanied by a statistically sound sampling scheme. Methods should be well documented and described in sufficient detail to enable other scientists to evaluate their appropriateness and their possible impact on the environment. Methods chosen should be justified and compared with other methods employed for similar work.

Techniques should allow the testing of the hypotheses, but also provide baseline data that may be used in answering related ecological and management questions concerning the Reserve environment. Methods should be described concisely and techniques should be reliable enough to allow comparison with those made at different sites and times by different investigators. If the project is envisioned as the initial phase of a long-term effort (e.g., a monitoring program), the methods selected must be stable enough that it is unlikely that they will change drastically over the next 10–15 years. The methods must have proven their utility and sensitivity as indicators for natural or human-induced change. Unproven or newly-devised methods should be field-tested to evaluate their soundness and likely success before applying for SRD research funds.

Analytical methods and statistical tests applied to the data should be documented, thus providing a rationale for choosing one set of methods over alternatives. Quality control measures also should be documented (e.g., statistical confidence levels, standards of reference, performance requirements, internal evaluation criteria). The proposal should indicate by way of discussion how data are to be synthesized, interpreted and integrated into final work products, and how and where the data are to be catalogued and stored for ready retrieval at later dates.

A map clearly showing the study location and any other features of interest must be included. Use a U.S. Geological Survey topographic map, or an equivalent, in constructing the location map for the proposal. Consultation with Reserve personnel to identify existing maps is strongly recommended.

(d) Project Significance. This section should discuss how the proposed research effort will enhance or contribute to improving the state of knowledge of the estuary and assist coastal zone management decision making; i.e., why is the proposed research important and how can the results be used to manage coastal resources? This section must also discuss, in detail, the relation of the proposed research to the research priorities stated in this research announcement. In addition, the applicant must provide a clear discussion of how the proposed research addresses state and national estuarine and coastal resource management issues and how the results can be utilized by policy makers. Applicability of research findings to other sites in the NERRS should be given special mention. If the research is to be conducted at more than one Reserve, the applicant must provide copies of correspondence with the appropriate Reserve Managers indicating consultation with the Managers and their support for the proposed project.

(e) Milestone Schedule. A milestone schedule is required in the proposal. This schedule should show, in table form, anticipated dates for completing field work and data collection, data analysis, progress reports, the draft technical report, the final technical report and other related activities. Use "Month 1, Month 2," rather than June, July, etc., in preparing these charts. (SRD Headquarters requires at least 6 weeks from time of receipt to review draft technical reports.)

(f) Personnel and Project Management. The proposal must include a complete description of how the project will be managed, including the name and expertise of the principal investigator and the name(s), expertise, and task assignments of team members. Evidence of ability to successfully complete the proposed research should be supported by reference to similar efforts performed. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. Curricula vitae (not to exceed 3 pages for each investigator) listing qualifications related to professional and technical personnel should be provided. All non-profit and for-profit applicants are subject to a name check review process as required by Department of Commerce regulations. The proposal should discuss and explain any portion of work expected to be subcontracted, and identify subcontractor(s).

(g) Literature Cited. This section should provide complete references for current literature, research, and other appropriate published and unpublished documents cited in the text of the proposal.

(h) Budget. The applicant may request funds under any of the categories listed below as long as the costs are reasonable and necessary to perform research and are determined to be in accordance with the previously mentioned 15 CFR part 24 and OMB Circulars A–21, A–122, A–87, and A–110. The amount of Federal funds requested must be matched by the applicant by at least 30% of the total project cost. Cash or the value of goods and services, except land, directly benefiting the research project may be used to satisfy the matching requirements. Overhead costs may also be used as match.

Funds from other Federal agencies and NERRS Research Coordinator salaries may not be used as match. General guidelines for the non-Federal share are contained in 15 CFR part 24 and OMB Circular A–110.

The budget should contain itemized costs with appropriate narratives justifying proposed expenditures. Budget categories are to be broken down as follows, clearly showing both Federal and non-Federal shares *side by side*:

—Salaries and Wages. Salaries and wages of the principal investigator and other members of the project team constitute direct costs in proportion to the effort devoted to the project. The number of full-time person months or days and the rate of pay (hourly, monthly, or annually) should be indicated. Salaries requested must be consistent with the institution's regular practices. The submitting organization may request that salary data remain confidential information.

—Fringe Benefits. Fringe benefits (i.e., social security, insurance, retirement) may be treated as direct costs as long as this is consistent with the institution's regular practices.

—Equipment. While not their primary purpose, research funds may be approved for the purchase of major equipment only if the following conditions are met: (a) A lease versus purchase analysis has been conducted by the applicant or the applicant's institution and the findings determine that purchase is the most economical method of procurement; and (b) the equipment does not exist at the recipient's institution or the Reserve site and is essential for the successful completion of the project.

The justification must discuss each of these points along with the purpose of the equipment and a justification for its use, and include a list of equipment to be purchased, leased, or rented by model number and manufacturer, where known. At the termination of the contract, disposition of equipment acquired costing $300 or more with a life expectancy of 2 years or more will be determined by SRD.

—Travel. The type, extent, and estimated cost of travel should be explained and justified in relation to the proposed research. Travel expense is limited to round trip travel to field research locations and should not exceed 40 percent of total direct costs. Requests for funds to travel to conferences are discouraged and will not be approved unless a clear justification is provided.

—Other Direct Costs. Other anticipated costs should be itemized under the following categories: Materials and Supplies. The budget should indicate in general terms the types of expendable materials and supplies required and their estimated costs; Research Vessel or Aircraft Rental. Include purpose, unit cost, duration of use, and justification; Laboratory Space Rental. Funds may be requested for use of laboratory space at research establishments away from the grantee's institution while conducting studies specifically related to the proposed effort; Telecommunication Services and Reproduction Costs. Include expenses associated with telephone calls; facsimile, copying, reprint charges, film duplication, etc.; Consultant Services and Subcontracts. Consultant services should be disclosed and justified in the proposal. Funds may be requested for transportation and subsistence, and for consultant's travel. Travel costs, per diem and other related costs must be listed. Furnish information on consultant's expertise, primary organizational affiliation, daily compensation rate, and number of days of service; Computer Services. The cost of unusual or costly computer services may be requested and must be justified.

—Indirect Costs. Include fees and overhead costs based on the negotiated rate agreement by the cognizant agency on behalf of the Federal Government. A copy of the negotiated indirect cost rate must also be included. Reduced indirect costs may be used as match.

**Note:** Indirect costs may not exceed direct costs.

(i) Requests for Reserve Support Services. On-site Reserve personnel sometimes can provide limited logistical support for research projects in the form of manpower, equipment, supplies, etc. Any request for Reserve support services should be approved by the Reserve Manager prior to proposal submission and be included as part of the proposal package in the form of written correspondence.

(j) Coordination with other Research in Progress or Proposed. SRD encourages collaboration and cost-sharing with other investigators to enhance scientific capabilities and avoid unnecessary duplication of effort. Proposals should include a description of how the proposed effort will be coordinated with other research projects that are in progress or proposed, if applicable.

(k) Other Sources of Financial Support. List all current or pending research to which the principal investigator or other key personnel have committed their time during the period of the proposed work, regardless of support. Indicate the level of effort or percentage of time devoted to these projects.

In addition to their required non-Federal match, SRD encourages investigators to seek other sources of

financial support to supplement Federal funds. If the proposal submitted to SRD is being submitted to other possible sponsors, list them and describe the extent of support being sought. Disclosure of this information will not jeopardize chances for Federal funding.

(1) Permits. The applicant must apply for any applicable state or Federal permits. A copy of the permit application and supporting documentation should be attached to the proposal as an appendix. SRD must receive notification of the approval of the permit application before funding can be approved.

*7. Federal Forms.* Federal forms SF–424, SF–424A, SF–424B, CD–511, CD–512 (copy where applicable), SF–LLL (where applicable), negotiated indirect cost rate and audit information must all be submitted with the application. These forms are described in this section and Section VI. Other Requirements, below. All forms will be provided to the applicant upon request for full proposal.

*C. Proposal Review and Evaluation*

All full proposals will be reviewed by SRD research staff, and by at least two outside individuals who are acknowledged experts in the particular field represented by the proposal. Each full proposal is also forwarded to the appropriate SRD Regional and Reserve staff for their comments. Once SRD award recommendations are authorized by the NOAA Grants Management Division and the cooperative agreement is awarded, verbatim copies of the reviews, excluding the names of reviewers, are mailed, upon request, to each Principal Investigator/Project Director.

In order to provide for the fair and equitable selection of the most meritorious research projects for support, SRD has established specific criteria for their review and evaluation. These criteria are intended to be applied to all research proposals in a balanced and judicious manner, in accordance with the SRD Research Priorities set forth in this announcement. The criteria used in both pre-proposal review and the peer review process to aid SRD in its final selection of research projects are listed below, together with the elements that constitute each criterion and the relative weight (in parenthesis):

*1. Scientific Merit (20%).* This criterion is used to evaluate whether the objectives of the proposal or of the observations are important to the field, and to assess the likelihood that the research will improve the scientific understanding of estuarine processes within the Reserve as well as in other similar estuaries.

*2. Technical approach (20%).* This criterion is used to assess the technical feasibility of the proposed effort, the reasonableness of the hypotheses, the degree to which the proposed timeline is realistic, the appropriateness and scientific validity of the proposed analytical methods, the degree to which the proposal demonstrates an understanding of the Reserve environment and management needs, the current state of knowledge in the particular field of research interest, and the total research requirements.

*3. Utility to Reserve Management and to Regional Coastal Management Issues (20%).* This criterion is used to assess the likelihood that results of this research will be important to management of the Reserve (Does it address management issues relevant to the site and the region?) and for addressing coastal management issues of regional importance (Will the results of this study significantly enhance a coastal zone manager's ability to wisely manage coastal resources?).

*4. Relevance to National Research Priorities and Utility to National Coastal Management Issues (20%).* This criterion is used to assess the relationship between the objectives of the proposed project and the National Research Priorities established by NOAA, and the likelihood that results of this research will be important to national coastal management issues.

*5. Qualifications of P.I. and Key Personnel (10%).* This criterion relates to the experience and past performance of the principal investigator and key personnel, their familiarity with the geographic area of the proposed study, and their publication record.

*6. Institutional Support and Capabilities (5%).* This criterion relates to the extent of the applicant institution's support for and commitment to the proposed research and what facilities, equipment, and other resources are available to the principal investigator and key personnel from his/her institution for use in accomplishing the proposed work.

*7. Budget (5%).* This criterion is used to determine whether the budget is realistic and reasonable for accomplishing the proposed tasks.

*D. Reporting Requirements*

Awards for research are usually made during the third or fourth quarter of the fiscal year (April through September). Semi-annual performance and financial reports, a draft technical report, and a final technical report are required as conditions of the award. The format for semi-annual reports will be sent to investigators with notification of award.

Performance reports are summaries of all work performed during the preceding 6 months and show the overall progress against the milestone schedule in the approved proposal. A statement of the milestones reached, data compiled, and analyses completed must be included. In addition, a summary of any significant technical, manpower, schedule, or cost problems encountered during the preceding quarter, an assessment of their probable impact on the project's approved milestone schedule, and a statement of any corrective action taken or proposed is also required. Any presentations at scientific meetings (or publications including theses, dissertations, and journal articles) that occurred should be highlighted. Also required is a summary of major work activities scheduled for the next quarter and any questions or problems regarding the applicant's work that requires discussion with, or resolution by, SRD. The semi-annual performance reports should not exceed 5 pages in length. Principal Investigators are encouraged to routinely discuss (via telephone, personal visits, FAX, etc.) progress of their research with the Reserve Manager and/or Research Coordinator and SRD headquarters research staff.

Financial reports should be filed at the same time as technical and performance reports, cover the same periods, and show the status of the project's financial operations.

SRD's "Guidelines for Preparing Technical Reports of Research in National Estuarine Research Reserves," which will be sent with notification of award, should be followed in preparing draft and final *technical reports.*

*All final reports are due 90 days after the project end date.*

**VI. General Requirements**

Cooperative agreements for Federal financial assistance are subject to all Federal laws and Federal and DOC regulations, policies, and procedures applicable to Federal assistance awards, such as the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other laws and regulations prohibiting discrimination; patent and copyright requirements; cost sharing; the use of U.S.-flag carriers for international travel; and the use of foreign currency as appropriate to accomplish the objectives of a project. All non-profit and for-profit applicants, with the exception of accredited colleges or universities, are subject to a name-check review process.

The requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," are applicable to the awards of grants and cooperative agreements under this notice. However, the requirements of the Executive Order apply to individuals only if a state or local government is the provider of the non-Federal funds.

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matter; Drug-Free Workplace Requirements and Lobbying," and applicants should be advised about the following:

1. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension," and the related section of the certification form;

2. *Drug-Free Workplace.* Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form;

3. *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on the use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater;

4. *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

5. *Lower Tier Certifications.* Subcontracts that become necessary after a cooperative agreement has been made must be submitted to SRD for approval. The proposed performance statement and budget, a statement indicating the basis for selection of the contractor, and a justification of the proposed arrangement must be provided. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying," and disclosure form SF–LLL, "Disclosure of Lobbying Activities." The original form CD–512 is intended for the use of recipients; a copy should be included with the application. SF–LLL submitted by any tier recipient or subrecipient should be submitted to SRD in accordance with the instructions contained in the award document.

## VII. Classification

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this notice is not a major action requiring a regulatory impact analysis under Executive Order 12291 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, and local government agencies or geographic regions; or (3) 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. Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law because this notice concerns grants, benefits and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

This notice does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

This notice contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648–0121.

(Federal Domestic Assistance Catalog Number 11.420, Coastal Zone Management Estuarine Research Reserves)

Dated: June 17, 1993.

**W. Stanley Wilson,**

*Assistant Administrator, Ocean Services and Coastal Zone Management.*

## APPENDIX I. NERRS ON-SITE STAFF

*Alabama*

Mr. Thomas McAlpin, Manager, Weeks Bay National Estuarine Research Reserve, 10936–B, U.S. Highway 98, Fairhope, AL 36532, (205) 928–9792.

*California*

Mr. Steve Kimple, Manager, Dr. Andrew deVogelaere, Research Coordinator, Elkhorn Slough National Estuarine Research Reserve, 1700 Elkhorn Road, Watsonville, CA 95076, (408) 728–2822.

Mr. Paul Jorgensen, Manager, Tijuana River National Estuarine Research Reserve, 301 Caspian Way, Imperial Beach, CA 92032, (619) 575–3613.

*Florida*

Mr. Woodard Miley II, Manager, Mr. Lee Edmiston, Research Coordinator, Apalachicola River National Estuarine Research Reserve, 261 7th Street, Apalachicola, FL 32320, (904) 653–8063.

Mr. Gary Lytton, Manager, Dr. Thomas Smith, Research Coordinator, Rookery Bay National Estuarine Research Reserve, 10 Shell Island Road, Naples, FL 33942, (813) 775–8845.

*Georgia*

Dr. Fred Marland, Manager & Research Coordinator, Sapelo Island National Estuarine Research Reserve, Department of Natural Resources, P.O. Box 19, Sapelo Island, GA 31327, (912) 485–2251.

*Hawaii*

Mr. William Stormont, Manager, Waimanu Valley National Estuarine Research Reserve, Department of Land and Natural Resources, Division of Forestry & Wildlife, 1151 Punchbowl Street, Honolulu, HI 96813, (808) 587–0051.

*Maine*

Mr. James List, Manager, Dr. Michelle Dionne, Research Coordinator, Wells National Estuarine Research Reserve, RR #2, Box 806, Wells, ME 04090, (207) 646–1555.

*Maryland*

Ms. Mary Ellen Dore, Manager, Chesapeake Bay National Estuarine Research Reserve in Maryland, Dept. of Natural Resources, Tawes State Office Building, B–3, 580 Taylor Avenue, Annapolis, MD 21401, (410) 974–2784.

*Massachusetts*

Ms. Christine Gault, Manager, Dr. Richard Crawford, Research Coordinator, Waquoit Bay National Estuarine Research Reserve, Dept. of Environmental Management, P.O. Box 92W, Waquoit, MA 02536, (508) 457–0495.

*New Hampshire*

Mr. Peter Wellenberger, Manager, Great Bay National Estuarine Research Reserve, New Hampshire Fish and Game Department, 37 Concord Road, Durham, NH 03824, (603) 868–1095.

*New York*

Ms. Elizabeth Blair, Manager, Mr. Chuck Nieder, Research Coordinator, Hudson River National Estuarine Research Reserve, New York State Department of Environmental Conservation, c/o Bard College Field Station, Annandale-on-Hudson, NY 12504, (914) 758–5193.

*North Carolina*

Dr. John Taggart, Manager, Dr. Steve Ross, Research Coordinator, North Carolina National Estuarine Research Reserve, University of North Carolina at Wilmington, 7205 Wrightsville Avenue, Wilmington, NC 28403, (919) 256–3721.

*Ohio*

Mr. Eugene Wright, Manager, Dr. David Klarer, Research Coordinator, Old Woman Creek National Estuarine Research Reserve, 2514 Cleveland Road, East, Huron, OH 44839, (419) 433–4601.

*Oregon*

Mr. Michael Graybill, Manager, Dr. Steve Rumrill, Research Coordinator, South Slough National Estuarine Research Reserve, P.O. Box 5417, Charleston, OR 97420, (503) 888–5558.

*Puerto Rico*

Ms. Anaisa Delgado-Hyland, Manager, Mr. Carlos J. Cianchini, Research Coordinator, Jobos Bay National Estuarine Research Reserve, Dept. of Natural Resources, P.O. Box 1170, Guayama, PR 00655, (809) 864–0105.

*Rhode Island*

Mr. Al Beck, Manager, Narragansett Bay National Estuarine Research Reserve, Dept. of Environmental Management, Box 151, Prudence Island, RI 02872, (401) 683–5061.

*South Carolina*

Mr. Michael D. McKenzie, Manager, Dr. Elizabeth Wenner, Research Coordinator, Ashepoo-Combahee-Edisto (ACE) Basin, South Carolina Wildlife and Marine Resources Department, P.O. Box 12559, Charleston, SC 29412, (803) 762–5052.

Dr. Dennis Allen, Manager, North Inlet-Winyah Bay, Baruch Marine Field Laboratory, P.O. Box 1630, Georgetown, SC 29442, (803) 546–3623.

*Virginia*

Dr. Maurice P. Lynch, Manager, Dr. Jeffrey Shields, Research Coordinator, Chesapeake Bay National Estuarine Research Reserve in Virginia, Virginia Institute of Marine Science, College of William and Mary, P.O. Box 1347, Gloucester Point, VA 23062, (804) 642–7135.

*Washington*

Mr. Terry Stevens, Manager, Dr. Douglas Bulthuis, Research Coordinator, Padilla Bay National Estuarine Research Reserve, 1043 Bayview-Edison Road, Mt. Vernon, WA 98273, (206) 428–1558.

Sites Expected To Be Designated in 1993

*Delaware*

Mr. Lee Emmons, Manager, Dr. Bill Meredith, Research Coordinator, Delaware NERR, Department of Natural Resources and Environmental Control, P.O. Box 1401, Dover, DE 19903, 302–739–6444.

[FR Doc. 93–14752 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–08–M

## New England Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will hold a public meeting on June 29–30, 1993, at the King's Grant Inn, Route 128 and Trask Lane, Danvers, MA; telephone: 508–774–6800. The meeting will begin at 10 a.m. on June 29 and at 8:30 a.m. on June 30.

On the first day the meeting will begin with introductions and announcements. A Groundfish Oversight Committee report will follow. The Committee intends to present its final recommendations for management measures that will comprise Amendment #5 to the Northeast Multispecies Fishery Management Plan. The Council's deliberations on groundfish will continue through the morning of June 30. On the second day, the Marine Mammal and Endangered Species Committee will also report and discuss harbor porpoise management measures relative to their inclusion in Groundfish Amendment #5.

The Lobster Committee report will focus on the development of Amendment #5 to the Fishery Management Plan for American Lobster being prepared jointly by the Council and the Atlantic States Marine Fisheries Commission. There will be a review of issues associated with an industry proposal under consideration and possible discussion of policy issues relative to the amendment.

The Habitat and Environmental Committee will present habitat recommendations for Council approval and inclusion in Amendment #4 to the Scallop Plan. The Atlantic Sea Scallop Committee will briefly update the Council on the details associated with the submission of Scallop Amendment #4.

A review of issues discussed at the recent Council Chairmen's meeting will take place on the afternoon of June 30. Some portion of the discussion will be devoted to Council positions on Magnuson Act reauthorization issues.

The meeting will conclude with reports from: the Council Chairman, the Executive Director, the National Marine Fisheries Service Regional Director, the Northeast Fisheries Science Center liaison, the Mid-Atlantic Fishery Management Council liaison, and representatives from the Department of State, the Coast Guard, the Fish and Wildlife Service, and the Atlantic States Marine Fisheries Commission.

For more information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone: (617) 231–0422.

**David S. Crestin,**

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

[FR Doc. 93–14745 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–22–M

## Endangered Species; Permits

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

**ACTION:** Notice of issuance of a modification to Scientific Research Permit No. 777 (P496); U.S. Army Corps of Engineers (COE), Coastal Ecology Group, Environmental Laboratory, Waterways Experiment Station.

On April 27, 1992 (57 FR 15286), the U.S. Army Corps of Engineer's Coastal Ecology Group was issued a Scientific Research Permit No. 777 under the authority of the Endangered Species Act of 1973 (ESA) (U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217–227).

On May 5, 1993 (58 FR 26739) notice was given that the COE applied for a Modification to Permit No. 777 to authorize the addition of two locations to those already included in the Permit, including York Spit Channel and Cape Henry Channel within the Chesapeake Bay, Virginia. The objectives of adding these two channels are: (1) To establish baseline relative abundance data of sea turtles in the channels; and (2) to use the information gathered to determine months with the least potential for sea turtle impingement by the hopper dredge. The additional take authorized consists of up to 25 loggerhead, eight Kemp's ridley, and five green turtles for measurements, photographs, blood sampling, tagging, and release during May through November 1993.

Notice is hereby give that on June 14, 1993, pursuant to the provisions of the ESA and the NMFS regulations governing listed fish and wildlife and the Conditions hereinafter set out, the COE was issued a Modification authorizing the above take.

Documents pertaining to this Modification and the original Permit are available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., room 7324, Silver Spring, Maryland 20910; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702.

Dated: June 14, 1993.

**William W. Fox, Jr.,**

*Director, Office of Protected Resources.*

[FR Doc. 93–14725 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–22–M

## Marine Mammals

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

**ACTION:** Receipt of application for Scientific Research Permit (P77²#63).

**SUMMARY:** Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543), and the regulations governing endangered fish and wildlife (50 CFR parts 217–222).

(P77²#63) The NMFS, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038, requests a scientific research permit to incidentally harass (through vessel approach, helicopter photogrammetry and photographic identification) and collect tissue biopsy samples from several marine mammal species during vessel surveys in the eastern Pacific Ocean. These surveys, which will be conducted off the coasts of California and Mexico during 1993–95, will be used to assess the status of cetaceans and to address issues associated with defining population structures.

**ADDRESSES:** Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, NMFS, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice.

Documents submitted in connection with the above application are available for review by writing to, or by appointment, in the Permits Division, Office of Protected Resources, NMFS, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., suite 4200, Long Beach, VA 90802–4213 (310/980–4016).

Dated: June 16, 1993.

**William W. Fox, Jr.,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 93–14748 Filed 6–22–93; 8:45 am]

BILLING CODE 3510–22–M

## CONSUMER PRODUCT SAFETY COMMISION

### Technical Advisory Group for Cigarette Fire Safety; Meeting

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The Technical Advisory Group for Cigarette Fire Safety will meet on July 9, 1993, in Gaithersburg, Maryland. The purpose of the meeting is to discuss the final report of the advisory group on implementation of the Fire Safe Cigarette Act.

**DATES:** The meeting will be from 9 a.m. to 4 p.m. on July 9, 1993.

**ADDRESSES:** The meeting will be in room B245, Building 224, National Institute of Standards and Technology, Gaithersburg, Maryland.

**FOR A RECORDED MESSAGE CONTAINING THE LATEST INFORMATION ABOUT THE TIME AND LOCATION OF THE MEETING CALL:** (301) 504-0709.

**FOR FURTHER INFORMATION CONTACT:** Beatrice M. Harwood, Directorate for Epidemiology, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-0470.

**SUPPLEMENTAL INFORMATION:** The Fire Safe Cigarette Act of 1990 (FSCA) (Pub. L. 101-352, 104 Stat. 405) directs the Commission, with assistance from the National Institute of Standards and Technology (NIST) and the Department of Health and Human Services, to conduct research concerning the feasibility of a performance standard to address the propensity of cigarettes to act as an ignition source. The FSCA also establishes an advisory committee, the Technical Advisory Group for Cigarette Fire Safety, to advise and work with the Commission and NIST in the implementation of that act.

The Technical Advisory Group for Cigarette Fire Safety will meet on July 9, 1993, to discuss the Technical Advisory Group's final report to the Chairman of the Consumer Product Safety Commission concerning implementation of the FSCA. The agenda for the meeting also includes discussion of a study of air flow effects on cigarette ignition propensity prepared by Battelle Laboratories.

The meeting will be open to observation by members of the public, but only members of the Technical Advisory Group may participate in the discussion. Persons who desire to submit written statements or questions for consideration by the Technical Advisory Group, before or after the meeting, should address them to the Technical Advisory Group for Cigarette Fire Safety, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 93-14800 Filed 6-22-93; 8:45 am]

BILLING CODE 6355-01-F

## DEPARTMENT OF DEFENSE

### Department of the Army

### Corps of Engineers

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Deepwater Port in Corpus Christi, TX

**AGENCY:** U.S. Army Corps of Engineers, Galveston District, DOD.

**ACTION:** Notice.

**SUMMARY:** A draft and final Environmental Impact Statement (EIS) will be prepared for the proposed deepwater port at Corpus Christi, Texas. The proposed project, called SAFEHARBOR, is intended to provide an alternative method to lightering for handling crude imports utilizing Very Large Crude Carriers (VLCC's) that is both more economical and environmentally sound.

**FOR FURTHER INFORMATION CONTACT:** Questions or comments concerning the preparation of this DEIS should be addressed to Cynthia Wood, Project Manager, U.S. Army Engineer District, Galveston, P.O. Box 1229, Galveston, Texas 77553–1229, telephone (409) 766–3980.

**SUPPLEMENTARY INFORMATION:** This project will not involve federal funds but will be financed by the Port of Corpus Christi Authority (PCAA) and participants in private industry.

1. Project Need: The SAFEHARBOR project has been conceived to addressing the following: Meet supply needs of Corpus Christi refineries and supplement the supply needs of other Texas coastal refineries by providing a less costly method of shipment; provide a method that is less risky from an environmental standpoint than the present practice of offshore lightering and cross-bay traffic; and sustain industrial activities associated with present imports to protect economic and environmental investments.

The project is conceptualized to handle in excess of 750,000 barrels of crude per day. Of the 750,000 barrels received daily, it is anticipated that about 50% would be utilized by Corpus Christi refineries. The balance would be

transported to other refineries in Freeport, Texas City, and Houston, etc.

2. Project Alternatives: A key aspect of the work to be done will be the analysis of project alternatives. Alternatives include but are not limited to: An in-shore, deepdraft port, dredged to between 65–80 feet; an offshore monobuoy; lightering; transshipment; and an offshore island.

The deepdraft port alternative has advanced through a prefeasibility analysis and has been described as the Application Alternative in the application for a Department of the Army Permit submitted by the Port of Corpus Christi Authority. This alternative will include dredging an 80–foot channel and a basin and constructing a pipeline from the SAFEHARBOR site to Texas City.

3. Potential Environmental Issues: A number of environmental issues are expected to result from any undertaking of this magnitude. Several potential environmental issues have been brought to our attention and will be addressed in the EIS along with others that may become apparent during the scoping process. These issues include:

a. Dredging of approximately 70 million cubic yards of material and its disposal.

b. Turbidity.

c. Oil spill risk.

d. Endangered species and ecosystem preservation, both in project and dredged disposal areas as well as the potential pipeline corridors.

e. Hydrodynamic regime changes including salinity, storm and vessel surges, current patterns and bay flushing.

f. Potential impacts on fisheries and other economic concerns.

g. Potential changes in demand for natural resources, including land, water, and energy.

Each of these issues will be investigated by qualified persons or firms to determine existing conditions, level of significance and the possible effects associated with each of the alternatives.

4. Public Involvement: A series of public workshops, presented by the Port of Corpus Christi Authority, were held in the Corpus Christi vicinity in May 1993. A formal Scoping Meeting will be held in Corpus Christi, Texas prior to the initiation of the draft EIS. A public notice announcing this meeting will be published in the near future. Appropriate Federal, State and local agencies will be asked to attend the scoping meetings. Other interested private and public organizations will also be invited. Concerns expressed shall be considered in the scoping process.

5. DEIS Preparation: The anticipated date of availability of the DEIS for public review is August 1994.

**Kenneth L. Denton,**

*Army Federal Register Liaison Officer.*

[FR Doc. 93–14723 Filed 6–22–93; 8:45 am]

BILLING CODE 3710–GK–M

## Department of the Navy

### CNO Executive Panel; Cancelled Meeting

Notice was published Friday May 28, 1993, at 58 FR 31018, that the Chief of Naval Operations (CNO) Executive Panel National Security Task Force was scheduled to meet on June 15, 1993, from 9 a.m. to 5 p.m., in Alexandria, Virginia. That Meeting has been cancelled. In accordance with 5 U.S.C. 552b(e)(2), the meeting cancellation is publicly announced at the earliest time.

For further information concerning this meeting contact: J. Kevin Mattonen, Executive Secretary to the (CNO) Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: June 14, 1993.

**Michael P. Rummel,**

*LCDR, JAGC, USN, Federal Register Liaison Officer.*

[FR Doc. 93-14729 Filed 6-22-93; 8:45 am]

BILLING CODE 3810-AE-F

## DEPARTMENT OF EDUCATION

### National Assessment Governing Board; Meetings

**AGENCY:** National Assessment Governing Board; Education.

**ACTION:** Notice of closed meeting; teleconference.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

**DATE:** July 8, 1993.

**TIME:** 10 a.m. to 12 noon.

**LOCATION:** 800 North Capitol Street, NW., Suite 825, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC 20002–4233, Telephone: (202) 357–6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational progress (NAEP). The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The National Assessment Governing Board will convene, via telephone conference, in closed session from 10 a.m. to 12 noon, on July 8, 1993. The Board will review the recommendation from the Achievement Levels Committee regarding "cut points" for the writing assessment and take final action on this matter. The meeting will be closed to the public because the Board's deliberations will involve the review of preliminary unreleased data from the writing assessment. The discussion will include references to specific items from the assessment, the disclosure of which would significantly frustrate implementation of NAEP. The results of the assessment must be presented in closed session because reference may be made to data which may be incorrect, incomplete, or misinterpreted. Premature disclosure of these data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

A summary of the activities of this closed meeting and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days after the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: June 17, 1993.

**Roy Truby,**

*Executive Director, National Assessment Governing Board.*

[FR Doc. 93–14717 Filed 6–22–93; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF ENERGY

### Privacy Act of 1974; Notice to Establish a New Routine Use

**AGENCY:** Department of Energy (DOE).

**ACTION:** Proposed revision to routine use of Privacy Act systems of records.

**SUMMARY:** In accordance with the requirement of the Privacy Act of 1974, 5 U.S.C. 552a, DOE is publishing a proposed revision to existing systems of records. This revision establishes a new routine use for systems of records DOE–1, DOE Personnel and General Employment Records; DOE–5, Personnel Records of Former Contractor Employees; DOE–13, Payroll and Leave Records; DOE–33, Personnel Medical Records; DOE–34, Employee Assistance Program (Alcohol and Drug Abuse Program); DOE–35, Radiation Exposure Records; DOE–38, Occupational and Industrial Accident Records; DOE–39, Labor Standards Complaints and Grievances; DOE–41, Legal Files (Claims, Litigation, Criminal Violations, Patents and Others); DOE–42, Personnel Security Clearance Index; and DOE–72, The Department of Energy Radiation Study Registry. The new routine use permits the disclosure of records to the United States Enrichment Corporation (USEC) pertaining to individuals that will be employed by USEC and that are maintained in these systems of records.

**DATES:** This new routine use will become effective without further notice 30 days after this publication (July 23, 1993), unless comments are received on or before that date which would result in a contrary determination and a notice is published to that effect.

**ADDRESSES:** Comments should be addressed to Denise Diggin, AD–621, Chief, Freedom of Information and Privacy Acts Branch, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Denise Diggin, Chief, Freedom of Information and Privacy Acts Branch, AD–621, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–5955;

Jane Greenwalt, Privacy Act Officer, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box 2001, Oak Ridge, TN 37831–8510, (615) 576–1216; or

Abel Lopez, Office of General Counsel, GC–43, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8618.

**SUPPLEMENTARY INFORMATION:** The responsibility for operating DOE's uranium enrichment activities will transfer from the DOE to the USEC on July 1, 1993. The USEC is a wholly owned Government corporation subject to Title 31, United States Code, chapter 91 (the Government Corporation Control Act), whose purposes include but are not limited to: Leasing DOE uranium enrichment facilities; enriching uranium, providing for uranium to be enriched by others, or acquiring enriched uranium, including low-enriched uranium derived from highly enriched uranium; marketing and selling enriched uranium and related services; conducting those research and development activities related to processes and activities the USEC considers necessary or advisable; maintaining a reliable and economical domestic source of uranium enrichment services; maintaining the USEC as a commercial enterprise operating on a profitable and efficient basis; carrying out Presidential directions and authorizations under chapter 91; and conducting other functions now being conducted by the DOE.

The USEC will use records maintained in the aforementioned systems of records to make decisions on the hiring, retention, or other actions regarding present or former DOE and DOE contractor employees; to carry out functions related to civil and criminal litigation; to comply with requests from members of Congress; to determine entitlement to unemployment compensation or other benefits; to issue a license or other benefit; to assist DOE employees who transfer employment to the USEC and are receiving counseling to resolve alcohol and/or drug abuse problems; to monitor radiation exposure of employees at facilities; to process insurance claims and accident reporting; to facilitate the processing of complaints and grievances filed by employees of contractors against contractors and labor unions; to ascertain the status of access authorizations of employees and applicants for employment with the USEC and its contractor to work at facilities; and, to identify specific populations for use in epidemiological and clinical studies performed by NIOSH and conduct medical surveillance during the lifetime of individuals employed at the facilities now owned by DOE but to be leased by the USEC.

The system locations affected by establishing this new routine use:

Those locations where the records are now maintained according to the relevant system notice.

The Privacy Act provides that, a record may be disclosed, without the prior written consent of the individual to whom the records pertain, pursuant to a routine use. A routine use, with respect to disclosure of a record, is a use which is compatible with the purpose for which the record was collected. It has been determined that the proposed routine use is compatible because the USEC will be performing the same functions in the aforementioned areas as the Department now performs.

For the text of the system notices, see Publication of System Notices, 47 FR 14284, April 2, 1982, and revisions at 54 FR 47808, November 17, 1989.

Issued in Washington, DC, this 18th day of June 1993.

**Linda G. Sye,**

*Acting Assistant Secretary for Human Resources and Administration.*

Accordingly, the Routine Uses section of each system of records named above is revised to add the following:

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

United States Enrichment Corporation to perform functions related to activities transferred from the Department of Energy in the Energy Policy Act of 1992.

[FR Doc. 93–14799 Filed 6–22–93; 8:45 am]

BILLING CODE 6450–01–P

## Federal Energy Regulatory Commission

**[Docket No. JD93–10506T Texas–141]**

### State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 17, 1993.

Take notice that on June 14, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Travis Peak, Trawick, E. Field, underlying Nacogdoches County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 6 and consists of approximately 1,680 acres in all or portions of the following surveys:

| Survey | Abstract No. | Acres |
|---|---|---|
| Seth Caison | A–163 | 418 |
| Wm. Wooton | A–598 | 27 |
| Jasper N. Bell | A–106 | 239 |
| John E. Kolb | A–332 | 61 |
| Laban Rasco | A–472 | 150 |
| Henry Kraber | A–327 | 87 |
| John Hyde | A–251 | 69 |
| Lucinda Vaught | A–581 | 155 |
| Mariano Sanchez | A–51 | 379 |
| M. Jones | A–318 | 9 |
| Enoch Spivey | A–528 | 86 |

The notice of determination also contains Texas' findings that the referenced portion of the Travis Peak Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 93–14738 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. JD93–10505T Texas–140]**

## State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 17, 1993.

Take notice that on June 14, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Travis Peak, Blackfoot S.W. Field, underlying Anderson County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 6 and consists of approximately 1,063 acres in portions of the following surveys:

| Survey | Abstract No. | Acres |
|---|---|---|
| Polly Scritchfield | A–61 | 343 |
| I. & G.N.R.R. | A–424 | 34 |
| James Welch | A–835 | 645 |
| Wm. Chairs | A–162 | 41 |

The notice of determination also contains Texas' findings that the referenced portion of the Travis Peak Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 93–14739 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP93–441–000]**

## Black Marlin Pipeline Co.; Application for Abandonment

June 17, 1993.

Take notice that on June 9, 1993, Union Carbide Chemicals and Plastics Company Inc. (UCCP),[1] 39 Old Ridgebury Road, Danbury, Connecticut 06817, filed an application pursuant to section 7(b) of the Natural Gas Act and part 157 of the Commission's Regulations for an order authorizing the abandonment of certificated service provided by Black Marlin Pipeline Company (BMP) pursuant to the Commission's Order in Docket No. CP66–333–001,[2] and the transportation service agreement between BMP and UCCP dated December 1, 1987. UCCP states that gas is no longer being transported by BMP; and that since April 1, 1992, it has continued to pay reservation charges to BMP. UCCP's application is on file with the Commission and open to public inspection.

UCCP states that it entered into the transportation agreement with BMP for the sole purpose of transporting natural gas it purchased from Pelto Oil Company, Challenger Minerals Inc. and Santa Fe Energy Company (collectively referred to as Pelto). UCCP states that BMP transported the gas from the Outer Continental Shelf High Island Area Block 105, under BMP's Rate Schedule T–1, for use in UCCP's Texas City plant or for resale to ENRON's Cogeneration Plant #1 adjoining UCCP's Texas City plant property. UCCP states that the term of the transportation contract was for 15 years or the life of the High Island Block reserves, as dictated by the then existing requirements of section 315(a)(3) of the Natural Gas Policy Act of 1978.

UCCP states that on April 1, 1992, it exercised its contractual rights to terminate the gas purchase agreement with Pelto, thus, eliminating its need for transportation service by BMP. UCCP states that since April 1, 1992, it has continued to pay reservation charges to BMP, but that it believes that the transportation service agreement with BMP should have expired when the Pelto gas sales agreement expired and that BMP has been compensated for its insignificant investment in constructing and operating the sub-sea tap related to BMP's service. UCCP further states that if BMP can demonstrate unrecouped costs, that amount could provide a basis for an appropriate negotiated exit fee. UCCP also states that relieving it of its obligation to pay reservation charges for capacity it cannot use will not adversely affect other BMP customers and that it is no longer in the present or future public convenience and necessity for UCCP to have to pay BMP reservation charges for capacity through December 1, 2002 (the fixed term of the transportation agreement) for transportation of gas that UCCP no longer purchases.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 8, 1993, 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 385.211 and 385.214) 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 in any proceeding herein 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 the jurisdiction conferred upon the 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

[1] Union Carbide Chemicals and Plastics Company Inc. is a wholly-owned subsidiary of Union Carbide Corporation. Hereafter, UCCP and Union Carbide Corporation will be used interchangeably.

[2] Black Marlin Pipeline Company, 41 FERC ¶ 62,084 (1987).

time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are 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 formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for UCCP to appear or to be represented at the hearing.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 93–14736 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RS92–39–001]**

## The Inland Gas Co., Inc.; Refund Report

June 17, 1993.

Take notice that on April 16, 1993, The Inland Gas Company, Inc. (Inland) filed with the Federal Energy Regulatory Commission (Commission) a report of refunds in compliance with Commission order issued June 26, 1992. Inland states that the Commission directed it to flow through to its customers refunds of overcollections of upstream take-or-pay charges within 60 days of the receipt of such refunds. Inland states that it received a refund from Tennessee Gas Pipeline Company on February 1, 1993, and that it flowed through the amount to its customers on March 19, 1993, plus interest, for a total refund of $618,295.27.

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 Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before June 28, 1993. 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. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 93–14744 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP93–111–002]**

## Natural Gas Pipeline Co. of America; Filing of Revised Tariff Sheets in Compliance With Commission Order

June 17, 1993.

Take notice that on June 14, 1993, Natural Gas Pipeline Company of America (Natural) filed with the Federal Energy Regulatory Commission revised tariff sheets to be effective June 1, 1993.

Natural states that the Commission, by Order issued May 28, 1993, accepted for filing to be effective June 1, 1993, Natural's April 30, 1993, filing in Docket No. RP93–111–000, subject to Natural refiling revised tariff sheets to (1) provide that imbalances disputed as of March 15, 1994, will not be cashed out by that date; (2) establish a mechanism for addressing disputed balances; (3) provide that netting of imbalances will be done on a monthly basis; and (4) give shippers under Rate Schedule FTS secondary receipt and delivery points within the zones for which they are paying a reservation fee.

Natural states that the tariff sheets submitted as part of Appendix A of the filing reflect the first three revisions required by the Order. Natural further states that it is concurrently filing with the Commission for waiver and rehearing of the secondary receipt point issue for FTS agreements. In the event rehearing were to be granted, Natural has also included as Appendix B to the filing those tariff sheets which reflect Natural's original proposal to give FTS shippers all secondary points within the transportation paths created by primary points.

Natural states that copies of the filing have been served on all of its jurisdictional transportation customers, interested state commissions, and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 24, 1993.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 93–14741 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP93–141–000]**

## Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

June 17, 1993.

Take notice that Northern Natural Gas Company (Northern) on June 14, 1993, tendered for filing to become part of Northern's FERC Gas Tariff the following tariff sheets, proposed to be effective August 1, 1993:

*Fourth Revised Volume No. 1*

Fifteenth Revised Sheet No. 56
Fifteenth Revised Sheet No. 57
Fifteenth Revised Sheet No. 58

*Original Volume No. 2*

135 Revised Sheet No. 1C

Northern states that the tariff sheets are being filed by Northern to revise its Reconciliation Adjustment Charge (RA) for the period August 1, 1993 through October 31, 1993. Northern states that the reason for the change is that the RA put into effect on November 1, 1992, was based on an estimated pre-July 1, 1991 Account 191 balance and projected billing units. Northern further states that the actual balance and billing demand units are known at this time and therefore the RA is being adjusted to recover such actual balance.

Northern states that copies of the filing were served upon all of Northern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 24, 1993. 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. 93–14742 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–142–000]

## Northwest Pipeline Corp.; Final Rate Schedule T–1 Compliance Report and Cost of Service Study

June 17, 1993.

Take notice that on June 14, 1993, Northwest Pipeline Corporation (Northwest) tendered for filing its final Rate Schedule T–1 Compliance Report and Cost of Service Study.

Northwest states that the purpose of this filing is to file its final Compliance Report and Cost-of-Service Study relating to Rate Schedule T–1 as a result of the rolled-in treatment of the T–1 facilities in Docket No. RP93–5.

Northwest states that copies of this filing are being served upon Pacific Interstate Transmission Company and upon all 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 24, 1993. 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. 93–14743 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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[Docket Nos. ER91–195–006, ER91–195–007, ER91–195–008 and ER91–195–009]

## Western Systems Power Pool; Informational Filing

June 17, 1993.

Take notice that on June 14, 1993 the Western Systems Power Pool (WSPP) filed certain information as required by May 13, 1993 letter order in the above-referenced proceeding. Copies of WSPP's informational filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 93–14737 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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[Docket No. RP93–109–002]

## Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

June 17, 1993.

Take notice that Williams Natural Gas Company (WNG) on June 14, 1993, tendered for filing Substitute Original Sheet No. 264D to its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that this filing is being made in compliance with Commission order issued May 28, 1993 in Docket No. RP93–109–000. The order required WNG to file additional explanation for several of its proposed tariff changes within 15 days. WNG was also required to file Substitute Original Sheet No. 364D reflecting the elimination of the tariff provision that provides for tracking of any changes in the federal income tax rates, within 30 days.

WNG states that a copy of its filing was served on all jurisdictional customers and interested 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 § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 24, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 93–14740 Filed 6–22–93; 8:45 am]

BILLING CODE 6717–01–M

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## Office of Energy Efficiency and Renewable Energy

[Case No. F–056]

## Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of York International From the DOE Furnace Test Procedures

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**SUMMARY:** Today's notice publishes a letter granting an Interim Waiver to York International (York) from the existing Department of Energy (DOE) test procedure regarding blower time delay for the company's P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces.

Today's notice also publishes a "Petition for Waiver" from York. York's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. York seeks to test using a blower delay time of 30 seconds for its P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

**DATES:** DOE will accept comments, data and information not later than July 23, 1993.

**ADDRESSES:** Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. F–056, Mail Stop CE–90, room 6B–025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3012.

**FOR FURTHER INFORMATION CONTACT:**

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–9507

**SUPPLEMENTARY INFORMATION:** The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On March 24, 1993, York filed an Application for Interim Waiver regarding blower time delay. York's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, York requests the allowance to test using a 30-second blower time delay when testing its P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces. York states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings. Since current DOE test procedures do not address this variable blower time delay, York asks that the Interim Waiver be granted.

Previous waivers for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, and 57 FR 22222, May 27, 1992; Lennox Industries, 55 FR 50224, December 5, 1990, and 57 FR 49700, November 3, 1992; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, and 57 FR 38830, August 27, 1992; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, and 57 FR 23392, June 3, 1992; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, and 57 FR 27970, June 23, 1992; Ducane Company, 56 FR 63943, December 6, 1991, and 57 FR 10163, March 24, 1992; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting York an Interim Waiver for its P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations part 430, the following letter granting the Application for Interim Waiver to York was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, June 16, 1993.

**Robert L. San Martin,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

June 16, 1993.

Mr. Thomas J. Wolowicz, *Engineering Manager, Residential Furnaces, York International, 5005 Interstate Drive North, Norman, OK 73039.*

Dear Mr. Wolowicz: This is in response to your March 24, 1993, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedure regarding blower time delay for the York International (York) P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, and 57 FR 34560, August 5, 1992; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, and 57 FR 22222, May 27, 1992; Lennox Industries, 55 FR 50224, December 5, 1990, and 57 FR 49700, November 3, 1992; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, and 57 FR 38830, August 27, 1992; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, and 57 FR 23392, June 3, 1992; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, and 57 FR 27970, June 23, 1992; Ducane Company, 56 FR 63943, December 6, 1991, and 57 FR 10163, March 24, 1992; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, and 57 FR 54230, November 17, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992; and Bard Manufacturing Company, 57 FR 53733, November 12, 1992. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

York's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage York will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, York's Application for an Interim Waiver from the DOE test procedure for its P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces regarding blower time delay is granted.

York shall be permitted to test its P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, and XED11 residential furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, appendix N, with the modification set forth below:

(i) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103–82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-) unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay (t-) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

Robert L. San Martin,

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

York International, 5005 Interstate Drive North, Norman, OK 73039. (405) 364–4040 Phone (405) 366–7286 Fax

March 24, 1993.

Mr. J. Michael Davis,

*Assistant Secretary, Office of Conservation and Renewable Energy, United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.*

Dear Mr. Davis: Please consider this Petition for Waiver and Application for Interim Waiver pursuant to 10 CFR 430.27.

Waiver is requested from the test procedures covering gas furnaces found in appendix N to subpart B of part 430. The current heat-up test procedure requires a 90 second delay between burner on and blower on conditions, and a 90 sec blower cool down period after the main burner is turned off.

Central Environmental Systems, YORK International will manufacture the following models: P1UK, PAKU, P1UH, PAKM, XEU02, XEH02, P1CD, PAND, XED11 of residential furnaces with electronic controls. This control starts the blower 30 seconds after the main burner starts. The improved energy efficiency and therefore higher AFUE ratings are achieved by reducing the cycle losses. The current test procedures do not give credit for the saved energy, thus providing an inaccurate comparison which is not representatives of actual operation.

YORK requests an interim waiver to permit calculation based on actual timed blower operation. Several other manufacturers have been granted waivers for this operation.

Thomas J. Wolowicz,

*Engineering Manager, Residential Furnaces.*

[FR Doc. 93–14797 Filed 6–22–93; 8:45 am]

BILLING CODE 6450–01–P

## Office of Fossil Energy

**[FE Docket No. 93–56–NG]**

## Texas International Gas & Oil Co.; Application for Blanket Authorization to Export Natural Gas to Mexico

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on June 3, 1993, by Texas International Gas & Oil Company (TI) requesting blanket authorization to export up to 29.2 billion cubic feet of natural gas to Mexico over a two-year period. The authorization would begin on the date of first delivery after November 29, 1993, the expiration date of TI's existing export authorization granted by DOE/FE Opinion and Order No. 319 on June 19, 1989 (1 FE ¶70,228). TI states that it will use existing pipeline facilities to transport the gas and will submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time July 23, 1993.

**ADDRESSES:** Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–9394

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–6667

**SUPPLEMENTARY INFORMATION:** TI, a Texas company with its principal place of business in El Paso, Texas, does business as Service-Gas. TI proposes to purchase natural gas produced in the United States Southwest, including the States of New Mexico and Texas, and export it to Mexico for sale to purchasers under short-term and spot market transactions, either on TI's own behalf or as the agent for others. All sales would be individually negotiated at competitive prices. TI asserts that there is no current need in the United States for the gas that would be exported under the proposed arrangement.

TI's export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy to promote competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those who may oppose the application, should comment on these matters as they relate to the requested export authority. Parties opposing this arrangement bear the burden of overcoming TI's assertion that the domestic gas exported would be surplus to the United States needs.

**NEPA Compliance**

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

**Public Comment Procedures**

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Anyone who wants to become a party to this proceeding and to have their written comments considered as the basis for the decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TT's application is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 17, 1993.

**Clifford P. Tomaszewski,**

*Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.*

[FR Doc. 93–14798 Filed 6–22–93; 8:45 am]

BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–4669–5]

## Agency Information Collection Activities Under OMB Review

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before July 23, 1993.

**FOR FURTHER INFORMATION, OR TO OBTAIN A COPY OF THIS ICR, CONTACT:** Ms. Sandy Farmer at EPA, (202) 260–2740.

**SUPPLEMENTARY INFORMATION:**

**Office of Air and Radiation**

*Title:* New Source Performance Standards (NSPS) for Electric Utility Steam Generating Units (Subpart Da)–Information Requirements (EPA ICR No. 1053.04; OMB No. 2060–0023). This is a request for renewal of a currently approved information collection.

*Abstract:* Owners or operators of Electric Utility Steam Generating Units capable of combusting more than 73 megawatts heat input of fossil fuel must provide EPA, or the delegated State regulatory authority, with one-time notifications and reports, and must keep records, as required of all facilities subject to the general NSPS requirements. In addition, facilities subject to this subpart must install a continuous monitoring system (CMS) to monitor SO2, NOx and opacity, and must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences. Owners or operators must submit quarterly reports indicating whether compliance data was obtained in accordance with approved methods and whether compliance was achieved, and their assessment of monitoring system performance. The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstrated technology is installed and properly operated and maintained and to schedule inspections.

*Burden Statement:* The public reporting burden for this collection of information is estimated to average 14.5 hours per response for reporting, and 182.5 hours per recordkeeper annually. 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 or operators of electric utility steam generating units capable of combusting more than 73 megawatts heat input of fossil fuel.

*Estimated Number of Respondents:* 81.5.

*Estimated Number of Responses Per Respondent:* 4.

*Estimated Total Annual Burden on Respondents:* 19,597 hours.

*Frequency of Collection:* One-time notifications and reports for new facilities; quarterly reporting for existing facilities.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency,Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: June 16, 1993.

**Paul Lapsley,**

*Director, Regulatory Management Division.*

[FR Doc. 93–14813 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4664–2]

## Public Water Supply Supervision Program; Program Revision for the State of Idaho

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the State of Idaho is revising its approved State Public Water Supply Supervision Primacy Program. Idaho has adopted drinking water regulations for public notification, total coliforms, the treatment of surface water, lead and copper, and certain volatile organic chemicals, synthetic organic chemicals and inorganic chemicals. EPA has determined that these State program revisions are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted July 23, 1993, to the Regional Administrator at the EPA address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by July 23, 1993. A public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective July 23, 1993.

Any request for a public hearing shall include the following:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

**ADDRESSES:** All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Idaho Department of Health & Welfare, Division of Environmental Quality, 1410 North Hilton Street, Boise, Idaho 83706; and Environmental Protection Agency, Region 10 Library, 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Wendy Marshall, EPA, Region 10, Ground Water and Drinking Water Branch, WD–132, 1200 Sixth Avenue, Seattle, Washington 98101; telephone (206) 553–1890.

Dated: May 26, 1993.

**Jane S. Moore,**

*Acting Regional Administrator.*

[FR Doc. 93–14815 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–00141; FRL 4631–5]

## Biotechnology Science Advisory Committee; Subcommittee on Plant Pesticides; Open Meeting

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

**ACTION:** Notice of open meeting.

**SUMMARY:** There will be a 1–day meeting of the Biotechnology Science Advisory Committee's (BSAC) Subcommittee on plant pesticides, including transgenic plant pesticides. The meeting will be open to the public.

**DATES:** The meeting will be held on Tuesday, July 13, 1993, starting at 9 a.m. and ending at 5 p.m.

**ADDRESSES:** The meeting will be held at the: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA.

**FOR FURTHER INFORMATION CONTACT:** Creavery Lloyd, Committee Management Specialist, Biotechnology Science Advisory Committee (TS–788), Office of Prevention, Pesticides and Toxic Substances, Rm. E627, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–6900.

**SUPPLEMENTARY INFORMATION:** This notice is in accordance with the Federal Advisory Committee Act which requires that timely notice of each meeting of a Federal Advisory Committee be published in the **Federal Register**. This notice announces such a meeting. Attendance by the public will be limited to available space.

The Subcommittee will review a set of scientific issues being considered by the Agency in determining whether a pesticidal substance produced in a plant is exempt from the requirement of a food tolerance if it is an inherent plant pesticide derived from a known food source and meets certain other criteria. The Subcommittee will also be asked to comment on the feasibility of using *in vitro* digestibility studies as toxicity assays. Copies of the issues to be addressed at the meeting can be obtained by contacting Creavery Lloyd at the phone number listed above.

Dated: June 17, 1993.

**Victor J. Kimm,**

*Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

[FR Doc. 93–14816 Filed 6–23–93; 8:45 a.m.]

BILLING CODE 6560–50–F

[FRL–4670–3]

## Notice of Proposed Administrative Settlement

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

**ACTION:** Revised notice of proposed administrative settlement; request for public comment.

**SUMMARY:** In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of a proposed administrative cost recovery settlement concerning the Sunbelt Site in Dallas, Texas, and Houston, Texas. The proposed settlement was entered into under the authority granted the U.S. EPA in section 122(h) of CERCLA and requires thirty-three (33) Respondents to pay $81,408.50 in past costs to the Hazardous Substances Superfund. The money will be used to reimburse the U.S. EPA for costs incurred in connection with the U.S. EPA's removal actions at the Sunbelt site.

Notice of this settlement was published previously in the **Federal Register** on May 5, 1993 (58 FR 26783); however, the May 5, 1993 notice incorrectly listed only thirty-one (31) of the Respondents to the administrative settlement. The two additional Respondents are Hampstead Associates, Inc. and Oak Creek Partners, Ltd.

**DATES:** Comments on this proposed settlement must be received on or before July 23, 1993.

**ADDRESSES:** A copy of the proposed settlement is available at the following address for review: U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas, 75202.

Comments on the proposed settlement should be addressed to: Mr. Geert Aerts, Cost Recovery Section (6C–EC), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas, 75202.

**FOR FURTHER INFORMATION CONTACT:** Geert Aerts at (214) 655–6733.

Dated: June 15, 1993.

**W.B. Hathaway,**

*Acting Regional Administrator, U.S. Environmental Protection Agency, Region 6.*

[FR Doc. 93–14817 Filed 6–22–93; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[RAO Letter 22 DA 93–661]**

### Responsible Accounting Officers: Uniform Accounting for Postemployment Benefits in Part 32

The purpose of this letter is to provide guidance with respect to adopting Statement of Financial Accounting Standards No. 112 (SFAS–112), "Employers' Accounting for Postemployment Benefits" in Part 32, Uniform System of Accounts for Telecommunications Companies.

SFAS–112 was issued by the Financial Accounting Standards Board (FASB) in November 1992, and covers accounting for benefits listed in paragraphs 4 and 5 of the Statement. It requires the accrual method of accounting for these benefits instead of the pay as you go method and is mandatory for fiscal years beginning after December 15, 1993, although the FASB encourages earlier implementation. Therefore, to be in compliance with generally accepted accounting principles (GAAP), companies must account for postemployment benefits on the accrual basis on or before January 1, 1994.

The Ameritech Operating Companies (Ameritech) and US West Communications, Inc. (US West) on December 22, 1992, and February 22, 1993, respectively, filed notices of intent to adopt SFAS–112. These notices were filed pursuant to Section 32.16 of the Commission's rules, which requires carriers to apply new standards adopted by the FASB and provides for automatic Commission approval unless the Commission notifies carriers otherwise within 90 days after receiving a notice.[1]

We allowed Ameritech to adopt SFAS–112 for regulatory purposes under the automatic approval provision of § 32.16. We did not object to Ameritech's notice because the carrier was adopting SFAS–112 pursuant to the requirements set forth in SFAS–112 and was doing so at the same time it was adopting SFAS–112 for financial reporting purposes. We denied the US West notice, however, in a letter dated April 26, 1993, because the US West proposal requested permission to use a three year phase-in instead of the flash-cut approach that is required by SFAS–112.

To avoid any confusion that could occur as a result of the above actions, this letter provides directions for adoption of SFAS–112. Carriers that have not yet adopted SFAS–112 are required to do so under the provisions of § 32.16.

*Timing of Adoption.* Carriers will adopt SFAS–112 for regulatory accounting purposes using the same effective date they use for financial reporting purposes, but no later than January 1, 1994.

*Notification.* Each carrier shall file a notice of intent to adopt SFAS–112 90 days prior to adopting the standard, with October 1, 1993, being the last day to file notice in order to meet the January 1, 1994, mandatory adoption date. This notice shall provide us with the interstate revenue requirement impact for the current year and a projection for the next three years. An example of the format to be used in making this revenue requirement filing is attached.

*Accounts to be Utilized.* Carriers shall use the following accounts to record entries related to SFAS–112.

1. Catch-up Entry. To record the effects of the catch-up entry, carriers should charge Account 6728, Other general and administrative, and credit Account 4310, Other long term liabilities.

2. Cash payments. Cash payments made during the year for postemployment benefits will be charged to Account 6728, Other general and administrative, for all items not specifically required to be charged to the expense matrix, pursuant to § 32.5999(f). The payroll related postemployment cash payments currently subject to the Expense matrix requirements in § 32.5999(f) shall continue to be recorded through the matrix.

3. Annual Liability Adjustment. The postemployment liability recorded in Account 4310, Other long term liabilities, will be adjusted at least annually based on claims data with contra entries to Account 6728, Other general and administrative.

This letter is issued pursuant to authority delegated under Section 0.291 of the Commission's Rules, 47 CFR 0.291. Applications for review under Section 1.115 of the Commission's Rules, 47 CFR 1.115, must be filed within 30 days of the date of this letter. See 47 CFR 1.4(b)(2).

Sincerely,

**Kenneth P. Moran,**

*Chief, Accounting and Audits Division, Common Carrier Bureau.*

Carrier_____

ESTIMATED INTERSTATE REVENUE REQUIREMENT IMPACT RESULTING FROM IMPLEMENTATION OF SFAS 112 (POSTEMPLOYMENT BENEFITS)

(In millions)

| | 1994 | 1995 | 1996 | 1997 |
|---|---|---|---|---|
| 1. SFAS No. 112 Accrual Amounts. | | | | |
| 2. Pay-As-You Go Amounts. | | | | |
| 3. Incremental Expense. | | | | |
| 4. Incremental Revenue Requirement. | | | | |

[FR Doc. 93–14706 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

**[PR Docket No. 93–81; DA 93–634]**

### Private Land Mobile Radio Services; Alaska Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Alaska (Region 2). As a result of accepting the Plan for Region 2, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

**EFFECTIVE DATE:** June 14, 1993.

**FOR FURTHER INFORMATION CONTACT:** Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

**SUPPLEMENTARY INFORMATION:**

**Order**

*Adopted:* June 2, 1993.
*Released:* June 14, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On January 28, 1993, Region 2 (Alaska) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Alaska.

2. The Alaska Plan was placed on Public Notice for comments due on

[1] 47 CFR 32.16.

April 30, 1993, 58 FR 16672 (March 30, 1993). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for Alaska and find that it conforms with the National Public Safety Plan. The Plan includes all the necessary elements specified in the *Report and Order* in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Alaska.

4. Therefore, we accept the Alaska Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Alaska may commence immediately.

Federal Communications Commission.

**Ralph A. Haller,**

*Chief, Private Radio Bureau.*

[FR Doc. 93–14707 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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[PR Docket No. 93–80; DA 93–629]

## Private Land Mobile Radio Services; Hawaii Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Hawaii (Region 11). As a result of accepting the Plan for Region 11, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

**EFFECTIVE DATE:** June 11, 1993.

**FOR FURTHER INFORMATION CONTACT:** Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

**SUPPLEMENTARY INFORMATION:**

### Order

*Adopted:* June 2, 1993.
*Released:* June 11, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On January 28, 1993, Region 11 (Hawaii) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Hawaii.

2. The Hawaii Plan was placed on Public Notice for comments due on April 29, 1993, 58 FR 16408 (March 26, 1993). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for Hawaii and find that it conforms with the National Public Safety Plan. The Plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Hawaii.

4. Therefore, we accept the Hawaii Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Hawaii may commence immediately.

Federal Communications Commission.

**Ralph A. Haller,**

*Chief, Private Radio Bureau.*

[FR Doc. 93–14695 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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[PR Docket No. 93–82; DA 93–635]

## Private Land Mobile Radio Services; Puerto Rico Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Puerto Rico (Region 47). As a result of accepting the Plan for Region 47, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

**EFFECTIVE DATE:** June 14, 1993.

**FOR FURTHER INFORMATION CONTACT:** Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

**SUPPLEMENTARY INFORMATION:**

### Order

*Adopted:* June 2, 1993.
*Released:* June 14, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On January 29, 1993, Region 47 (Puerto Rico) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Puerto Rico.

2. The Puerto Rico Plan was placed on Public Notice for comments due on April 30, 1993, 58 FR 16672 (March 30, 1993). The Commission received no comments in this processing.

3. We have reviewed the Plan submitted for Puerto Rico and find that it conforms with the National Public Safety Plan. The Plan includes all the necessary elements specified in the *Report and Order* in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Puerto Rico.

4. Therefore, we accept the Puerto Rico Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Puerto Rico may commence immediately.

Federal Communications Commission.

**Ralph A. Haller,**

*Chief, Private Radio Bureau.*

[FR Doc. 93–14708 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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[PR Docket No. 93–78; DA 93–631]

## Private Land Mobile Radio Services; South Carolina Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for South Carolina (Region 37). As a result of accepting the Plan for Region 37, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

**EFFECTIVE DATE:** June 11, 1993.

**FOR FURTHER INFORMATION CONTACT:** Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

**SUPPLEMENTARY INFORMATION:**

### Order

*Adopted:* June 2, 1993.
*Released:* June 11, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On January 27, 1993, Region 37 (South Carolina) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in South Carolina.

2. The South Carolina Plan was placed on Public Notice for comments due on April 28, 1993, 58 FR 16192 (March 25, 1993). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for South Carolina and find that it conforms with the National Public Safety Plan. The Plan includes all the necessary elements specified in the *Report and Order* in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in South Carolina.

4. Therefore, we accept the South Carolina Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in South Carolina may commence immediately.

Federal Communications Commission.

**Ralph A. Haller,**

*Chief, Private Radio Bureau.*

[FR Doc. 93–14696 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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**[PR Docket No. 93–79; DA 93–628]**

## Private Land Mobile Radio Services; West Virginia Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for West Virginia (Region 44). As a result of accepting the Plan for Region 44, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

**EFFECTIVE DATE:** June 11, 1993.

**FOR FURTHER INFORMATION CONTACT:** Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

**SUPPLEMENTARY INFORMATION:**

**Order**

*Adopted:* June 2, 1993.
*Released:* June 11, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On January 21, 1993, Region 44 (West Virginia) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in West Virginia.

2. The West Virginia Plan was placed on Public Notice for comments due on April 29, 1993, 58 FR 16408 (March 26, 1993). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for West Virginia and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in West Virginia.

4. Therefore, we accept the West Virginia Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in West Virginia may commence immediately.

Federal Communications Commission.

**Ralph A. Haller,**

*Chief, Private Radio Bureau.*

[FR Doc. 93–14710 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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**[PR Docket No. 92–273; DA 93–632]**

## Private Land Mobile Radio Services; Wisconsin Public Safety Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Wisconsin (Region 45). As a result of accepting the Plan for Region 45, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

**EFFECTIVE DATE:** June 11, 1993.

**FOR FURTHER INFORMATION CONTACT:** Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

**SUPPLEMENTARY INFORMATION:**

**Order**

*Adopted:* June 2, 1993.
*Released:* June 11, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On August 18, 1992, Region 45 (Wisconsin) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Wisconsin.

2. The Wisconsin Plan was placed on Public Notice for comments due on December 28, 1992, 7 FCC Rcd 7700 (1992). The Commission received one comment from Region 22 (Minnesota). The comment was subsequently withdrawn on May 10, 1993 and it was agreed that any frequency conflicts would be resolved on the local level.

3. We have reviewed the Plan submitted for Wisconsin and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the *Report and Order* in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Wisconsin.

4. Therefore, we accept the Wisconsin Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Wisconsin may commence immediately.

Federal Communications Commission.

**Ralph A. Haller,**

*Chief, Private Radio Bureau.*

[FR Doc. 93–14697 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

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## Renewal and Transfer of Control Applications Designated for Hearing

1. The Commission has before it the following applications for renewal of license and for transfer of control:

| Applicant | City/state | File No. | MM docket No. |
|---|---|---|---|
| The Petroleum V. Nasby Corporation | Shelby, Ohio | BRH–890601VB | 93–13 |

| Applicant | City/state | File No. | MM docket No. |
|---|---|---|---|
| (Seeking a renewal of the license of Station WSWR (FM)) The Petroleum V. Nasby Corporation | Shelby, Ohio | BTCH–921019HX, BTCH–921019HY. | 93–135 |
| (Seeking to transfer control of The Petroleum V. Nasby Corporation). | | | |

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding (MM Docket No. 93–135) upon the issues set forth below:

1. To determine the effect of Thomas L. Root's federal and state convictions on the basic qualifications of The Petroleum V. Nasby Corporation.

2. To determine, pursuant to section 310(d) of the Communications Act of 1934, as amended, and section 73.3540 of the Commission's Rules, whether Thomas L. Root and Kathy G. Root, engaged in the unauthorized transfer of control of The Petroleum V. Nasby Corporation.

3. To determine, in light of the evidence adduced pursuant to the above issues, whether grant of the renewal application of The Petroleum V. Nasby Corporation will serve the public interest, convenience and necessity.

4. To determine, in light of the foregoing, whether approval of the pending applications seeking to transfer control of The Petroleum V. Nasby Corporation will serve the public interest, convenience and necessity.

3. A copy of the complete Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M St. NW., suite 140, Washington, DC 20037 (Telephone [202] 857–3800).

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 93–14772 Filed 6–22–93; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA–988–DR]**

### Maine; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Maine, (FEMA–988–DR), dated May 11, 1993, and related determinations.

**EFFECTIVE DATE:** June 15, 1993.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of Maine dated May 11, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 11, 1993: Cumberland, Hancock, and Lincoln for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Richard W. Krimm,**

*Deputy Associate Director, State and Local Programs and Support.*

[FR Doc. 93–14778 Filed 6–22–93; 8:45 am]

BILLING CODE 6718–02–M

**[FEMA–992–DR]**

### New Mexico; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of New Mexico (FEMA–992–DR), dated June 7, 1993, and related determinations.

**EFFECTIVE DATE:** June 7, 1993.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated June 7, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New Mexico, resulting from severe storms and flooding on January 5, 1993, through February 27, 1993, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New Mexico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Leland R. Wilson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New Mexico to have been affected adversely by this declared major disaster:

Catron, Grant, Hidalgo, and McKinley Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**James Lee Witt,**

*Director.*

[FR Doc. 93–14779 Filed 6–22–93; 8:45 am]

BILLING CODE 6718–02–M

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**[FEMA–991–DR]**

## Oklahoma; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Oklahoma (FEMA–991–DR), dated May 12, 1993, and related determinations.

**EFFECTIVE DATE:** June 7, 1993.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of Oklahoma dated May 12, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 12, 1993:

Bryan, Canadian, Carter, and Kay for Public Assistance. (Already designated for Individual Assistance.)

Adair, Alfalfa, Atoka, Cotton, Craig, Creek, Custer, Dewey, Grant, Haskell, Jefferson, Kiowa, Love, Major, Marshall, McClain, Noble, Okfuskee, Okmulgee, Pawnee, Pushmataha, Wagoner, Washita, Woods, and Woodward for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

**Richard W. Krimm,**

*Deputy Associate Director, State and Local Programs and Support.*

[FR Doc. 93–14777 Filed 6–22–93; 8:45 am]

BILLING CODE 6718–02–M

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**[FEMA–985–DR]**

## Oregon; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Oregon, (FEMA–985–DR), dated April 26, 1993, and related determinations.

**EFFECTIVE DATE:** June 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of Oregon dated April 26, 1993, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 26, 1993:

Washington County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Richard W. Krimm,**

*Deputy Associate Director, State and Local Programs and Support.*

[FR Doc. 93–14776 Filed 6–22–93; 8:45 am]

BILLING CODE 6718–01–M

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## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed; Indiana Port Commission, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No.:* 224–200506–001.

*Title:* Burns International Harbor General Cargo Terminal Operating Agreement.

*Parties:*

Indiana Port Commission

Lakes and Rivers Transfer, a Division of Jack Gray Transport, Inc.

*Synopsis:* The amendment exempts barge general cargoes from the $1.00 per ton throughput charge currently required under the Agreement.

Dated: June 17, 1993.

By Order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 93–14734 Filed 6–22–93; 8:45 am]

BILLING CODE 6730–01–M

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## FEDERAL RESERVE SYSTEM

### CoreStates Financial Corp., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 13, 1993.

**A. Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

*1. CoreStates Financial Corp.*, Philadelphia, Pennsylvania; to engage *de novo* through its subsidiary, CoreStates Community Development Corporation, Philadelphia, Pennsylvania, in community development activities pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in the

States of Pennsylvania, New Jersey, and Delaware.

Board of Governors of the Federal Reserve System, June 18, 1993.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 93-14784 Filed 6-22-93; 8:45 am]

BILLING CODE 6210-01-F

## First Alabama Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has 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.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 16, 1993.

**A. Federal Reserve Bank of Atlanta** (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. First Alabama Bancshares, Inc.*, Birmingham, Alabama; to acquire First Federal Enterprises, Inc. Marianna, Florida, and thereby indirectly acquire First Federal Savings Bank, Marianna, Florida, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted throughout the State of Florida.

Board of Governors of the Federal Reserve System, June 18, 1993.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 93-14786 Filed 6-22-93; 8:45 am]

BILLING CODE 6210-01-F

## F.N.B. Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 16, 1993.

**A. Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

*1. F.N.B. Corporation*, Hermitage, Pennsylvania; to acquire 100 percent of the voting shares of The Metropolitan Savings Bank of Youngstown, Youngstown, Ohio.

**B. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

*1. BB&T Financial Corporation*, Wilson, North Carolina; to acquire 100 percent of the voting shares of Citizens Savings Bank, SSB, Inc., Newton, North Carolina.

**C. Federal Reserve Bank of Chicago** (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Chemical Financial Corporation*, Midland, Michigan; to acquire 100 percent of the voting shares of Key State Bank, Owosso, Michigan.

**D. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

*1. First Commercial Corporation*, Little Rock, Arkansas; to acquire at least 80 percent of the voting shares of Texas Commerce Bank - Longview, N.A., Longview, Texas, and Stone Fort National Bank of Nacogdoches, Nacogdoches, Texas.

*2. Magna Group, Inc.*, St. Louis, Missouri; to acquire 100 percent of the voting shares of Mega Bancshares, Inc., St. Ann, Missouri, and thereby indirectly acquire Mega Bank of St. Ann, St. Ann, Missouri; Mega Bank of St. Louis County, Chesterfield, Missouri; and Mega Bank of St. Charles County, St. Charles, Missouri.

*3. New South Capital Corporation*, Batesville, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of New South Bank for Savings, SSB, Batesville, Mississippi.

**E. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Norwest Corporation*, Minneapolis, Minnesota; to merge with Winner Bancshares, Inc., Winner, South Dakota, and thereby indirectly acquire Farmers State Bank, Winner, South Dakota.

*2. Otto Bremer Foundation and Bremer Financial Corporation*, St. Paul, Minnesota; to acquire 100 percent of the voting shares of Valley Bancshares, Inc., Grand Forks, North Dakota, and thereby indirectly acquire Valley Bank & Trust Company, Grand Forks, North Dakota.

**F. Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Cherokee County Bancshares, Inc.*, Hulbert, Oklahoma; to become a bank holding company by acquiring First State Bank, Hulbert, Oklahoma.

*2. FNB Financial Services Holding Company Employee Stock Ownership Plan*, Durant, Oklahoma; to become a bank holding company by acquiring 30 percent of the voting shares of FNB Financial Services Holding Company, Durant, Oklahoma, and thereby indirectly acquire The First National Bank, Durant, Oklahoma.

**G. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

*1. D Bancorp, Inc.*, Desoto, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of D Bancshares, Inc., Wilmington, Delaware, and thereby indirectly acquire Bank of Desoto, N.A., Desoto, Texas. In connection with this application, D Bancshares, Inc., Wilmington, Delaware, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Desoto, N.A., Desoto, Texas.

**H. Federal Reserve Bank of San Francisco** (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

*1. First Interstate Bancorp*, Los Angeles, California; to merge with Cal Rep Bancorp, Bakersfield, California, and thereby indirectly acquire California Republic Bank, Bakersfield, California.

*2. ValliCorp Holdings, Inc.*, Fresno, California; to merge with Pacific Bancorporation, Fresno, California, and thereby indirectly acquire Community First Bank, Bakersfield, California.

Board of Governors of the Federal Reserve System, June 18, 1993.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 93-14785 Filed 6-22-93; 8:45 am]

BILLING CODE 6210-01-F

## Jerry Richard Haskin, 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 July 13, 1993.

**A. Federal Reserve Bank of Atlanta** (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

*1. Jerry Richard Haskin*, and Karen Mae Haskin, New Orleans, Louisiana; to acquire 24.85 percent of the voting shares of Commerce Corporation, St. Francisville, Louisiana, and thereby indirectly acquire Bank of Commerce & Trust Company, St. Francisville, Louisiana.

**B. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

*1. Morris T. Friedell*, to acquire 85 percent of the voting shares of First National Corporation of Aitkin, Inc., Aitkin, Minnesota, and thereby indirectly acquire First National Bank of Aitkin, Aitkin, Minnesota.

**C. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

*1. Bobby Crowell*, Royse City, Texas, to acquire an additional 11.34 percent for a total of 17.01 percent; James Dudney, Rockwall, Texas, to acquire an additional 11.34 percent for a total of 17.01 percent; John Pullen, Royse City, Texas, to acquire an additional 11.34 percent for a total of 17.01 percent; O.T. Stanfield, Garland, Texas, to acquire an additional 7.73 percent for a total of 10.57 percent; Grace Tipton, Mesquite, Texas, to acquire an additional 9.28 percent for a total of 14.95 percent; and J.L. Williams, Coppell, Texas, to acquire an additional 5.67 percent for a total of 8.51 percent of the voting shares of Citizens State Bank, Royse City, Texas.

Board of Governors of the Federal Reserve System, June 18, 1993.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 93-14787 Filed 6-22-93; 8:45 am]

BILLING CODE 6210-01-F

## J.P. Morgan & Co. Inc., New York, NY; Application to Engage in Nonbanking Activities

J.P. Morgan & Co. Incorporated, New York, New York (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through a wholly owned subsidiary, J.P. Morgan Futures, Inc., New York, New York (Company), a futures commission merchant registered under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), in executing and clearing, clearing without executing, executing without clearing, brokering, and providing investment advisory services with regard to the following energy-related contracts on the following exchanges: Light Sweet Crude Oil Futures, Options on Light Sweet Crude Oil Futures, Sour Crude Oil Futures, Gulf Coast Unleaded Gasoline Futures, New York Harbor Unleaded Gasoline Futures, Options on New York Harbor Unleaded Gasoline Futures, Heating Oil Futures, Options on Heating Oil Futures, Propane Futures, Natural Gas Futures, and Options on Natural Gas Futures on the New York Mercantile Exchange; and High Sulphur Fuel Oil Futures and Gas Oil Futures on the Singapore International Monetary Exchange Limited. Applicant proposes to conduct these activities throughout the United States and the world.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

Applicant believes that the proposed activities are closely related to banking or managing or controlling banks. The Board previously has approved, by regulation and order, acting as a futures commission merchant in the execution and clearance on major commodity exchanges of futures contracts and

options on futures contracts in financial commodities, such as gold and silver bullion and coins, foreign exchange, government securities, certificates of deposit and money market instruments that banks may buy and sell for their own accounts, and stock and bond indices, as well as providing related investment advice. *See* 12 CFR 225.25(b)(18), (19); *Republic New York Corporation*, 63 Federal Reserve Bulletin 951 (1977); *The Sanwa Bank, Limited*, 74 Federal Reserve Bulletin 578 (1988); *The Long-Term Credit Bank of Japan, Limited*, 74 Federal Reserve Bulletin 573 (1988). The Board also previously has approved, by order, the provision of investment advice with respect to trading futures and options on futures in non-financial commodities, such as agricultural and energy commodities. *See* Swiss Bank Corporation, 77 Federal Reserve Bulletin 126 (1991).

The Board has not previously approved the proposed activities with respect to acting as an FCM in executing, clearing, and brokering futures contracts and options on futures contracts in non-financial commodities. Applicant asserts that the proposed activities are essentially identical to activities previously approved by the Board. In this regard, Applicant believes that the execution and clearance of futures and options on futures in financial and non-financial commodities is functionally indistinguishable. Furthermore, Applicant states that the volatility of non-financial futures and options is not materially different than that for financial futures and options. Applicant also believes that Company's extensive experience in trading futures and options on futures in financial commodities makes it particularly well suited to engage in the proposed activities in non-financial commodities.

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities by Company 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 interest, or unsound banking practices. Applicant believes that the proposed activities will benefit the public by promoting competition. Applicant also believes that approval of this application will allow Company to provide a wider range of services and added convenience to its customers, and to offer its customers securities not otherwise available for purchase in the United States. Applicant believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

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 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.

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 21, 1993. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, June 18, 1993.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 93-14788 Filed 6-22-93; 8:45 am]

BILLING CODE 6210-01-F

## GENERAL SERVICES ADMINISTRATION

### Public Building Service; Environmental Assessment or Environmental Impact Statement for the Proposed Federal Courthouse Building, Located in Seattle, WA

**AGENCY:** General Services Administration.

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

**SUMMARY:** The General Services Administration (GSA) hereby gives notice it intends to prepare either an Environmental Assessment (EA) or an Environment Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA) for the proposed Federal Courthouse building in Seattle, Washington. A decision on whether to prepare an EIS will be made following the public comment period. The EA/EIS would evaluate the proposed project, other reasonable alternatives, and the no-action alternative identified in the scoping process. Scoping would be accomplished by correspondence, through a public scoping meeting, and through individual meetings with interested persons, neighborhood groups, organizations, and federal, state, and local agencies.

**ADDRESSES:** Written comments on the scope of alternatives and potential impacts should be sent to the GSA's contractor, The Austin Company, at the following subconsultant's address: Dames & Moore, Inc., 2025—1st Avenue, Suite 500, Seattle, Washington, **Attention:** Katy Chaney.

**DATES:** Written comments should be sent to Dames & Moore by August 4, 1993. Comments will also be accepted at a public open house from 2 p.m. to 5:30 p.m., and at a public scoping meeting from 5:30 p.m. to 8 p.m. on July 21, 1993 at the location indicated below.

**PUBLIC SCOPING MEETING:** Comments and suggestions will be solicited at a public open house and scoping meeting to be held at:

Washington State Convention and Trade Center, 800 Convention Place, Room #402 and #403, Seattle, Washington.

Both the open house and the scoping meeting will be held on July 21, 1993. The open house will be held from 2 p.m. to 5:30 p.m., during which time interested persons can discuss and comment on the proposed project. At 5:30 p.m., a group meeting will be convened which would include a brief presentation to include an overview of the proposed project and the EA/EIS process. At this time, there will be an opportunity to make comments in a group setting. All comments received throughout the day will be made part of the administrative record for the EA/EIS and will be evaluated as part of the scoping process.

**FOR FURTHER INFORMATION CONTACT:** Katy Chaney at Dames & Moore, Inc., 2025—1st Avenue, Suite 500, Seattle, Washington 98121, (206) 728–0744, or Donna M. Myers, General Services Administration, (206) 931–7713.

**SUPPLEMENTARY INFORMATION:** The GAS, assisted by the EA/EIS contractor, is considering preparation of a federal NEPA environmental assessment (EA) or an environmental impact statement (EIS) on a proposal to design and construct a new federal courthouse in Seattle, Washington. The scoping

process would determine whether an EA or EIS will be prepared, the scope of issues to be addressed in the environmental document, and identify the significant issues related to the proposed project. Scoping will be conducted consistent with NEPA guidelines. GSA will serve as lead agency for the preparation of the EA or EIS pursuant to § 1501.5(a) of the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (CEQ Regulations 40 CFR parts 1500–1508).

**Scoping**

GSA invites interested individuals, organizations, and federal, state, and local agencies to participate in defining the reasonable alternatives to be evaluated in the EA/EIS, and in identifying any significant social, economic, or environmental issues related to the alternatives. Scoping comments can be made verbally at the public open house, public scoping meeting, or in writing (see **DATES** and **ADDRESSES** sections above for location and time of open house and scoping meeting). During scoping, comments should focus on identifying specific impacts to be evaluated and suggesting alternatives that minimize adverse impacts while achieving similar objectives. Comments may also identify issues which are not significant or which have been covered by prior environmental review. Scoping should be limited to commenting on alternatives and not indicating preferences. There will be an opportunity to comment on preferences upon completion of a Draft EIS.

**Additional Information**

A project information packet will be available at the public open house and scoping meeting, or can be obtained by contacting Katy Chaney at Dames & Moore. The packet will describe in more detail the proposed project, alternatives, and the EA and EIS process.

**Mailing List**

If you wish to be placed on the mailing list to receive further information as the EA/EIS process develops, contact Dames & Moore at the address listed above.

**Project Purpose, Historical Background, and Project Description**

A new Federal Courthouse is needed in Seattle to consolidate existing judicial functions and to accommodate the projected space needs of the Federal Courts and court-related agencies. The existing Federal Courthouse, at 1010 5th Street is listed on the National Register of Historic Places along with the lawn area.

The Administrative Office of the U.S. Courts (AOC) has requested GSA provide a building based on the Long Range Facility Plan for the Western District of Washington. The new Courthouse would provide for 16 courtrooms for use by the Ninth Circuit Court of Appeals, the U.S. District, and the U.S. Magistrate judges. The facility would be designed to accommodate nine additional courtrooms for the long term requirements of the Courts. The U.S. Bankruptcy Court would utilize a portion of the existing Courthouse. Court and court-related as well as executive agency offices would occupy the remainder of the space in the building(s).

At occupancy, the new facility is expected to house approximately 1,400 occupants, of which 475 will be U.S. Court and related agency personnel. This is a net increase of 224 of those now employed at the existing Federal Courthouse and various lease locations in downtown Seattle. The remaining 924 occupants would be employees of Federal executive agencies who are currently located in leased space in downtown Seattle; they would occupy the facility until the space is needed for additional courtroom expansion. Development would involve construction of one or more buildings comprising approximately 747,900 square feet of gross floor area, and parking for 275 vehicles. In the long-term the U.S. Courts and related agencies would occupy 100 percent of the facility.

**Alternatives**

The EA or EIS would consider a no-action alternative and action alternatives. Due to the unique requirements for courtrooms, chambers, and security considerations, GSA has found it is impractical to consider the use of an existing office building to meet these needs. GSA is proposing to construct the building on one or several full block sites adjacent to the existing U.S. Courthouse in downtown Seattle, Washington, defined as follows:

1. A build alternative to construct on feasible full block sites adjacent to the existing Federal Courthouse, bounded on the north by Seneca Street, on the east by 6th Avenue, by Marion Street on the south, and on the west by 4th Avenue.

2. A build alternative of constructing over two blocks of the Interstate I–5 Freeway, (adjacent to both the existing Federal Courthouse and the Stouffer-Madison Hotel) bounded on the north by Spring Street, on the east by 7th Avenue, just past the southerly line of Marion Street on the south, and by 6th Avenue on the west.

3. A no-action (no-build) alternative would continue the use of the existing Federal Courthouse supplemented by the continued use of leased space throughout the downtown Seattle area.

**Probable Effects**

GSA will evaluate significant environmental, social, and economic impacts of the alternatives in the EA or EIS. Potential impacts include, but are not limited to, changes in the social environment, changes in land use, air quality, aesthetics, changes in traffic and transportation patterns, economic impacts, and conformance to City planning and zoning requirements. The impacts will be evaluated both for the construction period and for the life of the project. Measures to mitigate significant adverse impacts will be addressed.

**Procedures**

The EA or Draft EIS will be prepared based on the scoping report. After its publication, GSA will make a decision whether an EIS will be required. If an EIS is to be prepared, a Draft EIS will be available for public and agency review and comment, and a public hearing would be held. A Final EIS would be prepared following the Draft EIS to address any comments on the Draft EIS.

Dated: June 4, 1993.

**John T. Myers,**

*Acting Regional Administrator (10A).*

[FR Doc. 93–14722 Filed 6–22–93; 8:45 am]

BILLING CODE 6820–23–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Agency Information Collection Under OMB Review

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for the reinstatement of a previously approved information collection for the Children's Bureau of the Administration for Children and Families (ACF). This request for reinstatement for a short term approval will allow the Children's Bureau to complete data collection by September 1993. This information collection titled: "National Study of Protective, Preventive, and Reunification Services

Delivered to Children and Their Families," was approved under OMB Control Number 0980–0233. The approval expired on January 31, 1993.

**ADDRESSES:** Copies of the information collection request may be obtained from Steven R. Smith, Office of Information Systems Management, ACF, by calling (202) 401–6964.

Written comments and questions regarding the requested approval for this information collection should be sent directly to: Laura Oliven, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

**Information on Document**

*Title:* National Study of Protective, Preventive, and Reunification Services Delivered to Children and Their Families

*OMB No.* 0980–0233

*Description:* The data collection instruments—there are three major components—will be used by the Children's Bureau within the Administration for Children, Youth and Families (ACYF) of the Administration for Children and Families (ACF) to conduct a pilot study for the National Study of Protective, Preventive, and Reunification Services Delivered to Children and Families.

The purposes of the pilot study are to: (1) Describe and determine the number and percentage of children and families receiving protective, preventive, reunification/out-of-home services, and after-care services; and (2) obtain national data on the number, types, and dynamics of the services provided to children and their families.

The findings of the study will provide a basis upon which child welfare policy can be developed and refined throughout the next decade. Other benefits derived from the pilot study will provide standardized services definitions for protective, preventive, reunification services and for the target populations eligible to receive them. The study will identify services provided by child welfare agencies across the country and develop standardized service definitions across agencies.

*Annual Number of Respondents:* 150

*Annual Frequency:* 4

*Average Burden Hours Per Response:* .75

*Total Burden Hours:* 450

Dated: June 15, 1993.

**Larry Guerrero,**

*Deputy Director, Office of Information Systems Management.*

[FR Doc. 93–14727 Filed 6–22–93; 8:45 am]

BILLING CODE 4184–01–M

## Centers for Disease Control and Prevention

**[93–003]**

## Cooperative Research and Development Agreement

**AGENCY:** Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), National Center for Infectious Diseases announces the opportunity for potential collaborators to enter into a Cooperative Research and Development Agreement (CRADA) to develop innovative ways for collecting urine from infants for subsequent analysis for the presence of viruses. CDC's primary responsibility will be to develop the diagnostic test. The collaborator will specially design a new diaper or diaper insert.

It is anticipated that all inventions which may arise from this CRADA will be licensed on a royalty-bearing basis to the collaborator with whom the CRADA is made.

Because CRADAs are designed to facilitate the development of scientific and technological knowledge into useful, marketable products, a great deal of freedom is given to Federal agencies in implementing collaborative research. The CDC may accept staff, facilities, equipment, supplies, and money from the other participants in a CRADA; CDC may provide staff, facilities, equipment, and supplies to the project. There is a single restriction in this exchange: CDC May Not Provide Funds to the other participants in a CRADA. This opportunity is available until 30 days after publication of this notice. Respondents may be provided a longer period of time to furnish additional information if CDC finds this necessary.

**FOR FURTHER INFORMATION CONTACT:** Technical: James G. Dobbins, Ph.D., Division of Viral and Rickettsial Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mailstop G–18, Atlanta, GA 30333, telephone (404) 639–3096 or 639–1306 (Dr. Marion Koopmans).

Business: Lisa Blake-DiSpigna, Technology Transfer Representative, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mailstop C–19, Atlanta, GA 30333, telephone (404) 639–2897.

**SUPPLEMENTARY INFORMATION:** Congenital cytomegalovirus (CMV) disease is one of the leading causes of birth defects. Primary prevention of this disease will require new knowledge of its epidemiology, including studies of infected and uninfected infants. Secondary prevention will also require identification of infected and uninfected infants. Other congenital viral infections can also cause infections that may be inapparent at birth yet progress to cause severe complications at a later stage.

In order to identify infected infants, urine from newborn infants has to be collected and cultured for the presence of virus. Currently urine is collected by placing a urine bag on an infant—a time-consuming and expensive procedure. Culturing virus from urine is also time-consuming and expensive, and usually has to be done in a specialized laboratory.

The goal of this CRADA is to develop a screening test which would be less time consuming and more cost effective for determining whether an infant is infected with CMV or other specified viral infection. The collaborator will develop a diaper or diaper insert that would enable a diagnostic strip to be placed in it which could be used for the purpose of rapidly detecting the presence of infectious agents or antibody to such agents in the urine.

CDC will identify the optimal method for testing for the presence of infection; refine the procedure using known CMV-positive and CMV-negative urine; and supply a diagnostic strip (or spot) based on this test for the collaborator to incorporate into prototype diapers or diaper inserts.

CDC will evaluate the prototype diaper insert and diagnostic strip using data from hospital-based studies of CMV, comparing test results from the insert with those obtained from culturing the urine. Diagnostic tests for other congenital infections will also be evaluated for inclusion in the diagnostic strip.

Applicants will be judged according to the following criteria:

1. Soundness of the analytic approach and research plan;

2. Evidence of appropriate personnel to complete the project in a timely fashion or evidence of a plan to recruit and fund personnel appropriate for the project;

3. Evidence of scientific credibility; and

4. Evidence of commitment and ability to develop an innovative design for urine collection and testing.

This CRADA is proposed and implemented under the 1986 Federal Technology Transfer Act: Pub. L. 99–502.

The responses must be made to: Nancy C. Hirsch, Technology Transfer Coordinator, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mailstop C–19, Atlanta, GA 30333.

Dated: June 17, 1993.

**Robert L. Foster,**

*Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 93–14749 Filed 6–22–93; 8:45 am]

BILLING CODE 4160–18–P

## Food and Drug Administration

**[Docket No. 93F-0165]**

### R.T. Vanderbilt Co., Inc.; Filing of Food Additive Petition

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that R.T. Vanderbilt Co., Inc., has filed a petition proposing that the food additive regulations be amended to correct an error in nomenclature. The amendment would add dipentamethylenethiuram hexasulfide for use as an accelerator in the production of rubber articles intended for repeated food-contact use, and remove the erroneous listing of dipentamethylenethiuram tetrasulfide from the regulation.

**FOR FURTHER INFORMATION CONTACT:** Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4370) has been filed by R.T. Vanderbilt Co., Inc., P.O. Box 5150, Norwalk, CT 06856–5150. The petition proposes that the food additive regulations in § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) be amended to correct an error in nomenclature. The amendment would list dipentamethylenethiuram hexasulfide for use as an accelerator in the production of rubber articles intended for repeated food-contact use, and remove the erroneous listing of dipentamethylenethiuram tetrasulfide from the regulation.

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: June 15, 1993.

**L. Robert Lake,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 93–14764 Filed 6–22–93; 8:45 am]

BILLING CODE 4160–01–F

**[Docket No. 93F–0180]**

### Sumitomo Chemical America, Inc.; Filing of Food Additive Petition

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Sumitomo Chemical America, Inc., has filed two petitions proposing that the food additive regulations be amended to provide for the safe use of 2,4-di-*tert*-pentyl-6-[1-(3,5-di-*tert*-pentyl-2-hydroxyphenyl) ethyl]phenyl acrylate as an antioxidant in the manufacture of polypropylene and styrene block polymers that contact food.

**FOR FURTHER INFORMATION CONTACT:** Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that two petitions (FAP 3B4357 and 3B4359) have been filed by Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10154. The petitions propose to amend the food additive regulations to provide for the safe use of 2,4-di-*tert*-pentyl-6-[1-(3,5-di-*tert*-pentyl-2-hydroxyphenyl)ethyl]phenyl acrylate as an antioxidant in the manufacture of polypropylene and styrene block polymers that contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: June 15, 1993.

**L. Robert Lake,**

*Acting Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 93–14763 Filed 6–22–93; 8:45 am]

BILLING CODE 4160–01–F

## Health Resources and Services Administration

### Final Notice Regarding Section 602 of the Veterans Health Care Act of 1992 Duplicate Discounts and Rebates on Drug Purchases

**AGENCY:** Public Health Service, HHS.

**ACTION:** Final notice.

**SUMMARY:** Section 602 of Public Law 102–585, the "Veterans Health Care Act of 1992," enacted section 340B of the Public Health Service Act, "Limitation on Prices of Drugs Purchased by Covered Entities." Section 340B provides discounts on covered outpatient drugs to eligible entities. Section 340B(a)(5)(A) provides that a drug purchase shall not be subject to both a discount under section 340B and a Medicaid rebate under section 1927 of the Social Security Act. The Department is directed to establish a mechanism to assure that covered entities comply with this prohibition. The purpose of this notice is to announce the final mechanism to prevent duplicate discounts and rebates.

The proposed mechanism was announced in the **Federal Register** at 58 FR 27293 on May 7, 1993. A comment period of 30 days was established to allow public comment on the proposed mechanism. Two comments were received. Both comments concerned issues involving implementation of the mechanism and did not raise substantive issues concerning the mechanism itself; therefore, we will address both comments in the Effective Date section. The mechanism, in its final form, is adopted as proposed.

**FOR FURTHER INFORMATION CONTACT:** Marsha Alvarez, R.Ph., Director, Office of Drug Pricing Program, Bureau of Primary Health Care, Health Resources and Services Administration, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Phone: (301) 443–0004

**DATES:** The Department proposed to begin implementation of the mechanism on July 1, 1993, if the Public Health Service (PHS) could provide the State Medicaid agencies with the Medicaid

provider numbers for all covered entities. One comment addressed the necessity for a date by which PHS could, with certainty, provide the numbers to the States.

The Department has developed an implementation plan which involves providing covered entity Medicaid provider numbers to the State Medicaid agencies on a monthly basis for July, August, and September, 1993. From October, 1993, until June 30, 1994, the files will be updated on a quarterly basis. Thereafter, the files will be updated annually.

As outlined in the first notice, all State Medicaid drug utilization data for the third calendar quarter, due to manufacturers by November 30, 1993, would exclude rebates for discounted drugs sold to PHS covered entities. For claims paid by Medicaid prior to July 1, 1993, State agencies will bill manufacturers for rebates on all drugs paid by Medicaid.

**SUPPLEMENTARY INFORMATION:** The other comment dealt with entity participation in the PHS drug discount program prior to their exclusion from the Medicaid rebate program. Entities that utilize Medicaid billing systems that include pharmacy in their all-inclusive rates or do not submit Medicaid claims for covered outpatient drug reimbursement do not generate Medicaid rebates and have no need to participate in the mechanism to prevent duplicate discounts and rebates. These entities may request drug discounts retroactive to December 1, 1992, and may accept further drug discounts as soon as possible.

Those entities which bill Medicaid separately for covered outpatient drugs can only accept a discount on those drugs for which no claims for Medicaid reimbursement were sent to their respective State Medicaid agencies. They may accept the discounted price once their Medicaid provider numbers are received by the Drug Pricing Program, and the Program provides these numbers to the respective State Medicaid agencies.

Dated: June 16, 1993.

**William A. Robinson,**

*Acting Administrator, Health Resources and Services Administration.*

[FR Doc. 93–14767 Filed 6–22–93; 8:45 am]

BILLING CODE 4160–15–M

## Substance Abuse and Mental Health Services Administration

### Peer Review Appeals System

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice

**SUMMARY:** This Notice provides the procedures for an appeals process that the Substance Abuse and Mental Health Services Administration (SAMHSA) will use to resolve concerns that arise from perceived shortcomings or errors in the substance or procedure of expert peer review of grant and cooperative agreement applications.

**ADDRESSES:** The public is invited to provide written comments on these procedures; written comments should be sent to Jane A. Taylor, Ph.D., Deputy Director for Review Policy and Extramural Operations, Office of Extramural Programs, SAMHSA, 12C–26 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; telephone 301–443–4266.

**SUPPLEMENTARY INFORMATION:** Public Law 102–321, the ADAMHA Reorganization Act of 1992, enacted on July 10, 1992, amended the Public Health Service (PHS) Act to establish the SAMHSA. Section 504 of the PHS Act, as amended, provides for the conduct of peer and Advisory Council review of grants and cooperative agreements for substance abuse and mental health services prevention and treatment programs in SAMHSA.

The mission of SAMHSA is to reduce the incidence and prevalence of mental disorders and substance abuse and improve treatment outcomes for persons suffering from addictive and mental health problems and disorders.

The Administrator is authorized to award grants to, and enter into cooperative agreements with, public and private nonprofit entities to support demonstration projects, evaluations, systems improvements, services delivery, and the dissemination of information on substance abuse and mental health services for the delivery of these services.

SAMHSA has instituted an appeals policy to allow applicants the opportunity to request an examination of their concerns about the referral and peer review of their applications for grants and cooperative agreements. The policy is implemented through a two-tiered process and applies to the referral and review of all competing applications for grants and cooperative agreements. The policy does not apply to funding decisions. This Notice provides a summary of the procedures for operation of the SAMHSA Peer Review Appeals System.

### SAMHSA Peer Review Appeals System

Substance Abuse and Mental Health Services Administration

Center For Substance Abuse Prevention (CSAP)

Center For Substance Abuse Treatment (CSAT)

Center For Mental Health Services (CMHS)

The SAMHSA has initiated a two-tiered appeals process whereby applicants may request an examination of their concerns about the referral and peer review of their applications for grants and cooperative agreements.

This process is intended to resolve those concerns which arise from perceived shortcomings or errors in the substance or procedure of peer review, i.e., from receipt and assignment of an application through its review by a National Advisory Council. Such concerns may involve refusal to accept an application; a disputed assignment of the application to an initial review group or to a particular Center; perceived insufficient expertise on the initial review group or site visit team or conflict of interest on the part of one or more members; apparent factual errors, oversights, or bias associated with the review of an application at the initial or advisory council review; and perceived inappropriate handling of the review of the application.

However, the appeals process is not intended to resolve differences of opinion between peer reviewers and the project director; to provide a mechanism for allowing project directors to submit information that should have been presented in the original proposal; or to provide a forum for disputing priority score determinations in the absence of specific and substantive evidence pointing to a flawed review.

The appeals process will not supersede or bypass the peer review process, but if serious shortcomings are found to have occurred in the review of an application, they will be rectified by one of the following actions: review by the same or another initial review group; special consideration by the National Advisory Council; or administrative action authorized by the Center Director or designated staff.

Applicants are strongly urged to communicate and discuss their concerns regarding peer review with appropriate staff. However, if applicants are still dissatisfied after a response is received to their communications, they also may request a further examination of these concerns.

Under the appeals system, all concerns must first be communicated to the unit which, at the time, is responsible for the application. Appropriate officials will thoroughly examine the applicants' concerns,

frequently with the help of the initial reviewers or other experts, and, if shortcomings are found to have occurred, every effort will be made to rectify them in a timely manner.

If the applicant disagrees with the resolution of his/her concerns by the responsible Center staff, an appeal, jointly signed by the applicant (grantee) organization official, may be sent to the designated Center Appeals Officer whose name and address appears below. The appeal must include documentation of the original dispute, previous communications and interactions with staff in relation to the dispute, and a clear statement of the reasons for disagreeing with the resulting decision. To allow for a complete and independent examination of the appeal, the application will be withdrawn from the regular review process until the appeal is resolved. If the applicant submits an amended application during consideration of the appeal, SAMHSA will review the amended application and inactivate the original application and the accompanying appeal. The Center Director will render the Center's decision on the appeal and communicate it to the applicant and the applicant organization.

In the event that an appellant disagrees with the decision made by the Center Director, he or she and the applicant organization may initiate a secondary appeal to the SAMHSA Administrator. In these cases, the Administrator's decision is final.

*How to Use the Appeals System:*

Communication Before the Initial Review

After being notified about the assignment of an application to the initial review group and the awarding Center, the applicant may direct his/her serious concerns about eligibility determination and the assignment of the application to the Center Referral Officer. Concerns about the pending review of the application should be directed to the Review Administrator of the assigned initial review group.

Communications After the Initial Review

After having received the summary statement, the applicant may direct his/her questions about the review to the Review Administrator, who will respond or refer the communication to the appropriate person for response. Communications may be submitted at any time, including after National Advisory Council review, but applicants are encouraged to communicate their concerns as early as possible.

Appeals

After the reply to a communication regarding a concern about the referral to peer review and/or the resulting review of a discretionary grant or cooperative agreement application is received, and if the applicant disagrees with the decision by the relevant Center staff about the handling of the referral/review, he/she and the applicant (grantee) organization official may appeal by submitting the necessary documentation to the appropriate Center Appeals Officer:

CSAP Sylvia Quinton, J.D., Office of the Director, CSAP, Rockwall II Building, 5600 Fishers Lane, Rockville, MD 20857.

CSAT Lionel Fernandez, Ph.D., Office of Policy Coordination, CSAT, Rockwall II Building, 5600 Fishers Lane, Rockville, MD 20857.

CMHS Jeffrey A. Buck, Ph.D., Office of Policy, Planning, and Legislation, CMHS, 15C–26 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Should the applicant and the applicant (grantee) organization desire to request a secondary appeal, a written request for re-review within 30 days of the date of the Center Director's decision must be provided to the SAMHSA Administrator. This secondary appeal request should be submitted to the OA Appeals Officer: Jane A. Taylor, Ph.D., Office of Extramural Programs, SAMHSA, 12C–26 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The Agency will assure that each appeal will be processed and the case decided according to its merits, regardless of the availability of funds/timing of an appeal.

Effective Date

This appeals system is effective upon issuance of this notice for applications received and/or reviewed since October 1, 1992.

Dated: June 16, 1993.

**Joseph R. Leone,**

*Acting Deputy Administrator, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 93–14771 Filed 6–22–93; 8:45 am]

BILLING CODE 4162–20–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. D–93–1025; FR–3440–D–01]

### Redelegation of Authority

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice of redelegation of authority.

**SUMMARY:** The Mortgagee Review Board within the Federal Housing Administration of the Department of Housing and Urban Development is redelegating to the Director, Office of Lender Activities and Land Sales Registration, the authority to issue an order withdrawing approval of mortgagees and Title I lenders for participation in HUD/FHA programs and the authority to enter into settlements with such mortgagees and Title I lenders. The Director, Office of Lender Activities and Land Sales Registration, may exercise these authorities when mortgagees and Title I lenders fail to submit an acceptable annual audit report within 90 days of the close of their fiscal year, fail to maintain the required net worth for approval or fail to pay the required annual fee. The Director, Office of Lender Activities and Land Sales Registration, is also redelegated the authority to reinstate such mortgagees and Title I lenders.

**EFFECTIVE DATE:** June 16, 1993.

**FOR FURTHER INFORMATION CONTACT:** William Heyman, Director, Office of Lender Activities and Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., room 9146, Washington, DC 20410, (202) 708–1824. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Section 202(c)(1) of the National Housing Act established the Mortgagee Review Board within the Federal Housing Administration of the Department of Housing and Urban Development. The Board is empowered to initiate the issuance of a letter of reprimand, or the probation, suspension, or withdrawal of the approval of any mortgagee or Title I lender found to be engaging in activities in violation of Federal Housing Administration requirements or the non-discrimination requirements of the Equal Credit Opportunity Act, the Fair Housing Act, or Executive Order 11063.

The Board's regulations at 24 CFR 25.2 provide that the Board may redelegate its authority to impose administrative actions on mortgagees and Title I lenders on the grounds specified in 24 CFR 25.9(e), where they fail to submit an acceptable annual audit report within 90 days of the close of their fiscal year, on the grounds specified in § 25.9(h), where they fail to maintain the required net worth for approval, or on the grounds specified in § 25.9(u), where they fail to pay the required annual fee. This redelegation is necessary so that the Board may more efficiently carry out its responsibilities under section 202(c) of the National Housing Act.

In this Redelegation of Authority, the Mortgagee Review Board is redelegating to the Director, Office of Lender Activities and Land Sales Registration, the authority to issue an order withdrawing approval of mortgagees and Title I lenders for participation in HUD/FHA programs, as provided by § 25.5(d)(1), and the authority to enter into settlements with such mortgagees and Title I lenders, as provided by § 25.5(e). The Director, Office of Lender Activities and Land Sales Registration, may exercise these authorities when mortgagees and Title I lenders fail to submit an acceptable annual audit report within 90 days of the close of their fiscal year, fail to maintain the required net worth for approval, or fail to pay the required annual fee. The Director, Office of Lender Activities and Land Sales Registration, is also delegated the authority to reinstate such mortgagees and Title I lenders as provided under § 25.5(d)(3)(ii).

Accordingly, the Mortgagee Review Board redelegates the following authority:

*Section A. Authority Redelegated*

The Director, Office of Lender Activities and Land Sales Registration, is redelegated authority, pursuant to 24 CFR 25.2, to identify HUD-approved mortgagees and Title I lenders which have failed to:

A. Submit to the Department an acceptable annual audit report within 90 days of the close of their fiscal year;
B. Maintain the required net worth for approval; or
C. Pay the required annual fee.

The Director, Office of Lender Activities and Land Sales Registration, is also redelegated the authority to execute an order withdrawing approval of such mortgagees and Title I lenders for participation in HUD/FHA programs, pursuant to 24 CFR 25.5(d)(1), or to enter into settlements with such mortgagees and Title I lenders, pursuant to 24 CFR 25.5(e). The Director, Office of Lender Activities and Land Sales Registration, may exercise these authorities when mortgagees and Title I lenders fail to submit an acceptable annual audit report within 90 days of the close of their fiscal year, pursuant to 24 CFR 25.9(e), fail to maintain the required net worth for approval, pursuant to 24 CFR 25.9(h), or fail to pay the required annual fee, pursuant to 24 CFR 25.9(u). The Director, Office of Lender Activities and Land Sales Registration, is also redelegated the authority to reinstate such mortgagees and Title I lenders, as provided under 24 CFR 25.5(d)(3)(ii).

*Section B. No Further Redelegation*

The authority granted under Section A may not be further redelegated by the Director, Office of Lender Activities and Land Sales Registration.

**Authority:** Sec. 202(c) of the National Housing Act, 12 U.S.C. 1708; Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 16, 1993.

**Nicolas Retsinas,**

*Assistant Secretary for Housing, Federal Housing Commissioner.*

[FR Doc. 93–14709 Filed 6–22–93; 8:45 am]

BILLING CODE 4210–27–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Salmon District Advisory Council; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Salmon District Advisory Council will meet on Wednesday, July 14, 1993, at McRea's Double E Cafe, Leadore, Idaho. The meeting will convene at 10 a.m.

**SUPPLEMENTARY INFORMATION:** The meeting is held in accordance with Public Laws 92–463 and 94–579. The purpose for the meeting is to discuss the Challis Resource Management Plan and Wild and Scenic River Study, and current Salmon District Issues.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11 a.m. and 11:30 a.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by July 9, 1993.

Summary minutes to the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Roy S. Jackson, District Manager, Salmon District BLM, Box 430, Salmon, Idaho 83467.

Dated: June 14, 1993.

**Roy S. Jackson,**

*District Manager.*

[FR Doc. 93–14754 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–GG–M

[OR 49276; OR–080–03–4212–05; GP3–266]

### Realty Action; Proposed Recreation and Public Purposes Act Conveyance

June 14, 1933.

The following described public land has been examined and determined to be suitable for classification for conveyance out of Federal ownership to The Nature Conservancy under the authority of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.):

**Willamette Meridian Oregon,**

T. 9 N., R. 7 W.,
Sec. 32, Lot 8.

The above-described parcel contains 0.72 acres in Clatsop County.

The Nature Conservancy proposed to add the parcel to its 672-acre "Blind Slough Swamp Preserve". The parcel is not required for any Federal purpose or program. Conveyance of the parcel is consistent with current BLM land use planning and will be in the public interest.

The patent, when issued, will be subject to the following:

1. A reservation to the United States for rights-of-way for ditches or canals under the Act of August 20, 1890 (26 Stat. 391; 43 U.S.C. 945);

2. A reservation to the United States of all mineral deposits, together with the right to prospect for, mine, and remove such deposits under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. The reversionary requirements of 43 CFR 2741.9.

Detailed information concerning this action is available for review at the Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306, or at the Tillamook Resource Area Office, 4610 Third Street, Tillamook, Oregon 97141.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of

appropriation under the public land laws, including the mining laws, except the mineral leasing laws and for lease or conveyance under the Recreation and Public Purposes Act.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Tillamook Area Manager, Salem District Office, at the above address. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

**Dana R. Shuford,**

*Tillamook Area Manager.*

[FR Doc. 93–14728 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–33–M

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**[OR–943–4210–06; GP3–253; WASH–04282]**

## Proposed Continuation of Withdrawal; Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, proposes that a portion of the land withdrawal for a recreation area continue for an additional 20 years and requests that the land involved remain closed to mining and opened to surface entry.

**DATES:** July 19, 1992. Comments should be received by September 21, 1993.

**FOR FURTHER INFORMATION CONTACT:** Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

**SUPPLEMENTARY INFORMATION:** The Forest Service proposed that the existing land withdrawal made by Public Land Order No. 3336 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988).

**Wenatchee National Forest**

Rock Island Recreation Area, 40 acres in Sec. 1, T. 24 N., R. 15 E., W.M., Chelan County, approximately 16 miles west of Leavenworth.

The purpose of the withdrawal is to protect the recreation area. The withdrawal currently segregates the land from surface entry and mining. The Forest Service requests no changes in the purpose or segregative effect of the withdrawal except that the land be opened to such forms of disposition as may by law be made of National Forest System land.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: June 3, 1993.

**Champ C. Vaughan,**

*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 93–14724 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–33–M

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## Fish and Wildlife Service

## Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

*Applicant:* Gene F. Pfeiffer, Evansville, IN, PRT–779889

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Ciskei Government, "Tsolwana Game Reserve", Queenstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: June 18, 1993.

**Margaret Tieger,**

*Acting Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 93–14746 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–55–M

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## National Park Service

## Meeting of History Areas Committee of National Park System Advisory Board

**AGENCY:** National Park Service.

**ACTION:** Notice of Meeting of History Areas Committee of National Park System Advisory Board.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board will be held at 9 a.m. on the following date and at the following location.

**DATE:** July 13, 1993.

**LOCATION:** Department of the Interior Secretary's Conference Room 7000–B, Main Interior Building, 1849 C Street NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ben Levy, Senior Historian, History Division, National Park Service, P.O. Box 37127, suite 310, Washington, DC 20013–7127. Telephone (202) 343–8164.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board is to evaluate studies of historic properties in order to advise the full National Park System Advisory Board meeting on August 11, 1993, of the qualifications of properties being proposed for National Historic Landmark (NHL) designation, and to recommend to the full Board those properties that the Committee finds meet the criteria of the National Historic Landmarks Program. The members of the History Areas Committee are:

Dr. Holly Anglin Robinson, Chairperson
Mr. F.C. Duke Zeller, Vice-Chairman
Lt. Governor Connie B. Binsfeld
Mr. Paul F. Cole
Ms. Carrel Cowan-Ricks
Dr. Stuart Kaufman
Mr. Karl A. Komatsu
Hon. Jim Smith
Judge Robert Flynn Orr, *ex officio*

The meeting will include presentations and discussions on the national historic significance and the integrity of a number of properties being

nominated for National Historic Landmark designation. These nominations are:

Five properties in the theme of Women's History:

Marie Webster House, Marion, Indiana;
Philadelphia School of Design for Women, Philadelphia, Pennsylvania;
Elmshaven (Ellen White House), St. Helena, California;
Race Street Meetinghouse, Philadelphia, Pennsylvania;
New Century Guild, Philadelphia, Pennsylvania;

Two properties in maritime history:

L.A. Dunton, Mystic, Connecticut;
Tug Baltimore, Baltimore, Maryland;

Four properties in the history of the science of geology:

Pulpit Rocks, Huntingdon, Pennsylvania;
Thomas A. Greene Memorial Museum, Milwaukee, Wisconsin;
University of Wisconsin Science Hall, Madison, Wisconsin;
Soldier's Home Reef, Milwaukee, Wisconsin;

Five individual properties:

Opana Radar Site, Oahu, Hawaii;
Little Tokyo Historic District, Los Angeles, California;
Roma Historic District, Roma, Texas;
University of Wisconsin Armory & Gymnasium, Madison, Wisconsin;
Naulakha (Rudyard Kipling House), Dummerston, Vermont;

Two properties in the history of engineering:

Detroit River Railroad Tunnel, Detroit, Michigan;
Holland Tunnel, Connecting New York City, New York, and Jersey City, New Jersey;

One designation:

Samuel Elmore Cannery, Astoria, Oregon;

Six archeological properties from the theme study on the Historic Contact period:

St. Mary's City Historic District NHL (Additional Area of Significance), St. Mary's City, Maryland;
Camden NHL (Additional Area of Significance), Port Royal, Virginia;
Old Fort Niagara NHL (Additional Area of Significance), Youngstown, New York;
Fort Orange Archeological Site, Albany, New York;
Schuyler Flatts Archeological District, Town of Colonie, New York;
Mohawk Upper Castle Archeological District, Danube Township, New York;

Two individual archeological properties:

Julien Dubuque's Mines, Dubuque, Iowa;
Caguana, Utuado, Puerto Rico;

One boundary enlargement:

Los Adaes NHL, Natchitoches Parish, Louisiana.

The Committee will also review and may make recommendations on the following special resource studies:

Birmingham Industrial Heritage Corridor, Alabama;
Bramwell, West Virginia;
New Orleans Jazz, Louisiana;
West Virginia Coal Heritage, West Virginia.

The Committee may also review and make recommendations on various other special resource studies for sites in Louisiana, Ohio, and Kansas, in addition to status reports on the special resource studies program for fiscal years 1993 and 1994.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Committee a written statement concerning matters to be discussed. Written statements may be submitted to Ben Levy, Manager, National Historic Landmarks Survey, History Division (418), National Park Service, P.O. Box 37127, suite 310, Washington, DC 20013–7127.

Dated: June 17, 1993.

**Rowland T. Bowers,**

*Deputy Associate Director, Cultural Resources, National Park Service, WASO.*

[FR Doc. 93–14820 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–70–M

## Sudbury, Assabet and Concord Rivers Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1 section 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, July 22, 1993.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in section 5 (a)(110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m. Costin Room, Framingham Public Library, 49 Lexington Street, Lexington, Massachusetts. (Driving directions: From intersection of Routes 9 and 126, go south on Route 126 (Concord St.). After four traffic lights, turn right on Lincoln St. Take first left onto Pearl St., then turn right at Union. Lexington is the first street on the right.)

**Agenda**

I. Welcome, introductions, and comments—Bill Sullivan
II. Approval of minutes from 5/27 meeting
III. Brief questions and comments from public
IV. Subcommittee Reports—Subcommittee Chairs
  A. Water Resources Subcommittee: Water Resources Study
  B. River Conservation Planning Subcommittee
  C. Public Participation Subcommittee
V. Discussion—Study Direction and Progress
VI. Discussion—Issues of Local Concern
VII. Opportunity for public questions and comments
VIII. Other Business
  A. Next meeting dates and locations.

Dated: June 16, 1993.

**John C. Reed,**

*Acting Regional Director.*

[FR Doc. 93–14821 Filed 6–22–93; 8:45 am]

BILLING CODE 4310–70–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–349]**

## Certain Diltiazem, Hydrochloride and Diltiazem Preparations; Commission Determination Not To Review An Initial Determinination Amending The Complaint and Notice of Investigation To Add A Respondent

**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) (Order No. 6) in the above-captioned investigation amending the complaint and notice of investigation to add Plantex U.S.A., Inc. of Englewood Cliffs, New Jersey as a respondent.

**FOR FURTHER INFORMATION CONTACT:** Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3098.

**SUPPLEMENTARY INFORMATION:** On May 21, 1993, the ALJ issued an ID granting a motion by complainants Marion Merrell Dow, Inc. and Tanabe Seiyaku Co., Ltd. to amend the complaint and notice of investigation to add Plantex

U.S.A., Inc. as a respondent in the investigation. Plantex is allegedly an importer of allegedly infringing diltiazem hydrochloride. No petitions for review or government agency comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. section 1337), and section 210.53(h) of the Commission's Interim Rules of Practice and Procedure (19 C.F.R. § 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 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: June 16, 1993.

By order of the Commission.

**Paul R. Bardos**

*Acting Secretary.*

[FR Doc. 93–14782 Filed 6–22–93; 8:45 am]

BILLING CODE 7020–02–P

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**[Investigations Nos. 303–TA–23 (Final) 731–TA–568 and 570 (Final)]**

## Ferrosilicon From Russia and Venezuela

### Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to sections 303 and 735(b) of the Tariff Act of 1930 (19 U.S.C. sections 1303 and 1673d(b)) (the Act), that an industry in the U.S. is materially injured by reason of subsidized imports from Venezuela and less-than-fair-value (LTFV) imports from Russia and Venezuela of ferrosilicon,[2] provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States. The Commission also unanimously determines, pursuant to section 735(b)(4) (A) of the Act, that critical circumstances do not exist with respect to ferrosilicon imports from Russia; thus, the retroactive imposition of antidumping duties is not necessary.

### Background

The Commission instituted these investigations effective December 21, 1993, following preliminary determinations by the Department of Commerce that imports of ferrosilicon were being subsidized by Venezuela and sold at LTFV from Russia and Venezuela within the meaning of sections 303 and 703(b) of the Act (19 U.S.C. sections 1303 and 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of December 29, 1992, (57 FR 61919). The hearing was held in Washington, DC, on January 22, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 16, 1993. The views of the Commission are contained in USITC Publication 2650 (June 1993), entitled "Ferrosilicon from Russia and Venezuela: Determinations of the Commission in Investigations Nos. 303–TA–23 (Final) and 731–TA–568 and 570 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 17, 1993.

By order of the Commission.

**Paul R. Bardos**

*Acting Secretary.*

[FR Doc. 93–14781 Filed 6–22–93; 8:45 am]

BILLING CODE 7020–02–P

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR section 207.2(f)).

[2] For purposes of these investigations, the subject product is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than 8 percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorus, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

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**[Investigation No. 332–343]**

## Annual Report: U.S. Imports of Textiles and Apparel Under the Multifiber Arrangement

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation.

**EFFECTIVE DATE:** June 15, 1993.

**SUMMARY:** The Commission initiated investigation No. 332–343 under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of compiling and publishing data on U.S. imports of textiles and apparel under the Multifiber Arrangement (MFA). The Commission has published similar data on an annual basis since 1981, although not pursuant to an investigation under section 332. The Commission is scheduled to issue its latest report—with 1992 data—in June 1993. The annual reports for 1993 and for 1994 are scheduled to be published in April of 1994 and 1995, respectively.

**CONTACT FOR FURTHER INFORMATION:** Information on the report may be obtained from Robert W. Wallace, Office of Industries (202–205–3458). The media should contact Peg O'Laughlin, Director, Office of Public Affairs (202–205–1819). Requests for a copy of the 1992 MFA report should be addressed to the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing impaired persons should contact the TDD terminal on 202–205–1810.

### Background

The annual reports will provide statistics on U.S. textile and apparel imports, by fibers, broad product groups, regional country groups, and individual countries, for the most recent year and at least 3 preceding years. In addition, detailed data will be presented for each of the top 35 supplying countries in terms of the nearly 150 product categories used to administer the U.S. textile and apparel trade agreements program. The data in these annual reports will be similar to those published by the Commission in "U.S. Imports of Textiles and Apparel Under the Multifiber Arrangement: Annual Report for 1991" (USITC publication 2561).

Issued: June 16, 1993.

By order of the Commission.

**Paul R. Bardos,**

*Acting Secretary.*

[FR Doc. 93–14783 Filed 6–22–93; 8:45 am]

BILLING CODE 7020–02–P

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## INTERSTATE COMMERCE COMMISSION

## Availability of Environmental Assessments; Burlington Northern Railroad Co.

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce

Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6245.

Comments on the following assessment are due 30 days after the date of availability: AB–6 (Sub-No. 349X), Burlington Northern RR. Abandonment between MP–183.40 near Springfield Airport, and MP–153.00 near Bolivar in Greene and Polk Counties, Missouri. EA available June 18, 1993.

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

*Secretary.*

[FR Doc. 93–14769 Filed 6–22–93; 8:45 am]

BILLING CODE 7035–01–M

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**[EX PARTE NO. 290 (Sub No. 5) (93–3)]**

## Quarterly Rail Cost Adjustment Factor

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Approval of rail cost adjustment factor and decision.

**SUMMARY:** The Commission has approved a third quarter 1993 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter RCAF (Unadjusted) is 1.013. The third quarter RCAF (Adjusted) is 0.846, a decrease of 0.2 percent from the second quarter 1993 RCAF (Adjusted) of 0.848. Maximum third quarter 1993 RCAF rate levels may not exceed 99.8 percent of maximum second quarter 1993 RCAF rate levels.

**EFFECTIVE DATE:** July 1, 1993.

**FOR FURTHER INFORMATION CONTACT:** John C. Pertino, (202) 927–6229 or Robert C. Hasek, (202) 927–6239. TDD for hearing impaired: (202) 927–5721.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

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

Decided: June 17, 1993.

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

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

*Secretary.*

[FR Doc. 93–14770 Filed 6–22–93; 8:45 am]

BILLING CODE 7035–01–P

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## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–312]**

## Sacramento Municipal Utility District; Rancho Seco Nuclear Generating Station; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering approving a Sacramento Municipal Utility District (SMUD) proposed decommissioning plan for its Rancho Seco Nuclear Generating Station (RSNGS) and issuing and order authorizing decommissioning of RSNGS. The decommissioning plan proposed by SMUD involves placing and maintaining Rancho Seco in a condition that allows it to be safely stored (SAFSTOR) until the year 2008, then dismantlement and removal of the reactor pressure vessel, core internals, and contaminated systems and structures.

### Description of Proposed Action

On June 6, 1989, voters of Sacramento, California decided by non-binding referendum that SMUD should no longer operate Rancho Seco. On June 7, 1989, Ranch Seco was shut down after approximately 15 years of operation. All nuclear fuel was removed from the reactor and is presently being stored in the Rancho Seco spent fuel pool. Approval of the decommissioning plan will allow SMUD to implement the SAFSTOR decommissioning alternative.

### Summary of the Environmental Assessment

The purpose of decommissioning a nuclear facility is to take the facility safely from service, and to reduce residual radioactivity to levels that permit release of the property for unrestricted use and license termination. The NRC staff has reviewed the proposed SMUD decommissioning plan, and supplemental environmental report prepared in accordance with 10 CFR 51.53(b). To document its review, the staff has prepared an environmental assessment (EA) consistent with 10 CFR 51.95(b), which examined decommissioning alteratives, non-radiological and radiological impacts of decommissioning, and effects of postulated accidents. The alternatives available for decommissioning—DECON, ENTOMB, SAFSTOR, and No Action—are evaluated and discussed in the "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities, "NUREG–0586, dated August 1988 (GEIS). Based on its review of the proposed SMUD decommissioning plan, the staff has determined that the environmental impacts associated with the decommissioning of RSNGS in accordance with that plan are either bounded by the conditions evaluated in the GEIS or in the NRC Final Environmental Statement related to the operation of Rancho Seco, or are in compliance with 10 CFR part 50 appendix I annual design objectives for offsite releases or 10 CFR part 20.

### Finding of No Significant Impact

The staff has reviewed the proposed decommissioning plan in accordance with the requirements of 10 CFR part 51. The staff has concluded that there are no significant environmental impacts associated with the proposed action and that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement.

For further details with respect to this action, see: (1) The licensee application for authorization to decommission the facility, dated May 20, 1991, as supplemented April 15, August 6, and August 31, 1992, January 7, April 7, and April 19, 1993, and (2) Environmental Assessment. These documents are available for public inspection at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95825. Copies may be requested from the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Seymour H. Weiss, Director of Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support.

Dated at Rockville, Maryland this 16th day of June 1993.

For the Nuclear Regulatory Commission.

**Seymour H. Weiss,**

*Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation*

[FR Doc. 93–14760 Filed 6–22–93; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket Nos. 50–445 and 50–446]**

## Comanche Peak Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of amendments to Facility Operating License Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company, et al., (the licensee) for the Comanche Peak Steam Electric Company (CPSES), Units 1 and 2 located in Somervell County, Texas.

**Environmental Assessment**

*Identification of Proposed Action*

By letter dated October 16, 1992, as supplemented by letter dated March 17, 1993, the licensee proposed to change the technical specifications (TSs) to allow an increase in fuel enrichment (Uranium 235) to 4.3 weight percent. The present TSs permit a maximum enrichment of 3.5 weight percent. Associated with the change is the allowance of fuel irradiation up to 60,000 megawatt days/metric ton of Uranium (MWD/MTU).

*The Need for Proposed Action*

The licensee intends, in the future, to use the more highly enriched fuel to operate with 18 month fuel cycles. Currently, TS 5.3.1 limits the storage and use of fuel to an enrichment of 3.5 weight percent. Before the licensee extends plant operating cycles, it plans on receiving shipments of 4.3 weight percent fuel in July 1993. Thus, the change to the TSs was requested.

*Environmental Impact of the Proposed Action*

The Commission has completed its evaluation of the proposed revision to TSs and concludes that storage and use of fuel enriched with U–235 up to 4.3 weight percent at the CPSES, Units 1 and 2, is acceptable. The safety considerations associated with higher enrichments have been evaluated by the NRC staff and the staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. There will be no change to authorized power level. The change to the fuel burnup is bounded by NRC staff generic review (discussed below). As a result, there is no significant increase in individual or cumulative radiation exposure.

The environmental impacts of transportation resulting from the use of higher enrichment and extended irradiation are discussed in the staff assessment entitled "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation." This assessment was published in the **Federal Register** on August 11, 1988 (53 FR 30355) as corrected on August 24, 1988 (53 FR 32322) in connection with the Shearon Harris Nuclear Power Plant, Unit 1: Environmental Assessment and Finding of No Significant Impact. As indicated therein, the environmental cost contribution of an increase in fuel enrichment of up to 5 weight percent U–235 and irradiation limits of up to 60,000 MWD/MTU are either unchanged, or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52(c). These findings are applicable to these proposed amendments for CPSES, Units 1 and 2. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed changes involve systems located within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 20, 1993 (58 FR 21323). No request for hearing or petition for leave to intervene was filed following this notice.

*Alternatives to the Proposed Action*

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. The staff considered denial of the proposed action; however, this would not reduce environmental impacts of plant operation and would result in reduced operational flexibility. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the CPSES, Units 1 and 2, dated September 1981 (NUREG 0775) and Supplement dated October 1989.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request. The staff consulted with the State of Texas regarding the environmental impact of the proposed action.

**Finding of No Significant Impact**

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for license amendments dated October 16, 1992, and supplemental letter dated March 17, 1993. Copies are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room located at the University of Texas at the Arlington Library, Government Publications/ Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 16th day of June 1993.

For the Nuclear Regulatory Commission.

**Suzanne C. Black,**

*Director, Project Directorate IV–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 93–14761 Filed 6–22–93; 8:45 am]

BILLING CODE 7590–01–M

## Nuclear Safety Research Review Committee

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Revised notice of meeting.

This revision of the meeting notice published May 27, 1993 (58 FR 30820) reflects modification of the meeting schedule and the location of the July 8 afternoon part of the meeting, to accommodate a meeting of the Committee with the Commissioners at 2 to 3:30 p.m. on July 8. In other respects, there is no substantial change of the previously published agenda.

The Nuclear Safety Research Review Committee (NSRRC) will hold its next meeting on July 7–8, 1993. The location of the meeting will be the Delaware Room at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD, except for the meeting of the Committee with the Commissioners, schedule for 2 to 3:30 p.m. on July 8, which will take place in the Commissioners' Conference Room at the Nuclear Regulatory Commission's (NRC's) headquarters building, One White Flint North, 11555 Rockville Pike, Rockville, MD, and the Committee discussion scheduled for 3:45 p.m. to 5 p.m. on July 8, which will

be held in Room 2F17 of One White Flint North. The meeting will be held in accordance with the requirements of the Federal Advisory Committee Act (FACA) and will be open to public attendance. The NSRRC provides advice to the Director of the Office of Nuclear Regulatory Research (RES) on matters of overall management importance in the direction of the NRC's program of nuclear safety research.

The purpose of this meeting is to conduct a general review of the NRC's nuclear safety research programs.

The planned schedule is as follows:

*Wednesday, July 7, 1993*

8:30 a.m.–8:45 a.m.—Opening remarks: NSRRC Chairman, RES Director

8:45 a.m.–12:15 p.m.—General overview of NRC nuclear safety research

1:30 p.m.–5:30 p.m.—Update review of particular research program areas, including aging of nuclear power plant structures, systems, and components; advanced reactors; advanced instrumentation and control and human factors; severe accidents; high-level waste; and seismic issues.

*Thursday, July 8, 1993*

8 a.m.–12 noon—Committee discussion

2 p.m.–3:30 p.m.—Meeting with the Commissioners, in accordance with the Commission's practice of holding periodic discussions with the agency's advisory committees. For the NSRRC, this is the first such meeting since the Committee's formation in 1988. The discussion is expected to include issues raised in the Committee's review of NRC's nuclear safety research programs and other items of timely importance. Location, for this item only: Commission Conference Room, One White Flint North building, Rockville.

3:45 p.m.—5 p.m.—Committee discussion. Location, for this item only: room 2F17, One White Flint North building, Rockville.

Participants in the presentations to and discussions with the Committee will include representatives of the NRC staff, and may include other invited participants from research organizations.

Members of the public may file written statements regarding any matter to be discussed at the meeting. Members of the public may also make requests to speak at the meeting, but permission to speak will be determined by the Committee chairperson in accordance with procedures established by the Committee. A verbatim transcription will be made of the NSRRC meeting and a copy of the transcript will be placed in the NRC's Public Document Room in Washington, DC.

Inquiries regarding this notice, any subsequent changes in the status and schedule of the meeting, the filing of written statements, requests to speak at the meeting, or for the transcript, may be made to the Designated Federal Officer, Mr. George Sege (telephone: 301/492–3904), between 8:15 a.m. and 5 p.m.

Dated at Rockville, Maryland, this 17th day of June, 1993.

For the Nuclear Regulatory Commission.

**John C. Hoyle,**

*Advisory Committee Management Officer.*

[FR Doc. 93–14755 Filed 6–22–93; 8:45 am]

BILLING CODE 7590–01–M

## Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings that have been scheduled and meetings that have been postponed or cancelled since the last list of proposed meetings was published May 26, 1993 (58 FR 30188). Those meetings that are firmly scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS and ACNW full Committee meetings are designated by an asterisk (*) will be closed in whole or in part to the public. The ACRS and ACNW full Committee meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS and ACNW full Committee meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1993 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., (EDT).

### ACRS Subcommittee Meetings

*Materials and Metallurgy*, June 29, 1993, Bethesda, MD. The Subcommittee will review draft Regulatory Guides, DG–1023, "Evaluation of Reactor Pressure Vessels with Charpy Upper-Shelf Energy Less Than 50 ft-lb", and DG–1025, "Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence." *Regulatory Policies and Practices*, July 7, 1993, Bethesda, MD (1 p.m.—5 p.m.). The Subcommittee will review the report of the NRC Regulatory Review Group.

*Planning and Procedures*, July 7, 1993, Bethesda, MD (1:30 p.m.—4 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Portions of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

*Computers in Nuclear Power Plant Operations*, July 21, 1993, Bethesda, MD. The Subcommittee will review the progress in developing requirements for Analog to Digital retrofits and the Environmental Qualification research on digital instrumentation and control systems.

*Thermal Hydraulic Phenomena*, July 22–23, 1993, Bethesda, MD. The Subcommittee will begin its review of both the Westinghouse analytical and separate effects programs being conducted in support of the AP600 design certification effort. Portions of this meeting may be closed to discuss material deemed proprietary by the Westinghouse Electric Corporation.

*Auxiliary and Secondary Systems*, July 27–28, 1993, Bethesda, MD. The Subcommittee will review the LaSalle Fire PRA, the proposed resolution of Generic Issue–57, "Effects of Fire Protection System Actuation on Safety-Related Equipment," and SECY–93–143, "NRC Staff Actions to Address the Recommendations in the Report on the Reassessment of the NRC Fire Protection Program."

*Materials and Metallurgy*, August 4, 1993, Bethesda, MD—Postponed.

*Improved Light Water Reactors*, August 4, 1993, Bethesda, MD. The Subcommittee will review the status of resolution of the open items in the draft safety evaluation report for the EPRI passive LWR Utility Requirements document. It will also discuss NRC staff response to ACRS comments on recommendations related to certain policy, technical, and licensing issues pertaining to evolutionary and advanced reactor designs, and certain remaining policy issues for passive plant designs.

*Planning and Procedures*, August 4, 1993, Bethesda, MD (2 p.m.—4:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Portions of this meeting may be

closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

*Advanced Boiling Water Reactors*, October 26–27, 1993, Bethesda, MD. The Subcommittee will continue its review of the GE ABWR Standard Safety Analysis Report and the associated NRC staff's Final Safety Evaluation Report.

*Advanced Boiling Water Reactors*, November 16–17, 1993, Bethesda, MD. The Subcommittee will continue its review of the GE ABWR Standard Safety Analysis Report and the associated NRC staff's Final Safety Evaluation Report.

**ACRS Full Committee Meetings**

*399th ACRS Meeting*, July 8–10, 1993, Bethesda, MD. During this meeting, the Committee plans to consider the following:

A. *Draft Regulatory Guide, DG–1025, Calculational and Dosimetry methods for Determining Pressure Vessel Neutron Fluence*—Review and comment on a draft regulatory guide on the methodology for determining pressure vessel neutron fluence. Representatives of the NRC staff will participate.

B. *Draft Regulatory Guide, DG–1023, Evaluation of Reactor Pressure Vessels with Charpy Upper-Shelf Energy Less Than 50 ft-lb*—Review and comment on a draft regulatory guide on the evaluation of reactor pressure vessels with Charpy upper-shelf energy less than 50 ft-lb. Representatives of the NRC staff will participate.

C. *NRC Regulatory Review Group Report*—Review and comment on the report of the NRC Regulatory Review Group. Representatives of the NRC staff will participate.

D. *Plans for Completing the Review of the Advanced Boiling Water Reactor Standard Safety Analysis Report (SSAR)*—Discuss the schedule for completion of the ACRS review of the SSAR for the ABWR design. Representatives of the NRC staff will participate, as appropriate.

E. *Debris Plugging of Emergency Core Cooling Suction Line Strainers*—Hear a briefing by and hold discussions with representatives of the NRC staff on the potential for debris plugging of emergency core cooling suction line strainers. In addition, hear an update on the NRC staff activities to evaluate the need for actions by U.S. licensees to address this issue as a result of the lessons learned from the Barseback event in Sweden. Representatives of the industry will participate, as appropriate.

F. *Application of Probabilistic Risk Assessment Methods for Ranking Motor-Operated Valves (MOV)*—Hear a briefing by and hold discussions with representatives of the NRC staff on the preliminary results from a research program to prioritize the risk importance of MOVs. Representatives of the industry will participate, as appropriate.

G. *Organizational Behavior and Factors* (Tentative)—Hear a briefing by and hold discussions with Dr. Leamon, ACRS consultant, on the subject of organizational behavior and organizational factors. Representatives of the NRC staff will participate, as appropriate.

H. *Reactor Operating Experience*—Hear a briefing by and hold discussions with representatives of the NRC staff on a recent event at Sequoyah Nuclear Power Plant Unit 2 that involved a rupture of an extraction steam header line.

I. *Resolution of ACRS Comments and Recommendations*—Discuss responses from the NRC Executive Director for Operations to recent ACRS comments and recommendations.

*J. *ACRS Subcommittee Activities*—Hear reports and hold discussions regarding the status of ACRS subcommittee activities, including a report of the Planning and Procedures Subcommittee involving matters related to the status of appointment of new members and organizational and personnel matters relating to ACRS staff members. A portion of this session may be closed to public attendance pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of this Committee and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

K. *Future ACRS Activities*—Discuss topics proposed for consideration by the full Committee during future meetings.

L. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of matters and specific issues that were not completed during previous meetings as time and availability of information permit.

*400th ACRS Meeting*, August 5–7, 1993, Bethesda, MD. Agenda to be announced.

*401st ACRS Meeting*, September 9–11, 1993, Bethesda, MD. Agenda to be announced.

*402nd ACRS Meeting*, October 7–9, 1993, Bethesda, MD. Agenda to be announced.

*403rd ACRS Meeting*, November 4–6, 1993, Bethesda, MD. Agenda to be announced.

*404th ACRS Meeting*, December 9–11, 1993, Bethesda, MD. Agenda to be announced.

**ACNW Full Committee and Working Group Meetings**

*55th ACNW Meeting*, July 21–22, 1993, Bethesda, MD. During this meeting, the Committee plans to consider the following:

A. *High Level Waste Management Quality Assurance*—Hear a briefing by and hold discussions with representatives of the NRC staff on the status of High Level Waste Management Quality Assurance.

B. *Canadian Whiteshell Nuclear Laboratory Report*—Hear a report by ACNW Members who visited the Canadian Whiteshell Nuclear Laboratory and the Underground Research Laboratory In Manitoba, Canada.

C. *Resolution of ACNW Comments and Recommendations*—Discuss responses from the NRC Executive Director for Operations to recent ACNW comments and recommendations.

*D. *Committee Activities*—Discuss anticipated and proposed Committee activities, future meeting agenda, and organizational and personnel matters. A portion of this session may be closed to public attendance pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of this Committee and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

E. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of topics that were not completed during previous meetings as time and availability of information permit.

*56th ACNW Meeting*, August 25–26, 1993, Bethesda, MD. Agenda to be announced.

*57th ACNW Meeting*, September 22–23, 1993, Bethesda, MD. Agenda to be announced.

*58th ACNW Meeting*, October 27–28, 1993, Las Vegas, NV. Agenda to be announced.

*59th ACNW Meeting*, November 22–23, 1993, Bethesda, MD. Agenda to be announced.

*60th ACNW Meeting*, December 15–16, 1993, Bethesda, MD. Agenda to be announced.

Dated: June 17, 1993.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 93–14758 Filed 6–22–93; 8:45 am]

BILLING CODE 7590–01–M

## Biweekly Notice

### Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

### I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 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 31, 1993, through June 11, 1993. The last biweekly notice was published on June 9, 1993 (58 FR 32376).

### Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a 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 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 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.

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 in the **Federal Register** 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.

Written comments may be submitted by mail to the Rules Review and Directives 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. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By July 23, 1993, 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 a petition 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 a 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 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 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 amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to

relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it 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 request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

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 20555, by the above date. Where petitions are filed during the last 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) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 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 a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of 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 20555, and at the local public document room for the particular facility involved.

**Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina**

*Date of amendments request:* December 29, 1992

*Description of amendments request:* The proposed amendments to the Technical Specifications (TS) would revise the Type A test acceptance criterion for the as found containment integration leakage rate from 0.75 La to 1.0 La (and 0.75 Lt to 1.0 Lt) which represent the maximum allowable containment leakage rate.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The limitations on primary containment leakage rates ensure that the total containment leakage volume will not exceed the value assumed in the accident analysis at the peak accident pressure of 49 psig. Revising the Technical Specification value for the as found containment integrated leakage rate will not impact the accident evaluations discussed in Chapter 15 of the UFSAR [Updated Final Safety Analysis Report]. This is because the revised as found value is equal to the maximum allowed leakage, or La, as is assumed in the accident analyses.

Therefore, the proposed amendments will not involve a significant increase in the probability of an accident previously evaluated.

Since the containment is restricted by Technical Specifications to the proposed maximum allowable leakage rate, La, then it can be concluded that the proposed amendments are still bounded by the existing accident analyses. While the 1.0 La/Lt limit represents a slightly higher containment leakage test tolerance, this is the bounding limit in the Chapter 15 analysis for accident consequences in Chapter 15. As such, the proposed amendments do not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

In revising the Technical Specification restrictions on the as found containment leakage, the proposed amendments will not modify any safety-related equipment or safety functions and will not alter plant operation. In addition, the proposed amendments do not change surveillance frequencies for Type A testing (which could give rise to malfunctions due to prolonged surveillance (i.e., maintenance)) nor are the corrective actions for excessive as found leakage being changed. Allowing (1.0) La as the maximum as found containment leakage will not create new plant transients since La is within (i.e., equal to) the criterion of the maximum as found value as defined in 10 CFR [Part] 100 and referenced in Appendix J. Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendments do not involve a significant reduction in the margin of safety.

While the proposed amendments revise the Technical Specification as found leakage by increasing the value from 0.75 La to (1.0) La, this increase is not significant. This is because La is the maximum containment leakage as defined by 10 CFR [Part] 100, referenced in Appendix J, and as currently defined in the BSEP [Brunswick Steam Electric Plant, Units 1 and 2] Technical Specifications. As such, the proposed amendments will not alter any plant design margins. The 0.75 La value is unduly conservative and has resulted in unnecessary "penalty" testing for Unit 2. Revising the Technical Specification value to La will render the penalty testing less probable and, as such, will not subject the containment to unnecessary structural stresses and burdens of additional Type A testing. Therefore, the proposed amendments will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

*Attorney for licensee:* R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

*NRC Project Director:* S. Singh Bajwa

**Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois**

*Date of amendment request:* July 29, 1992, as supplemented January 14, 1993, and February 16, 1993

*Description of amendment request:* Commonwealth Edison Company (CECo) has initiated a Technical Specification Upgrade Program (TSUP) to improve the quality of the current Technical Specifications (TS) for Dresden and Quad Cities. In 1991, CECo performed a comparison study between the existing Quad Cities Technical Specifications and the technical specifications used at newer operating plants. The study identified requirements which are no longer consistent with current industry practices and the need for potential improvements in clarifying requirements. As a result CECo has committed to upgrade the current Dresden and Quad Cities TSs, in their entirety, to more closely follow the provisions of the BWR Standard Technical Specifications. Wherever possible (except for design differences) the TSUP for both Dresden and Quad Cities will be identical.

The entire TSUP will be submitted by CECo in a total of 12 packages, and will address both Dresden and Quad Cities. The first of these packages was submitted in a letter dated July 29, 1992, and included proposed upgrades to TS Section 1.0 (Definitions), Section 3/4.0 (Limiting Condition for Operation), and Section 3/4.3 (Reactivity Control). The staff intends to review each package as it is submitted and issue a Safety Evaluation (SE) that addresses the acceptability of the proposed TS upgrades. After all the upgraded TS Sections have been submitted and evaluated by the staff, CECo will submit an additional package that addresses all the open items identified by the staff during the course of its review. Once all the sections of the TSUP have been approved and all the open items resolved, the staff will issue the entire TSUP TS for each site as a package that will become effective at a date that is supportable by CECo.

The proposed changes to the Definitions section for both Dresden and Quad Cities include: new definitions that have the STS format, modification of the definitions currently in the TS to adopt the STS definitions or a definition from a generic letter (GL), and the transfer of several definitions to the Applicability section of the TS. In addition, two new tables "Surveillance Frequency Notation" and "Operational Modes," that follow STS format with notations and operational modes based on present Dresden and Quad Cities allowances which are consistent with STS guidelines, have been added.

The present Limiting Condition for Operation (LCO) section addresses actions to be taken if an LCO can not be satisfied, delineates the additional conditions which must be satisfied to permit continued operation when a normal or emergency power source is not available, and subscribes that the above actions and conditions are not applicable in the refuel or shutdown modes. The proposed amendment retains these provisions and adds requirements not currently delineated in the TS that are in conformance with the STS and GL. Specifically the proposed amendment will: provide guidance regarding LCO compliance and associated action statements, define noncompliance with a specification and the required actions with LCO restoration, define actions for those circumstances not directly provided for in the specification, provide guidance for entry into an operational mode or other specified condition when in an LCO, specify when surveillance requirements shall be met and time intervals for performance of surveillance requirements, specify when entry into operational modes is permissible, and relocate the Inservice Inspection and Inservice Testing requirements of ASME Code Class components from Section 4.6.F in the current TS.

The proposed changes to the Reactivity Control section include: deletion of the present objective statements and the inclusion of applicability and action statements and additional surveillances in accordance with STS guidelines, reordering of and retitling within the section, the addition of three new sub-sections related to scram insertion times that follow STS guidelines as replacements for the current TS requirements, and a rewrite of numerous subsections of the current TS in accordance with STS guidelines.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

CECo's proposed changes to the definitions (Section 1.0) are made to clarify present requirements, allow changes that have been adopted at other operating BWRs, promote consistency in understanding of the definition of terms, and to add definitions for terms used in the Dresden and Quad Cities TSs that are not currently defined.

The addition of new terms to Section 1.0 provides readily accessible definitions that are currently accepted by other operating BWRs and are applicable to Dresden and Quad Cities. New Tables 1-1 and 1-2 allow arrangement of present Dresden and Quad Cities requirements or interpretation of requirements into an STS format for ease of use and availability. Proposed Table 1-1, "Surveillance Frequency Notation," uses some of the present Dresden and Quad Cities requirements or interpretations of surveillance frequencies and does not relax or modify any existing testing intervals. Proposed Table 1-2, "Operational Modes," takes present requirements that are located in individual specifications and uses a STS format for arrangement of these provisions.

The changes to the limiting condition for operation (Section 3/4.0) are more restrictive than present TS requirements. These more restrictive requirements will help to ensure that the intent of plant operating philosophy embodied in the STSs is included in the Dresden and Quad Cities TSs. The inclusion of these requirements will also provide clarification to the plant operating staff and help to prevent misinterpretations. The changes are modeled after those of the present BWR STS as modified by GLs (primarily GL 87-09).

The proposed changes to the reactivity control (Section 3/4.3) represent the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Implementation of these changes will provide increased reliability of equipment assumed to operate in the current safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits, and as such, will not significantly increase the probability or consequences of a previously evaluated accident.

Some of the proposed changes represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. These proposed changes are consistent with the current safety analyses and

have been previously determined to represent sufficient requirements for the assurance of reliability of equipment assumed to operate in the safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits.

Since this amendment request primarily clarifies the requirements of the present TS through the adaption of the STS format, adds more restrictive requirements, incorporates changes based on generic guidance or previously approved provisions for other stations, and provides administrative changes to correct inconsistencies with the STS, there is no significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new of different kind of accident from any previously evaluated because:

The proposed changes to Section 1.0 leave intact present operating philosophy and only implement new provisions where necessary to clarify and ensure that present allowances are understood and maintained.

The addition of new definitions to the TSs is an enhancement to present provisions. STS guidelines are used for the new definitions and have been evaluated and found to be in agreement with present usage at Dresden and Quad Cities. New Tables 1-1 and 1-2 follow the STS format for implementing present Dresden and Quad Cities surveillance frequencies and operational modes.

The proposed changes to Section 3/4.0 are a complete adoption of the STS and GLs 87-09 and 89-14 LCOs and surveillance requirements. The changes embody present operating philosophy contained in the individual specifications and add GLs 87-09, 88-01, and 89-14 provisions which have been evaluated by the NRC and found acceptable for inclusion in the TSs.

The proposed changes to Section 3/4.3 represent the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Others represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. These changes do not involve revision in the operation of the station; however, these changes provide additional restrictions which are in accordance with the current safety analyses, or are to provide for additional testing or surveillances which will not introduce new failure mechanisms beyond those already considered in the current safety analyses.

Since either present provisions are retained or present interpretation of requirements are maintained, no new modes of plant operation are introduced, any relaxation of current requirements are based on generic guidance or previously approved NRC staff provisions, and any operation changes involve additional restrictions which are in accordance with the current safety analyses, the changes do not create the possibility of a new of different kind of accident from any previously evaluated.

(3) Involve a significant reduction in the margin of safety because:

The proposed changes to the definitions in Section 1.0 provide clarifications, implement proven changes from operating BWRs that are applicable at Dresden and Quad Cities, and include present provisions and interpretations presented in STS format. Present margins of safety are retained and improved by clarifying requirements that are subject to interpretation or are not presented in an easy to understand format.

The new definitions added apply to terms in current use in the Dresden and Quad Cities TSs and this addition improves understanding of requirements. New Tables 1-1 and 1-2 follow the STS in format with notations and operational modes based on present Dresden and Quad Cities TS requirements, interpretation of requirements, or STS guidelines that are applicable to Dresden and Quad Cities.

The more restrictive provisions proposed to be added to Section 3/4.0, will increase the margin of safety by clearly defining to the plant operating personnel the governing LCO and surveillance requirement provisions. These new provisions will help to prevent misinterpretation where no requirements are presently stated.

The proposed changes to Section 3/4.3 represent the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Others represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. Some of the latter individual items may introduce minor reductions in the margin of safety when compared to the current requirements. However, other individual changes are the adoption of new requirements which will provide significant enhancement of the reliability of the equipment assumed to operate in the safety analysis, or provide enhanced assurance that specified parameters remain with their acceptance limits. These enhancements compensate for the individual minor reductions. The proposed changes are intended to improve readability, usability, and the understanding of TS requirements while maintaining acceptable levels of safe operation. The proposed changes have been evaluated and found to be acceptable for use at Dresden and Quad Cities based on system design, safety analysis requirements, and operations performance.

Since the proposed amendment incorporates more restrictive requirements in addition to minor reductions of current requirements which taken together will not significantly reduce the margin of safety, the provisions of the GLs that are being adopted have been evaluated by the NRC staff and found acceptable, the proposed changes are based on NRC accepted provisions at other operating plants that are applicable at Dresden and Quad Cities and maintain necessary levels of system, component or parameter operability, and the proposed changes implement present Dresden and Quad Cities allowances in a STS format and follow proven allowances at other operation plants that are acceptable for use at Dresden and Quad Cities, there is no reduction in the margin of safety.

Additional basis for proposed No Significant Hazards Consideration Determination.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7744). The examples include:

"(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature,'

"(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specification, e.g. a more stringent surveillance requirement," and

"(vii) A change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The TSUP proposed changes are primarily a combination of administrative changes, changes that conform to changes in the regulatory requirements, and changes that result in additional limitations, restrictions, or controls.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

*Local Public Document Room location:* for Dresden, the Morris Public Library, 604 Liberty Street, Morris, Illinois 60450, and for Quad Cities, the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

*Attorney for licensee:* Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

*NRC Project Director:* James E. Dyer

**Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois**

*Date of amendment request:* April 22, 1993

*Description of amendment request:* The proposed amendment would revise the Technical Specifications by changing the Limiting Safety System Settings and Limiting Conditions for Operation related to the Source and Intermediate Range Neutron Flux instrumentation channels.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the changes involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The installation of the Gamma Metrics detectors and instruments will not change the function, operation or capability of the Source Range and Intermediate Range detectors as described in the UFSAR [Updated Final Safety Analysis Report]. Additionally, there is no effect on any of the accident analyses in UFSAR Chapter 15 because operation of the Intermediate and Source Range Channels and associated trips and permissives is not credited as primary protection in the accident analyses. The proposed typographical and administrative changes are being made to clarify the Technical Specifications with no change of intent. As such, the proposed changes do not represent a significant increase in the probability of occurrence or consequences of accidents previously evaluated.

2. Do the changes create the possibility of a new or different kind of accident from any previously analyzed?

Installation of Gamma Metrics detectors and instruments will not change the basic function, operation or use of either the Source Range or the Intermediate Range instruments or the associated high flux trips and the permissives that determine when these trips are functional. The setpoints for the Intermediate Range and Source Range high flux trips and associated permissives are functionally equivalent to the existing setpoints. The proposed typographical and administrative changes are being made to clarify the Technical Specifications with no change of intent presented. Therefore, there is no possibility that the proposed changes create a new or different kind of accident from any previously analyzed in the Updated Safety Analysis Report.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Installation of the Gamma Metrics detectors and instruments will not change the basic function, operation or use of either the Source Range or the Intermediate Range instruments or the associated high flux trips and the permissives that determine when these trips are functional. The setpoints for the Intermediate Range and Source Range high flux trips and associated permissives are functionally equivalent to the existing setpoints. The protection trips associated with the source and intermediate range neutron flux detectors are not credited as primary protection for any analyzed event. The proposed typographical and administrative changes are being made to clarify the Technical Specifications with no change of intent. Therefore, the proposed changes do not create a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

*Attorney for licensee:* Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

*NRC Project Director:* James E. Dyer

**Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut**

*Date of amendment request:* May 18, 1993

*Description of amendment request:* The proposed amendment will revise the Haddam Neck Technical Specifications to allow a relaxation in the pressurizer safety valve (PSV) setpoint tolerance from plus or minus 1 percent to +3 percent and -1 percent.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

The proposed changes do not involve an SHC because the changes would not:

*1. Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change in the PSV tolerance does not affect any initiating event or affect the consequences of the previously evaluated design basis accidents. The new safety valve setpoints are bounded by the assumptions in the safety analysis. Also, the change in the PSV "as-found" tolerance does not affect radiological releases. Therefore, there is no increase in the probability or consequences of accidents previously analyzed.

*2. Create the possibility of a new or different kind of accident from any previously analyzed.*

The proposed change does not increase the possibility of an accident of a different type since it cannot be an initiating event, and it does not modify plant response to accidents to such a degree that it would be considered an event not previously analyzed. This is simply a setpoint tolerance change that reflects the fact that "drift" occurs during the operating cycle. The setpoint tolerance is acceptable because it is within the analysis assumptions.

*3. Involve a significant reduction in a margin of safety.*

The design basis loss-of-load analysis assuming a +3 percent setpoint tolerance resulted in a maximum pressure for the [reactor coolant system] RCS of 2690 psia which is below the acceptance criterion of 2750 psia. The proposed change does not impact the other physical protective boundaries nor degrade the performance of any safety system. Therefore, there is no decrease in the margin of safety because the "as-left" tolerance of [plus or minus] 1 percent is unchanged. The increase in the "as-found" tolerance to +3 percent simply reflects the fact that the drift of the setpoint by this much over a cycle is acceptable.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

**Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan**

*Date of amendment request:* May 24, 1993

*Description of amendment request:* The proposed change will revise the Technical Specifications (TS) to accommodate the replacement of the "TE" General Electric CB-RE11 breakers with "TED" breakers in the Reactor Protection System.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the

licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will the proposed change involve a significant increase in probability or consequences of an accident previously evaluated?

The Final Hazards Summary Report (FHSR) Accident and Transient analyses do not take credit for CB-RE11 operation during any of the previously evaluated accidents. Therefore, the proposed change will have no significant effect on the probability or consequences of accidents that have been previously evaluated at the facility.

2. Will the proposed change(s) create the possibility of a new or different kind of accident from any accident previously evaluated?

The replacement breakers contain an additional test mechanism designed with linkages to mechanically simulate over-current trips. This device provides a means of exercising the breaker. In the event that the mechanism were to fail the breaker in the open or closed position, the overall common mode failures, as previously evaluated, remain the same.

3. Will the proposed change involve a significant reduction in the margin of safety?

There is no basis provided in the Technical Specifications for the setting and tolerance of the CB-RE11s. The Current Licensing Basis and Facility Design Basis Documents have been researched, and do not define a basis for the 52 plus or minus 20 setting and tolerance. The setting appears to be based on the undervoltage release device coil and mechanism designed with the lower limiting setpoint established at "greater than or equal to 32 Vac".

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

*NRC Project Director:* L. B. Marsh

**Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina**

*Date of amendment request:* February 23, 1993, as supplemented May 4, 1993

*Description of amendment request:* The proposed amendments would delete Table 4.4-1, List of Penetrations with 10 CFR 50, Appendix J Test Requirements, from the Technical Specifications (TS). The list of penetrations would then be relocated to the Selected Licensee Commitments Manual. This would permit administrative control of changes to the list of penetrations without having to process a license amendment. The licensee justifies the changes to the TS and associated Bases on the basis of the guidance in NRC Generic Letter 91-08. The licensee's letter of May 4, 1993, provides clarifying changes to TS 3.6.3.c and TS 3.6.4. These changes are administrative in nature and do not affect significant hazards considerations.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Duke Power has determined that this proposed amendment involves a "no significant hazards consideration" based on the standards of 10 CFR 50.92. The following describes the reasons for this determination:

The proposed amendment would not:

*(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:*

Each accident analysis addressed within the Oconee Final Safety Analysis Report (FSAR) has been reviewed with respect to the proposed amendment. The Technical Specifications will continue to require the containment penetrations to be operable. Relocation of the list of containment penetrations from the Technical Specifications to the Selected Licensee Commitments Manual is an administrative change and does not involve a change in any system, structure, or component nor any change in facility operation that would have an effect on the previous accident analyses. This change is not an initiator or contributor to any accident analysis addressed in the Oconee FSAR.

The proposed change to TS 3.6.3.c would allow penetration flow paths (except for the Reactor Building Purge flow path) to be unisolated intermittently under administrative controls. This does not involve a significant increase in the probability or consequences of an accident, because: (1) this situation is expected to occur for only very short durations, and the probability of an accident occurring during the exact period of time that a penetration flow path is unisolated is remote, and (2) the use of administrative controls can reasonably be expected to prevent a significant increase in consequences during any accident that may occur during this period of time. In addition, this provision is consistent with the provisions in the Standard Technical Specifications for containment isolation valves.

*(2) Create the possibility of a new or different kind of accident from any accident previously evaluated:*

Operation of Oconee in accordance with these Technical Specifications will not create any failure modes not bounded by previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

*(3) Involve a significant reduction in a margin of safety:*

The proposed Technical Specifications will continue to require operation within the same safety limits as the existing TS. The proposed change is consistent with the guidance provided in Generic Letter (GL) 91-08 and the Standard Technical Specifications. Therefore, existing margins of safety are maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

*Attorney for licensee:* J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

*NRC Project Director:* David B. Matthews

**Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas**

*Date of amendment request:* May 7, 1993

*Description of amendment request:* The proposed change would reduce the maximum allowable linear power level-high trip setpoints associated with inoperable steam line safety valves (listed in Technical Specification (TS) Table 3.7-1) and revise the associated Bases.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequence[s] of an Accident Previously Evaluated.

To prevent overpressurizing the Main Steam Header during a turbine trip coincident with a loss of condenser heat sink, the Main Steam Line Safety Valves must provide relief capacity equal to the steam flow from the Steam Generators. This change reduces the allowable Linear Power Level when one or more Main Steam Line Safety Valves are inoperable to ensure that the steam flow from the Steam Generators does not exceed the steam relief capacity of the remaining operable valves. With the reduced Linear Power Level-High Trip Setpoint, steam production in excess of relief capacity is precluded by actuation of the Reactor Protection System.

This change further restricts operational limits on the allowed Linear Power Level

when one or more main steam line code safety valves are inoperable. The proposed change does not provide any relief from the requirements of the TS. Since this change implements more conservative restrictions on plant operations, this change does not significantly increase the probability or consequence[s] of any previously analyzed accident.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from Any Previously Evaluated.

This change does not create any new plant configuration or operational mode. The proposed amendment does not change the design or configuration of the plant. The reduction in allowable Linear Power Level when one or more Main Steam Line Safety Valves are inoperable further restricts plant operation.

The proposed change introduces no new modes of operation but further restricts existing plant operational modes. Since the proposed amendment does not change plant design or configuration and does not relax plant operational requirements, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in a Margin of Safety.

This change further restricts Linear Power Level when one or more Main Steam Line Safety Valves are inoperable to ensure that during the most severe anticipated operational transient, the Secondary System pressure will not exceed 110% of design pressure. This reduction in Maximum Allowable Linear Power Level ensure[s] that adequate steam relief capacity will be available to prevent overpressurizing the Secondary System during the most severe anticipated operational transient.

The proposed change does not adversely affect margins of safety, since more stringent setpoints will be applied to the Reactor Trip System. Since the proposed amendment will improve the plant's capability to mitigate the consequences of accidents, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas**

*Date of amendment request:* May 7, 1993

*Description of amendment request:* The proposed change would reduce the specified minimum safety injection tank (SIT) boron concentration from 2500 ppm to 2200 ppm, revise the related Actions to allow one SIT to be inoperable due to boron concentration alone for 72 hours and to allow one SIT to be inoperable due to any other reason for 1 hour, revise a surveillance requirement to specify sampling of the affected SIT within 6 hours of a 5% indicated tank level increase that is not the result of addition from the refueling water tank (RWT), revise a surveillance requirement reference to the reactor coolant system pressure from 700 psig to 700 psia, and revise the associated Bases to reflect these changes.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 -Does not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The SITs are passive components and are not considered to be accident initiators, therefore, these changes do not involve a significant increase in the probability of an accident previously evaluated. The proposed value for minimum SIT boron concentration is bounded by the current accident analysis assumed value of 2000 ppm and does not result in a significant increase in the consequences of an accident previously evaluated.

The SIT boron requirements are based on the average boron concentration of the total volume of three SITs. With one SIT inoperable due to boron concentration outside of the specified limits, the entire volume of the affected SIT is still available for injection in the unlikely event of a LOCA [loss-of-coolant accident]. Although the ability to maintain subcriticality may be slightly reduced, the reduced concentration effects on core subcriticality during reflood are minor. Boiling of the ECCS [emergency core cooling system] water in the core concentrates the boron in the saturated liquid that remains in the core. Boron precipitation is a long term issue and is dependent upon the total soluble boron inventory added to the system during the event, a quantity that is dominated by the RWT contribution through HPSI [high-pressure safety injection], and possible LPSI [low-pressure safety injection]. The proposed 72 hour completion time allows the Operator sufficient time to restore an affected SIT boron concentration to within limits while maintaining the specified nitrogen overpressure and tank volume requirements and therefore, does not result in a significant increase in the consequences of an accident previously evaluated.

Allowing 1 hour to restore an inoperable SIT to OPERABLE status for any reason other than boron concentration removes any uncertainty associated with the completion time of "immediately" in the current specification. This requires restoration of SIT cover pressure, volume, or isolation valve position within one hour to assure SIT availability for injection in the unlikely event of a LOCA and therefore, does not result in a significant increase in the consequences of an accident previously evaluated.

SIT volume is indicated in the Control Room as a percentage of tank level. Specifying the volume increase requiring verification of boron concentration as a percentage of tank level presents this limit in a form consistent with the available indication. Normal SIT makeup is from the RWT which has a boron concentration range of 2500 to 3000 ppm. As the normal water source for makeup to the SITs is within the proposed range of specified SIT concentration, the probability for dilution of a SIT below the minimum specified concentration is minimized. Sampling the affected SIT within 6 hours after a 5% indicated tank level increase from sources other than the RWT will identify whether inleakage or makeup has caused a reduction in boron concentration which would challenge the accident analysis value of 2000 ppm. The maximum specified boron concentration for both the RWT and the SITs remains at the currently specified value of 3000 ppm. A potential dilution, consisting of water containing no boron, resulting in a level increase from the minimum specified volume of 1413 $ft^3$ to a volume of 1493.75 $ft^3$, a 5% indicated tank level increase, would result in a final boron concentration of 2081.1 ppm boron, still above the value assumed in the accident analysis. Since the accident analysis value assumptions are not challenged by this change, there is no significant increase in the consequences of an accident previously evaluated.

Changing the Surveillance Requirement specified value from 700 psig to 700 psia assures operability of the SIT isolation valve automatic circuitry in the required Mode of Applicability.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

Because the proposed changes do not change the design, configuration, or method of operation of the plant, they do not create the possibility of a new or different kind of accident. The proposed changes revise the administrative controls associated with the SITs, and are bounded by the existing LOCA analysis. The SITs are passive components and are not considered to be accident initiators, therefore, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

Reducing the specified SIT minimum boron concentration to 2200 ppm does not involve a change in the accident analysis value of 2000 ppm, which remains bounding.

The lower minimum concentration and the 72 hour completion time will not require the operator to drain the affected SIT below the minimum specified level prior to filling the SIT with a higher concentration boron source following a dilution event to return the affected SIT boron concentration to within limits. This maintains the entire specified volume of the SIT available for injection even though the boron concentration may be below the specified volume. Since the boron requirements assumed in the accident analysis are based upon the average boron concentration of the total volume of three SITs, the consequences of the boron concentration outside of the specified range are less severe than they would be if the entire specified volume of one SIT were not available for injection. The proposed 72 hour completion time allows the Operator sufficient time to restore an affected SIT boron concentration to within limits while maintaining the specified nitrogen overpressure and tank volume requirements.

Allowing a 1 hour completion time to return a SIT that is inoperable for any reason other than boron concentration assures that prompt action will be taken to open the SIT isolation valve, or restore the proper water volume or nitrogen cover pressure to return the inoperable SIT to Operable status. This completion time minimizes the exposure of the plant to a LOCA in these conditions, allows the operator sufficient time to evaluate and correct the cause of the inoperability, and removes the ambiguity associated with the completion time of "immediately."

SIT volume is indicated in the Control Room as a percentage of tank level. Specifying the volume increase requiring verification for boron concentration as a percentage of tank level presents this limit in a form consistent with the available indication. Normal SIT makeup is from the RWT which has a boron concentration range of 2500 to 3000 ppm. As the normal water source for makeup to the SITs is within the proposed range of specified SIT concentration, the probability for dilution of a SIT below the minimum specified concentration is minimized. Sampling the affected SIT within 6 hours after a 5% indicated tank level increase from sources other than the RWT will identify whether inleakage or makeup has caused a reduction in boron concentration which would challenge the accident analysis value of 2000 ppm. The maximum specified boron concentration for both the RWT and the SITs remains at the currently specified value of 3000 ppm. A potential dilution, consisting of water containing no boron, resulting in a level increase from the minimum specified volume of 1413 $ft^3$ to a volume of 1493.75 $ft^3$, a 5% indicated tank level increase, would result in a final boron concentration of 2081.1 ppm boron, still above the value assumed in the accident analysis.

The change in the Surveillance Requirement specified value from 700 psig to 700 psia assures the operability of the SIT isolation valve automatic circuitry in the required Mode of Applicability.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas**

*Date of amendment request:* May 7, 1993

*Description of amendment request:* The proposed amendment would correct typographical errors that were introduced in the original Technical Specifications (TS) and in subsequent amendments.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequence[s] of an Accident Previously Evaluated.

These changes do not affect the intent of any specification. Also, the proposed changes do not provide any relief from the requirements of the TS, or change the intended operation or administrative requirements of the plant or its design basis.

The proposed changes clarify the existing specification requirements and are administrative in nature. Since they are administrative in nature, these changes do not significantly increase the probability or consequence[s] of any previously analyzed accident occurring.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from Any Previously Evaluated.

The proposed changes do not involve any design changes, plant modifications or changes in plant operation; rather, they only reflect a more accurate description of the specification requirements.

The proposed changes clarify the existing specification requirements and are administrative in nature. Since they are administrative in nature, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in a Margin of Safety.

The proposed changes only clarify the existing requirements. They do not relax any specification requirements.

The proposed changes are administrative in nature and do not affect any plant safety parameters, accident mitigation capabilities, or margin of safety. Since these changes are administrative in nature, they do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

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*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* May 20, 1993

*Description of amendment request:* The proposed amendment requests changes to the Onsite Power Distribution Systems - Distribution, for both the Operating and Shutdown Technical Specifications (TS). The proposed changes remove operability requirements for the automatic test feature of the Load Shedding and Sequencing (LSS) System and increase the allowed outage time (AOT) for the inoperable LSS system from 8 to 24 hours.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

The auto-test feature functions to provide additional assurance [that] the LSS system is capable of responding to valid accident conditions and performing its specified safety function. The auto-test feature is independent of this safety function and is terminated upon receipt of a valid LSS actuation signal. In fact, disabling the auto-test feature has no affect on the LSS system's ability to perform its specified safety function. The manual LSS logic test retained

in Surveillance Requirement 4.8.3.1.2 and 4.8.3.2.2 provides for simulating actual LSS panel operating conditions by simulating real panel inputs utilizing test switches on the control panel, and verifying system status by observing control panel indicators. Although the manual LSS logic test does not examine all of the LSS logic circuitry, it is equivalent to testing of comparable equipment which cannot be actuated during plant operation. This test, inconjunction with surveillances performed per TS 4.8.1.1.2.d.4.a.2, 4.8.1.1.2.d.7.a.2 and 4.8.1.1.2.d.15, is sufficient to demonstrate LSS system operability. Therefore, removal of the auto-test feature from the Technical Specifications requirements for LSS system operability does not significantly increase the probability or consequences of an accident previously evaluated.

No safety-related equipment or function will be altered as a result of this change. The increase in the allowed outage time from eight hours to 24 hours provides a period of time to correct LSS system problems commensurate with the importance of maintaining system operability. This change has no influence or impact on the probability or consequences of any accident or malfunction evaluated in the GGNS Updated Final Safety Analysis Report (UFSAR).... No accident or malfunctions evaluated are affected; therefore, the consequences of these have not significantly increased.

Based on the above, the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed changes would not create the possibility of a new or different kind of accident from any previous analyzed.

No new plant equipment or new modes of operation or accident modes are introduced or created by removing the auto-test feature from the TS. The auto-test feature cannot, by its design, initiate or block an LSS system function. Disabling the auto-test feature cannot initiate or block an LSS function. Increasing the AOT to from eight to 24 hours has no influence on, nor does it contribute in any way, to the possibility of a new or different kind of accident or malfunction from those previously analyzed. As stated above, no safety-related equipment or safety functions are altered as a result of these changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The function of the auto-test feature is to provide a level of assurance that the LSS test feature, the proven reliability of the LSS system, and the system testing retained in the TS, adequately establish operability of the LSS system. Removal of the auto-test feature from the TS operability requirements does not affect the system's ability to perform its safety function when required and, therefore, does not involve a significant reduction in a margin of safety.

The proposed 24 hour AOT for the LSS system ensures that the probability of an accident requiring LSS system operability occurring during periods the system is inoperable is minimal. The margin of safety afforded by the proposed AOT is not significantly less than that provided by the current eight hour AOT. Therefore the margin of safety provided by the current TS is not significantly reduced.

Therefore, the proposed changes do not result in a significant reduction in a margin of safety.

Based on the above evaluation, operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

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*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* May 20, 1993

*Description of amendment request:* The proposed amendment requests the removal of unnecessary operability requirements for the Intermediate Range Monitors (IRMs) and the Average Power Range Monitors (APRMs) during plant shutdown operations.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

Not requiring Intermediate Range Monitor[s] (IRMs) or Average Power Range Monitors (APRMs) to be operational when the unit is shutdown and all control rods are inserted will not increase the probability of inadvertent reactor criticality during refueling operations. The Refueling Interlocks (RIs) and procedural restrictions provide assurance that inadvertent criticality does not occur due to the simultaneous withdrawal or removal of two control rods or due to the inadvertent insertion of a fuel bundle into a core location with a control blade removed. In addition, the Source Range Monitors (SRMs) will continue to be available to monitor neutron flux and provide appropriate action during Operational Condition (OPCON) 5.

The Updated Final Safety Analysis Report (UFSAR) Section 15.4.1 discusses the potential for a control rod withdrawal error during refueling and start-up operations. The discussion concludes that the withdrawal of one control rod does not require a safety action because the total worth of one control rod is not sufficient to cause criticality. The attempted withdrawal of two control rods would result in a control rod block initiated by the RIs. The SRMs and IRMs, which will continue to be required by Technical Specifications (TS) to be operable while in OPCON 5 and any control rod is removed from a fueled cell, are designed to generate a rod block or reactor scram on high neutron flux and will, therefore, continue to provide backup protection for the RIs during refueling.

During OPCON 5, the IRMs, when any control rod is removed from a fueled cell, and the SRMs will continue to be required by TS to be operable to support the safety design bases of the Reactor Protection System (RPS) and the control rod block system. The SRMs provide the plant operator with neutron flux levels from startup conditions to the IRM operating range. The SRMs and IRMs are designed to respond to local core conditions and would indicate and respond (control rod block or scram) to an accident condition to mitigate the transient. Thus, the APRMs are not necessary to be operable when the plant is shutdown. The proposed TS change will not alter the current requirements that the APRMs be operable during shutdown margin demonstrations.

The consequences of an accident will not be increased by the proposed TS change because of the existing lines of defense assumed in the UFSAR to prevent and mitigate an inadvertent criticality event during refueling, e.g., administrative restrictions, refueling procedures, licensed plant operators, and RIs. Furthermore, the SRMs and IRMs will continue to provided an additional layer of protection and should the number of operable IRM or SRM channels be less than that required by TS, the TS require that core alteration activities be suspended and all insertable control rods be inserted into the core.

The changes requested by this submittal are consistent with NUREG-1434, Revision 0, "Improved Standard Technical Specifications,"...although editorial changes have been made in the presentation of the requirements to maintain consistency with the current GGNS [Grand Gulf Nuclear Station] TS. This requested change also relocates the operability requirements for the APRMs and the IRMs associated with the Control Rod Block System to be controlled by plant procedures consistent with NUREG-1434.

The relocation of the requirements for these instruments associated [with the] Control Rod Block System involves no substantive changes (other than changes in the OPERABILITY requirements consistent with the changes requested for the RPS functions of the instrumentation) to the surveillance and operability requirements

currently contained in the GGNS TS. Deletion of the TS requirements is complemented by the incorporation of that information into plant procedures. This information will be adequately controlled via the administrative requirements specified in TS 6.8 and TS 6.5.3. Those requirements include review of changes for unreviewed safety questions in accordance with the provisions of 10CFR50.59. Such changes are reported to the NRC in the annual report submitted pursuant to 10CFR50.59. GGNS adheres to a policy of verbatim compliance with all plant procedures. These changes, therefore, constitute an administrative revision only.

The changes requested for the RPS function of the IRMs are consistent with the requirements contained in NUREG-1434 in only requiring the IRMs to be operable when the unit is shutdown if a control rod is withdrawn from a fueled cell in OPCON 5. The changes requested for the APRMs are consistent with NUREG-1434 in removing the operability requirements for the APRMs as part of the RPS in OPCON 3 and restricting the operability requirements for the APRMs as part of the RPS during OPCON 5.

The requested change to the APRM operability requirements differs from the requirements identified in NUREG-1434 Revision 0 in that NUREG-1434 identifies that the neutron flux and inoperative trips of the APRMs should be operable in OPCON 5 any time that a control rod is withdrawn. The requested change would only require that these APRM trip functions be operable during the shutdown margin demonstrations allowed by TS 3.10.3. This modification in APRM operability requirements has been previously requested by another utility and granted by the NRC.... The Owners Group Technical Specification Improvement Committee proposed a line item improvement to NUREG-1434 consistent with the requested APRM operability requirements in the Industry/NRC meeting in Dallas on 2/19/93. This improvement was accepted by the NRC in the Industry/NRC meeting in New Orleans on 3/18/93.

Therefore, there is no increase in the probability or consequences of a previously evaluated accident due to the proposed changes.

b. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to the TS will remove the IRM and APRM operability requirements while the unit is shutdown (except in OPCON 5 when any control rod is withdrawn from a fueled cell for the IRMs and during shutdown margin demonstration testing for the APRMs); however, the SRMs and IRMs will still be required to be operable whenever the unit is shutdown and their RPS trip functions or control rod block functions could affect core reactivity.

The IRMs and SRMs are designed to detect and respond to increases in neutron flux with the local core regions. Any inadvertent increases in neutron flux during refueling would originate at a local core location, i.e., rod withdrawal error or fuel bundle insertion. TS will continue to require IRM and SRM operability and these systems will continue to generate a scram signal or control rod block if neutron flux increased to the setpoint when the scram signal or control rod block would affect core reactivity.

No new types of accidents would be introduced since the SRMs and IRMs are available and required to be operable when their RPS trip functions or control rod block functions could affect core reactivity. Both SRMs and IRMs would indicate and provide a control rod block or scram signal, as appropriate, to an increase in neutron flux to mitigate a transient event. Furthermore, should the number of operable IRM or SRM channels be less than that required by the TS, the TS require that core alteration activities be suspended and all insertable control rods be inserted into the core.

The proposed changes do not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints. When the unit is shutdown, removing the IRM operability requirement except when a control rod is withdrawn from a fueled cell and APRM operability except during shutdown margin demonstrations will not affect the response of safety-related equipment as previously evaluated in the UFSAR.

The relocation of the requirements for these instruments associated Control Rod Block instrumentation involve[s] no substantive changes (other than changes in the OPERABILITY requirements consistent with the changes requested for the RPS functions of the instrumentation) to the surveillance and operability requirements currently contained in the GGNS TS. Deletion of the TS requirements is complemented by the incorporation of that information into plant procedures. This information will be adequately controlled via the administrative requirements specified in TS 6.8 and TS 6.5.3. Those requirements include review of changes for unreviewed safety questions in accordance with the provisions of 10CFR50.59. Such changes are reported to the NRC in the annual report submitted pursuant to 10CFR50.59. GGNS adheres to a policy of verbatim compliance with all plant procedures. These changes, therefore, constitute an administrative revision only.

Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

c. This change would not involve a significant reduction in the margin of safety.

The Bases for TS 3/4.3.1, "Reactor Protection System Instrumentation" identifies that one of the functions of the RPS is to prevent inadvertent criticality. When the unit is shutdown, the revised specification will still ensure that the RPS will be able to prevent an inadvertent criticality event. The specification provides this assurance by requiring SRM operability during OPCON 5, IRM operability during OPCON 5 any time a control rod is withdrawn from a fueled cell, and APRM operability during shutdown margin demonstrations. This will insure that a scram signal is generated if neutron flux increased to the applicable setpoint when the scram signal would affect core reactivity.

The Bases for TS 3/4.3.6, Control Rod Block Instrumentation identifies that the operability of the control rod block instrumentation in OPCON 5 is to provide diversity to the one-rod-out interlock. During refueling operations, the operability requirements for the SRMs and the relocated requirements for the IRMs when a control rod is withdrawn from a fueled cell, and the APRMs during shutdown margin demonstrations will still ensure that this diversity is maintained.

The proposed TS changes do not involve a significant reduction in a margin of safety. The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

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*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* May 6, 1993

*Description of amendment request:* The proposed amendment would revise the Technical Specifications to increase the voltage during load rejection tests on the emergency diesel generator (EDG). The increase will take into account the increase in reactive power load which results in a higher steady state voltage for the EDG.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Maintaining EDG voltage during a load rejection test verifies the ability of the voltage regulator to respond to a sudden loss of load. The ability of the voltage regulator to limit the voltage to a specific value indicates proper operation and prevents electrical component damage.

The EDG voltage during load rejection is not part of any limiting accident previously evaluated. While the EDG is not expected to experience this transient during an event and continues to be available, the response ensures that the EDG is not degraded for future application, including reconnection to the bus if the trip initiator can be corrected or isolated.

The proposed change will have no negative impact on the reliability or performance of the EDG. Therefore, the proposed change will not

involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed technical specification change to the EDG voltage limit will accommodate conditions such as reactive power loading during load rejection. The present conditions assume the EDG steady state voltage will be 4160V [volts]. However, with the EDG parallel to the grid, operating at rated real and reactive power may not be possible with unfavorable grid conditions. Thus, to test the EDG within its capability, the voltage limit during load rejection must be changed to allow for increased reactive power loading recommended by IN [Information Notice] 91-13. This technical specification change does not involve a change in design, function, method of testing, or operation of the EDG. The proposed amendment will not alter the plant or the manner in which it is operated. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed technical specification change is to allow the EDG voltage limit during load rejection to account for increased reactive power loading recommended by IN 91-13.

This change will have no adverse impact on protective boundaries or safety limits. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

*Attorney for licensee:* N.S. Reynods, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* May 7, 1993

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TS) to allow a one-time extension of the interval for the third Type A containment integrated leak rate test (CILRT) to 54 months, instead of the current maximum of 50 months. The proposed amendment will be preceded by an exemption to 10 CFR Part 50, Appendix J, Section III.D.1(a). The proposed exemption was submitted by letter dated May 7, 1993.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This one-time exemption to extend the CILRT interval approximately four months beyond the maximum TS allowance within the first 10-year service period will not adversely impact plant safety. The majority of leakage from the containment is through penetrations and isolation valves. The schedule for performing the Type B and C LLRTs [local leak-rate tests] is not affected. The allowable containment leakage used in accident analysis for offsite doses is $L_a$, 0.5 wt. %/day. For conservatism the leakage is limited to 75% of $L_a$ to account for possible degradation of the containment leakage barriers between tests.

Based on the leaktight integrity of the containment, as demonstrated by previous CILRT test results, the additional time period added to the third testing interval will not adversely impact the containment leakage barriers to a point where degradation would cause leakage to exceed that assumed in accident analysis.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

There are no design changes being made that would create a new type of accident or malfunction. The proposed change will not alter the plant or the manner in which it is operated. The change proposes a one-time exemption to extend the time interval for performing the third CILRT. The purpose of the CILRT is to provide periodic verification by test of the leaktight integrity of the primary reactor containment, and systems and components which penetrate containment. The tests assure that leakage through containment, and systems and components penetrating containment will not exceed the allowable leakage rate values associated with conditions resulting from a loss-of-coolant accident. The additional time period added to the third CILRT interval will not adversely affect the containment integrity in the event of a loss-of-coolant accident. Therefore, the proposed change will not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change is a one-time request to extend a surveillance interval and does not reduce, the margin of safety assumed in accident analysis for release of radioactive materials from the containment atmosphere into the environment, or any margin of safety preserved by the Technical Specifications. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

*Attorney for licensee:* N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

*NRC Project Director:* Terence L. Chan (Acting)

**Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* May 7, 1993

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TSs) to remove reference to Radioactive Effluent Release Reports being issued on a semiannual basis. The 10 CFR 50.36(a)(2) is now amended to require these reports on an annual basis.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This change is administrative in nature and makes the TSs consistent with the amended requirement of 10 CFR 50.36(a)(2). There is no change to plant design, operation, or significant increase in the probability or consequences of an accident previously evaluated.

This change is administrative in nature and makes the TSs consistent with the amended requirement of 10 CFR 50.36(a)(2). There is no change to plant design, operation, or configuration. Therefore, this change does not create the possibility of a new or different type of accident from any accident previously evaluated.

This change is administrative in nature and makes the TSs consistent with the amended requirement of 10 CFR 50.36(a)(2). There is no change to plant design, operation, or configuration. Therefore, there is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

*Attorney for licensee:* N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

*NRC Project Director:* Terence L. Chan

**GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania**

*Date of amendment request:* March 19, 1993

*Description of amendment request:* The reactor pressure vessel pressure-temperature limits are contained in Technical Specification Figures 3.1-1 and 3.1-2. This amendment would extend the effectiveness of those figures from 10 effective full-power years (EFPY) to 32 EFPY but the curves (limits) would remain the same.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. The design basis event related to this change is nonductile failure of the reactor coolant pressure boundary. The updated pressure/temperature limits have been established in accordance with the requirements of 10 CFR 50, Appendix G. Extending the curves for applicability to thirty-two (32) EFPY is based on maintaining the design margin assumed in the original curves. Operation of the facility in accordance with the proposed amendment provides assurance of protection against nonductile failure of the reactor coolant pressure boundary for operation of thirty-two (32) EFPY. Therefore, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different accident from any previously evaluated. The design basis event related to the change is nonductile failure of the reactor coolant pressure boundary. The proposed amendment provides assurance of protection against nonductile failure of the reactor coolant pressure boundary for operation of 32 EFPY and is unrelated to the possibility of creating a new or different kind of accident.

3. Operation of the facility in accordance with the proposed amendment would not involve any reduction in a margin of safety since the design margin assumed in the original curves is still maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

*Attorney for licensee:* Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* John F. Stolz

**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 amendment request:* April 16, 1993

*Description of amendment request:* For Units 1 and 2, the proposed amendment would change Technical Specifications (TS) 6.9.1.8 and 6.9.1.9, "Semi-Annual Radioactive Effluent Release Report," following the provisions provided in 10 CFR 50.36a. This proposed change would extend the Radioactive Effluent Release Report submittal frequency from semiannual to annual as provided in NRC's final ruling published in the Federal Register, August 31, 1992, on reducing regulatory burden on nuclear licensees. Additionally, for both units, the proposed request would change TS 6.5.2.2, "Composition," 6.5.2.3, "Alternate Members," 6.5.2.9, "Authority," and 6.5.2.10, "Records," to reflect membership change in the Nuclear Safety and Design Review Committee (NSDRC). The NSDRC membership change is effected by a change in corporate organization caused by the retirement of one of its members.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

*(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change in effluent release reporting requirement is administrative in nature and makes the TS consistent with the amended requirement of 10 CFR 50.36a(a)(2). The change in the NSDRC membership is also administrative in nature and makes the TS consistent with the guidance provided in Standard Review Plan 13.4.II. There is no change to plant design, operation, or configuration. Therefore, there is no significant increase in the probability or consequence of an accident previously evaluated.

*(2) Create the possibility of a new or different kind of accident from any previously evaluated.*

The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The change in effluent release reporting requirement is administrative in nature and makes the TS consistent with the amended requirement of 10 CFR 50.36a(a)(2). The change in the NSDRC membership is also administrative in nature and makes the TS consistent with the guidance provided in Standard Review Plan 13.4.II. There is no change to plant design, operation, or configuration. Therefore, there is no significant increase in the probability or consequence of an accident previously evaluated.

*(3) Involve a significant reduction in a margin of safety.*

The proposed amendment does not involve a significant reduction in the margin of safety. The change in effluent release reporting requirement is administrative in nature and makes the TS consistent with the amended requirement of 10 CFR 50.36a(a)(2). The change in the NSDRC membership is also administrative in nature and makes the TS consistent with the guidance provided in Standard Review Plan 13.4.II. There is no change to plant design, operation, or configuration. Therefore, there is no significant increase in the probability or consequence of an accident previously evaluated.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

*NRC Acting Project Director:* W. M. Dean.

**Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York**

*Date of amendment request:* May 21, 1993

*Description of amendment request:* The proposed changes would revise

Technical Specification (TS) Table 2.2.1-1, "Reactor Protection System Instrumentation Setpoints," to increase the setpoints for the Average Power Range Monitor (APRM) Flow-Biased Simulated Thermal Power - Upscale Scram. In addition, the proposed changes would revise TS 3/4.2.2, "Average Power Range Monitor Setpoints;" Table 3.3.6-1, "Control Rod Block Instrumentation;" Table 3.3.6-2, "Control Rod Block Instrumentation Setpoints;" Table 4.3.6-1, "Control Rod Block Instrumentation Surveillance Requirements;" and TS 6.9.1.9, "Core Operating Limits Report," to delete references to APRM rod block instrumentation. These changes are required to facilitate operation in the Extended Load Line Limit region. The licensee has also proposed an editorial change to Table 3.3.6-2 and changes to Bases Section 3/4.2.2, "APRM Setpoints," to reflect the deletion of references to APRM rod block instrumentation.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

*APRM Flow-Biased Simulated Thermal Power Upscale Scram Setpoint*

The proposed change will enhance utilization of the expanded operating domain by relaxing the restrictions imposed by the APRM flow-biased scram trip setpoint. The proposed formulation of the APRM flow-biased scram trip equation provides the same operating margin for the ELLLA [Extended Load Line Limit Analysis] region as the current equation provided at the rated flow condition. Further, the change to the flow-biased APRM scram trip does not affect any accident precursors or initiators. The trip serves to terminate certain transients. Therefore, the proposed change does not affect the probability of any accident. The transient analyses for NMP2 [Nine Mile Point Nuclear Station, Unit 2] use a fixed analytical value of 117% for the APRM flow-biased simulated thermal power trip, corresponding to the maximum nominal trip setpoint of 113.5%. Since the analytical value of 117% is not changing, the proposed change does not impact the results of any transient analyses. MCPR [Minimum Critical Power Ratio] operating and safety limits are not affected, and therefore there is no increase in the consequences of any accident. MCPR values calculated based on the current setpoint bound those for the proposed setpoint. Thus, the proposed changes do not adversely affect the response to previously analyzed accidents.

*APRM Flow-Biased Neutron Flux-Upscale Rod Block Instrumentation System*

The probability of accidents is not a function of the APRM rod block instrumentation since the failure of this system does not initiate or help to initiate any accident. Therefore, removing reference to the APRM rod block instrumentation from the Technical Specifications will not increase the probability of any accident previously evaluated. The APRM flow-biased rod block is not used to mitigate any accident in the USAR [Updated Safety Analysis Report]. While actuation of the APRM rod block can result in early termination of some slow pressurization transient events, USAR transient analyses take no credit for APRM rod block and the resulting [delta] CPR [Critical Power Ratio] will not cause CPR to exceed its safety limit. Further, during a fast flux transient a reactor scram without a preceding APRM rod block or alarm has no safety impact since the operator would not have enough time to initiate a corrective action even with an alarm.

Other events such as a general operator error of withdrawing control rods beyond the upper rod line produce only very mild power increases. The downscale and neutron flux upscale, startup (i.e., setdown) rod blocks can alert the operator to these conditions, however the primary protection for local power effects is provided by the RBM [Rod Block Monitor]. Essentially, all safety aspects associated with control rod withdrawal errors are addressed by the RBM. Finally, the APRM inoperative rod block actuates concurrent with the APRM inoperative scram and any transient resulting in an APRM inoperative rod block would also initiate a scram. Therefore, removing reference to the APRM rod block instrumentation will not increase the consequences of any transient previously evaluated.

*Editorial Change*

The proposed change to the Technical Specifications addresses only capitalization. Editorial changes by their nature do not change the intent or interpretation of the Technical Specifications and have no effect on accident probabilities or consequences.

The changes to the RPS will not affect plant response to previously analyzed transients or accidents. The MCPR limits previously evaluated remain valid. Therefore operation of Nine Mile Point Unit 2, in accordance with this proposed change, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

*APRM Flow-Biased Simulated Thermal Power Upscale Scram Setpoint*

Operation with the proposed APRM flow-biased scram line setpoint does not affect the assumptions (initial conditions) used in existing analyses and does not provide any new accident modes. Changing the formulation of the flow-biased APRM scram trip setpoint does not change its respective functions. The APRM scram trip setpoint will continue to initiate the scram if the power flow condition exceeds that specified by the APRM rod block setpoint. Modifying the APRM flow-biased upscale trip does not create any new (1) operating modes, (2) accident scenarios, (3) equipment failure modes, or (4) fission product release paths.

*APRM Flow-Biased Neutron Flux-Upscale Rod Block Instrumentation System*

The proposed changes remove reference to the APRM rod block instrumentation system from the Technical Specifications. Deletion of the APRM rod block reference does not create any new (1) operating modes, (2) accident scenarios, (3) equipment failure modes, or (4) fission product release paths. The APRM rod block functions are essentially backup functions and, while not used in any licensing basis event, will still be functional to assist operators during certain transients. In addition, the RBM will still actuate to terminate control rod withdrawal errors. Therefore, the effect of the proposed change on operator action to correct unexpected situations is insignificant.

*Editorial Change*

Editorial changes by their nature do not change the intent or interpretation of the Technical Specifications. The proposed change addresses only capitalization. The proposed change has no effect on any accident, analyzed or unanalyzed.

The aggregate affect of these proposed changes has been evaluated and found to have no resulting impact on system reliability or performance. Thus, the proposed changes do not adversely affect the response of any component or system to previously analyzed accidents. The response to previously evaluated accidents remains within previously assessed limits of temperature and pressure. Further, all safety-related systems and components remain within their applicable design limits. Thus, system and component performance is not adversely affected by these changes, thereby assuring that the design capabilities of those systems and components are not challenged in a manner not previously assessed so as to create the possibility of a new or different kind of accident. Therefore, operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any previously assessed.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

*APRM Flow-Biased Simulated Thermal Power Upscale Scram Setpoint*

The proposed change will facilitate utilization of the expanded operating domain by relaxing the restrictions imposed by the formulation of the APRM flow-biased simulated thermal power scram trip setpoint. The transient analyses for NMP2 use a fixed analytical value of 117% for the APRM flow-biased trip, corresponding to the maximum nominal trip setpoint of 113.5%. Since the analytical value of 117% is not changing and remains below the fixed neutron flux trip value, the proposed change does not impact the results of any transient analyses. In addition, the APRM flow-biased trip setpoint remains below the APRM Fixed Neutron Flux - Upscale trip setpoint. MCPR values

calculated based on the current setpoint bound those for the proposed setpoint. Since MCPR operating and safety limits are not affected, there is no significant decrease in any margin of safety.

*APRM Flow-Biased Neutron Flux-Upscale Rod Block Instrumentation System*

Relocation of the APRM rod block references will not alter plant response to any transient. Fast flux transients, such as MSIV [Main Steam Isolation Valve] closure, are terminated by the APRM scram without any operator action and therefore are not affected by this change. The APRM flow-biased rod block will still be available to respond to slow pressurization transients such as loss of feedwater heating and provide time for proper operator action. However, should operators fail to respond or the rod block fail to actuate, the APRM scram will still terminate the transient before any safety limits are impacted. Other events such as a general operator error of withdrawing control rods beyond the upper rod line produce only very mild power increases. The downscale and neutron flux upscale, startup (i.e., setdown) rod blocks can alert the operator to these conditions, however the primary protection for local power effects is provided by the RBM. In addition, the APRM inoperative rod block actuates concurrent with the APRM scram. Therefore, any transient which would result in an APRM inoperative rod block would also initiate a scram signal. Since operability of the APRM scram functions and the RBM is still assured under these proposed changes, MCPR operating and safety limits are not affected. Therefore, the proposed change will not involve a reduction in a margin of safety.

*Editorial Change*

The wording of the Technical Specifications has not changed. The proposed change addresses only capitalization. Editorial changes by their nature do not change the intent or interpretation of the Technical Specifications and do not affect any margin of safety.

The aggregate affect of these proposed changes has been evaluated and found to have no impact on plant response to transients and accidents. The proposed changes do not affect the basis for any Technical Specification and previously established safety limits remain valid. Therefore, the operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

*NRC Project Director:* Robert A. Capra

**North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire**

*Date of amendment request:* April 7, 1993

*Description of amendment request:* The proposed amendment would redefine the requirements for an operable Service Water System (SWS) and would combine the SWS Technical Specification (TS) requirements with the TS requirements for the ultimate heat sink. The changes would affect TSs 3/4.7.4 and 3/4.7.5.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because they do not affect the safety functions of the SWS and ultimate heat sink. No physical changes to facility structures, systems, or components are involved, and the SWS and ultimate heat sink will continue to meet the single failure criteria. A Probabilistic Risk Assessment (PRA) Evaluation of the proposed changes, submitted with the proposed amendment, shows that the increase in core damage frequency would be small.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because they do not affect the function of any facility structure, system or component, nor do they affect the manner by which the facility is operated. The proposed changes do not introduce any new failure mode.

C. The proposed changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because they do not affect the manner by which the facility is operated or involve changes to equipment or features which affect the operational characteristics of the facility. A PRA Evaluation of the proposed changes shows that the increase in core damage frequency would be small.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

*Attorney for licensee:* Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston Massachusetts 02110-2624.

*NRC Project Director:* John F. Stolz

**North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire**

*Date of amendment request:* April 8, 1993

*Description of amendment request:* Technical Specification 2.1, Figure 2.1-1 specifies the allowable conditions of highest operating loop average temperature and fraction of rated core power for various Reactor Coolant System (RCS) pressure. The proposed amendment would revise Figure 2.1-1, Reactor Core Safety Limit - Four Loops in Operation, to provide curves that correctly represent the loci of calculated design values. This safety limit ensures that the Departure from Nucleate Boiling Ratio (DNBR) will be at least 1.3 and the average enthalpy of reactor coolant at the vessel exit is no greater than that of saturated liquid. The existing figure does not reflect the design values accurately in the region of 80% to 110% of rated power.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the proposed change merely corrects the figure to accurately reflect the loci of calculated design values for the core safety limit to provide protection for the core as originally assumed in the design analysis. The current curve does not assure the design minimum DNBR when operating in the region of 80% to 110% of rated power. The change does not affect the operation or function of any engineered safety system or the Reactor Protection System, does not involve any physical modification to the facility, and does not affect the manner in which the facility is operated.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because it does not affect the manner by which the facility is operated as assumed in the design analysis or Safety Evaluation,

involve any changes to equipment or features which affect the operational characteristics of the facility, or introduce a new failure mode. The proposed change merely corrects Figure 2.1-1 to provide protection for the core limits as originally assumed in the design analysis.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because it does not affect the manner by which the facility is operated as assumed in the design analysis or Safety Evaluation, involve any changes to equipment or features which affect the operational characteristics of the facility. The proposed change will continue to ensure that the reactor is protected against a low DNBR and excessive enthalpy at the vessel exit by defining the allowable conditions of highest operating loop average temperature and fraction of rated core power for various RCS pressures.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

*Attorney for licensee:* Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston Massachusetts 02110-2624.

*NRC Project Director:* John F. Stolz

**North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire**

*Date of amendment request:* May 7, 1993

*Description of amendment request:* The amendment would change Technical Specification (TS) 3/4 6.1 relating to primary containment integrity. Specifically, Limiting Condition for Operation (LCO) 3.6.1.7 would be changed to delete the requirements applicable to the 36-inch containment shutdown purge supply and exhaust isolation valves in the containment air purge (CAP) system. LCO 3.6.1.7 would retain the current requirements for the 8-inch containment purge supply and exhaust valves. Surveillance Requirement (SR) 4.6.1.7.1 and associated footnote and SR 4.6.1.7.2, which are applicable only to the 36-inch valves, also would be deleted.

Editorial changes would be made to Actions b and c (which would be redesignated a and b), to SR 4.6.1.7.3. and 4.6.1.7.4 (which would be redesignated 4.6.1.7.1 and 4.6.1.7.2), and to SR 4.6.1.2 f to maintain document consistency.

The changes described above will support a design modification to the CAP system that would replace the 36-inch containment shutdown purge supply and exhaust isolation valves located outside of containment (CAP-V1 and CAP-V4) with testable blind flanges. The blind flanges would be part of the containment pressure boundary for the penetration when in Modes 1, 2, 3, and 4. This modification would render operability requirements for the 36-inch valves unnecessary.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)). The changes support a planned modification to the CAP system that would replace the 36-inch butterfly containment purge supply and exhaust isolation valves that are outside containment (CAP-V1 and CAP-V4) with testable blind flanges during operational Modes 1, 2, 3, and 4. With this modification, the 36-inch butterfly valves no longer are required for containment isolation in Modes 1, 2, 3, and 4. The blind flanges will continue to provide the containment isolation function now provided by the 36-inch butterfly valves, and they will be more reliable because they will not be susceptible to resilient seal degradation inherent with the operation of the 36-inch butterfly valves. Therefore, since the reliability of the containment function will not be reduced, the probability or consequences of any accident previously evaluated is not increased.

B. The changes do not create the possibility of a new or different kindof accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the only safety function of the CAP during operational Modes 1, 2, 3, and 4 is to provide containment isolation. The CAP system does not directly affect the operation of any other safety system. Since the containment isolation function of the CAP system will be more reliable following the CAP modification, no possibility is created for a new or different kind of accident.

C. The changes do not involve a significant reduction in a margin ofsafety (10 CFR 50.92(c)(3)) because the planned replacement of the 36-inch butterfly valves with testable blind flanges will maintain the isolation function. The blind flanges, existing weld neck flanges, and bolting material will be classified ASME Section III, Code Class MC (the same as for the equipment and personnel hatches and the fuel transfer tube hatch). The CAP penetrations will be tested as Type B penetrations in accordance with the requirements of the Updated Final Safety Evaluation Report section 6.2.6.2 and 10 CFR 50 Appendix J, Section III.B. Therefore, the isolation function reliability will not be reduced, therefore, there is no reduction in the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

*Attorney for licensee:* Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston Massachusetts 02110-2624.

*NRC Project Director:* John F. Stolz

**North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire**

*Date of amendment request:* May 14, 1993

*Description of amendment request:* The proposed amendment would change the footnote on page 1 of License NPF-86 to reflect that EUA Power Corporation has changed its name to Great Bay Power Corporation. EUA Power Corporation has been under the protection of Chapter 11 of Title 11 of the United States Bankruptcy Code since February 28, 1991. Great Bay Power Corporation is the reorganized entity that emerges from bankruptcy pursuant to the Plan for Reorganization which has been confirmed by the United States Bankruptcy Court for the District of New Hampshire.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)). The proposed change merely reflects the

new name of the reorganized entity emerging from bankruptcy. The change does not affect the manner by which the facility is operated or involve any changes to equipment or features which affect the operational characteristics of the facility. No other provisions of the license and no Technical Specification are affected, and all plans and programs in effect at the Seabrook Station remain unchanged.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the change does not affect the manner by which the facility is operated or involve any changes to equipment or features which affect the operational characteristics of the facility.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the proposed change does not affect the manner by which the facility is operated or involve equipment or features which affect the operational characteristics of the facility.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

*Attorney for licensee:* John A. Ritsher, Esquire, Ropes & Gray, One International Place, Boston Massachusetts 02110-2624, and Mark N. Polebaum, Esquire, Hale and Dorr, 60 State Street, Boston, Massachusetts 02109.

*NRC Project Director:* John F. Stolz

**Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska**

*Date of amendment request:* May 21, 1993

*Description of amendment request:* The proposed amendment to the Technical Specifications would increase the maximum bypass pressure for the steam generator low-pressure signal (SGLS) trip setting as contained in Table 1.1 (page 1-10a), Table 2-1 (page 2-64a), Table 2-2 (page 2-67), Table 2-4 (page 2-69), and Table 3-2 (page 3-12) from 550 psia to 600 psia.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to the Technical Specifications for the increase of the Steam Generator Low pressure Signal (SGLS) bypass to 600 psia does not involve a significant hazards consideration because the operation of the Fort Calhoun Station in accordance with this change would not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence does not increase since the limiting postulated accident, Main Steam Line Break has been analyzed and is within the design basis of the plant. The consequences, as reported in the Updated Safety Analysis Report, do not increase since the accident is bounded by a hot full power case and would not be considered limiting. The consequences of an accident, when analyzed at 550 psia versus 600 psia, do not increase significantly. The proposed change would still require that the SGLS is enabled prior to the reactor being made critical (except for the physics tests, the technical specifications do not require SGLS to be operable during physics testing below 10% power). Therefore, the proposed change will not significantly increase the probability or consequences of an accident previously evaluated in the Updated Safety Analysis Report.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

It has been determined that a new or different type of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

3) Involve a significant reduction in a margin of safety.

These changes will not reduce the margin of safety since the SGLS trip is still automatically enabled prior to the reactor being made critical. The 50 psia increase would not change any of the safety analyses for Fort Calhoun since the limiting transients occur at Hot Full Power and Hot Zero Power for the Main Steam Line Break.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

*Attorney for licensee:* LeBoeuf, Lamb, Leiby, and MacRae, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009-5728

*NRC Project Director:* Terence L. Chan (Acting)

**Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania**

*Date of amendment request:* January 14, 1991 and March 3, 1992

*Description of amendment request:* The amendments would change the Susquehanna Steam Electric Station (SSES), Units 1 and 2 Technical Specifications (TS) to delete the temperature leak detection system isolation function (ambient and differential) in the Residual Heat Removal (RHR) pump rooms.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Small leaks are not specifically analyzed in the FSAR, but FSAR Sections 15.6.2 (Instrument Line Break) and 15.6.4 (Steam System Piping Break Outside Containment) evaluate the effects of larger leaks. Section 15.6.4 provides the bounding analysis of leakage outside containment. Deleting the automatic isolation function of RHR shutdown cooling does not affect the probability of a leak from the system. The existing temperature setpoints do not provide timely response to a shutdown cooling leak. The proposed change will improve the responsiveness of the steam leak detection system as it will allow the alarm setpoint to be lowered.

Flood detection also provides a reliable method of detecting small leaks. For a 25 gpm leak, the level in the pump rooms would reach the alarm setpoint in less than 4 hours.

The temperature switches are redundant and failure of a single switch to detect a leak does not preclude detection by the other switch. The reliability of the temperature switches is not affected by deleting the isolation signal. In addition to room water level, flow and reactor water level instruments provide additional means of leak detection, primarily for large leaks.

The propose[d] change does not, therefore, increase the probability of occurrence or the consequences of a malfunction of equipment related to safety as previously evaluated in the FSAR.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The deletion of temperature based isolation does not affect the ability to detect leakage from RHR shutdown cooling as required by GDC 30, Reg. Guide 1.45 and the Standard Review Plan (NUREG 0800). These regulations require only detection and do not require automatic isolation of leakage. Temperature based alarms and the other means of leak detection satisfy the safety requirements of the system.

The proposed change does not affect any system other than leak detection and does not affect the ability to detect leakage. It is bounded by the analysis in FSAR Sections 15.6.2 and 15.6.4. The proposed change does not, therefore, create the possibility of an accident or malfunction of a different type than any evaluated previously in the FSAR.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed action will delete the temperature switches and setpoints from Technical Specification Section 3.3.2. "Isolation Actuation Instrumentation." The existing instruments are unable to satisfy the bases statement that "the setpoints ... are established at a level away from the normal operating range to prevent inadvertent actuation of the system involved." Temperature measurement is not discussed in the basis for Technical Specification 3.4.3, "Reactor Coolant System Leakage." Technical Specification 3.4.9, "Residual Heat Removal" requires that both loops of RHR be operable and that at least one loop be in operation. System isolation due to a actual leak or to false indication of a leak renders both loops inoperable.

The proposed change will eliminate the possibility of unnecessary isolation of Shutdown Cooling due to inadvertent actuation of the leak detection temperature switches and will thereby avoid reducing the margin defined in the bases for Technical Specifications 3.3.2 and 3.4.9. The change does not, therefore, reduce the margin of safety defined in the basis for any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* Charles L. Miller

**Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania**

*Date of amendment request:* May 17, 1993

*Description of amendment request:* This amendment would make changes to the Technical Specifications to revise the logic which controls the automatic transfer of the High Pressure Coolant Injection (HPCI) pump suction source on high suppression pool level.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

All pertinent [Final Safety Analysis Report] FSAR and [Design Analysis Report] DAR evaluations were reexamined based on the proposed modification. The probability of a failure of the new relay has been minimized by the use of the same type already in use in Engineered Safety Feature control systems. Further, its operability will be confirmed through periodic testing. A probabilistic evaluation based on a review of reliability studies performed for the Susquehanna [Individual Plant Evaluation] IPE considered failures of the F042 and F006 valves to open. This evaluation determined that the increase in failure rate due to the addition of the relay falls within the error band of the predicted failure rate of the valves without the additional relay installed. The new relay has no interconnections with any other components which could impact safety. Therefore, the proposed change will not significantly increase the probability of previously evaluated events.

With regard to the consequences of previously evaluated events, as stated earlier, HPCI failure is bounded by the operation of [Automatic Depressurization System] ADS by design. If rather than HPCI failure, a pipe break is assumed while HPCI is aligned for pressure control with suppression pool level potentially greater than 24 feet, the resulting loads on safety-related components and structures are bounded by existing analysis as discussed previously. Based on the above, the consequences are bounded by existing analysis, and therefore, do not constitute any increase in the consequences of previously evaluated events.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Postulated failures of the new design, as described above, could result in the loss of the HPCI [Emergency Core Cooling System] ECCS function. However, the ADS system exists as part of the design basis for this purpose. Other failures postulated while HPCI is operating in pressure control mode are bounded by previously evaluated events as described in 1. above. Therefore, the proposed change will not create the possibility of a new or different kind of event.

3. Involve a significant reduction in a margin of safety.

The motivation for proposing this modification is to improve the operators' ability to control level and pressure in the reactor after an [Main Steam Isolation Valve] MSIV closure event. [Pennsylvania Power & Light Company] PP&L believes this will improve the safe operation of Susquehanna SES. It will not significantly reduce any margin of safety because:

- It will continue to ensure that HPCI realigns to the suppression pool for HPCI injection if suppression pool level approaches the Technical Specification limit and injection into the vessel is required.
- Failure of the new relay will prevent the above realignment when required, but other single failures exist which can create this effect, and we have determined that the increase in failure rate due to the new relay is within the error band of the currently predicted failure rate (without the relay installed).
- When HPCI is in pressure control mode the change does not prevent operation of suppression pool level above the Technical Specification limit as long as HPCI is not required to inject. However, based on consideration of worst case single failures while in pressure control mode, it is concluded that the impact of such events on containment analysis results is bounded by previous analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* Charles L. Miller

**Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania**

*Date of amendment request:* June 1, 1993

*Description of amendment request:* The amendments would change the Susquehanna Steam Electric Station (SSES), Units 1 and 2 Technical Specifications (TS) to revise the reporting frequency of the Semiannual Radioactive Effluent Release Report from semiannual to annual pursuant to the revised 10 CFR 50.36a, which the Commission published in the Federal Register on August 31, 1992.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature and do not involve any change to

the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident nor alter the conditions or assumptions in any of the Final Safety Analysis Report (FSAR) accident analyses. Since the FSAR accident analyses remain bounding, the radiological consequences previously evaluated are not adversely affected by the proposed changes. Therefore, it can be concluded that the proposed changes do 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 previously evaluated.

No new failure modes have been defined for any plant system or component important to safety nor has any new limiting failure been identified as a result of the proposed changes. Also, there will be no change in the types or increase in the amount of effluents released offsite. Therefore, it can be concluded that the proposed changes do not create the possibility of a new or different kind of accident from those previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature and do not adversely impact the plant's ability to meet applicable regulatory requirements related to liquid and gaseous effluents, and solid waste releases. The proposed change would also eliminate any unnecessary burden of governmental regulation without reducing protection for public health and safety. Therefore, it can be concluded that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

*NRC Project Director:* Charles L. Miller

**Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania**

*Date of amendment request:* April 19, 1993

*Description of amendment request:* The amendments would revise the Technical Specifications (TS) contained in Appendix A of the Operating Licenses to extend the surveillance test intervals (STIs) and allowed outage times (AOTs) for the containment isolation actuation instrumentation (IAI). Specifically, these changes propose to minimize testing and remove restrictive AOTs that could potentially degrade the overall plant safety and availability.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes increase the STIs and AOTs for the IAI. In addition, several administrative changes are necessary. These include revision of two Index pages to correct inconsistencies and to reflect the addition of LTR and SER [NEDC-31677P-A, July 1990 and NRC Safety Evaluation dated June 18, 1990] references in the TS Bases, which caused the location of several Bases sections to change, and an administrative modification of TS page 3/4 3-9, 3/4 3-16, and the associated TS Table 4.3.2.1-1 notes.

There are no changes in any of the affected systems themselves. Since there are no such changes, there can be no change in the probability of occurrence of an accident or the consequences of an accident or the consequences of malfunction of equipment. Regarding the probability of malfunction of equipment, Reference 1 [NEDC-31677P-A, July 1990] showed that there is a small increase in the unavailability of the total containment isolation function frequency. This increase in containment isolation failure frequency is less than the established acceptance criterion. The NRC, in its review of Reference 1 [NEDC-31677P-A, July 1990], concurred with this conclusion. The changes proposed are consistent with [those] appproved by the NRC in Reference 2 [NRC Safety Evaluation dated June 18, 1990]. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not create the possibility for an accident or malfunction of a different type than any evaluated previously in the Updated Final Safety Analysis Report (UFSAR). The proposed changes increase the STIs and AOTs for the IAI, revise Index pages to reflect the addition of references in the TS Bases, and modify table notes to be consistent with the proposed changes. There are no changes to any systems. Since there are no such changes, there is no possibility for an accident or malfunction of a different type than any evaluated previously.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed TS changes do not reduce the margin of safety as defined in the basis for any TS. The proposed TS changes do not change any setpoints of the IAI or its level of redundancy. IAI setpoints are based upon the drift occurring during the 18 month calibration interval. The proposed changes extend STIs and AOTs, and are discussed in Reference 1 [NEDC-31677P-A, July 1990, and] are bounded by the Analyses in Reference 1 [NEDC-31677P-A, July 1990]. These analyses, which were reviewed and approved by the NRC, examined the effects of extending STIs and AOTs, and found that the proposed changes do not involve a reduction in a margin of safety. The administrative changes proposed cannot affect safety and therefore do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

*Attorney for licensee:* J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

*NRC Project Director:* Charles L. Miller

**Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania**

*Date of amendment request:* April 23, 1993

*Description of amendment request:* The amendments would revise the Technical Specifications (TS) contained in Appendix A of the Operating Licenses to modify the requirement for individuals filling certain plant management positions to hold a Senior Reactor Operator (SRO) License. Specifically, these changes propose to: 1) require that the Plant Manager or the Superintendent-Operations or Assistant Superintendent-Operations hold an SRO License; and 2) delete the requirement for the Superintendent-Technical or the Technical Engineer to hold an SRO License. However, the proposed change will continue to satisfy the ANSI Standard ANSI/ANS-3.1-1978, "Standard for Selection and Training of Personnel for Nuclear Power Plants."

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence of an accident is based in part on the training and qualification requirements applicable to the personnel filling key plant management positions. Accordingly, the qualifications and scope of responsibilities applicable to plant management positions relative to the guidance in ANSI/ANS-3.1-1978, as described in UFSAR Section 13.1, "Conduct of Operations," were originally reviewed and approved by the NRC during the initial plant licensing. Specifically, LGS [Limerick Generating Station] Updated Final Safety Analysis Report (UFSAR) Section 13.1.3, "Qualification of Nuclear Plant Personnel," details the following correspondence between plant management positions and the criteria in ANSI/ANS-3.1-1978.

Plant Manager 4.2.1 Plant Manager

Superintendent-Operations 4.2.1 Plant Manager

Assistant Superintendent-Operations 4.2.2 Operations Manager

Superintendent-Technical 4.2.4 Technical Manager

Section 4.2.1, "Plant Managers," of ANSI/ANS-3.1-1978 states in part that "... The plant manager shall have acquired the experience and equivalent training normally required to be eligible for a Senior Reactor Operator's license "..." unless the plant organization includes one or more persons who are designated as principal alternatives for the plant manager and who meet the nuclear power plant experience and training requirements established for the plant manager. As shown above, the Superintendent-Operations is designated as the Plant Manager's principal alternative. ANSI/ANS-3.1-1978, Section 4.2.2, "Operations Manager," states in part that at the time of "...appointment to the position... the operations manager shall hold a Senior Reactor Operator's license...." Requiring the Plant Manager or the Superintendent-Operations, or the Assistant Superintendent-Operations to hold a[n] SRO License will continue to ensure conformance with this criterion. ANSI/ANS-3.1-1978, Section 4.2.4, "Technical Manager," does not include any recommendation that the Technical Manager have the training to be eligible for, or hold, a[n] SRO License.

The proposed TS change involves changing the current TS requirement that 1) the Plant Manager or the Superintendent-Operations, and the Assistant Superintendent-Operations, and 2) the Superintendent-Technical or the Technical Engineer, hold a[n] SRO License, to the following: a) the Plant Manager or the Superintendent-Operations or the Assistant Superintendent-Operations hold a[n] SRO License, and b) delete the requirement for the Superintendent-Technical or the Technical Engineer to hold a[n] SRO License. This proposed change would continue to require that one of the individuals in the management chain of command responsible for the management of plant operations as well as day-to-day operating activities and conformance to the operating license, TS, and operating procedures demonstrate detailed operating knowledge and successfully complete training required to obtain and hold a[n] SRO License, while deleting the unnecessary requirement that the Superintendent-Technical or the Technical Engineer hold a[n] SRO License. Also, licensed plant shift operators will continue to report to a management position filled by an individual who holds a[n] SRO License.

Operations management and Technical management personnel would continue to maintain cognizance of pertinent plant, procedure, and TS changes by virtue of the responsibilities of their plant management positions, TS required PORC [Plant Operations Review Committee] membership, and roles in the Emergency Response Organization (ERO). These responsibilities include review and/or approval of proposed new or revised operating procedures and oversight of licensed operator requalification training. Therefore, the qualifications of the Operations and Technical management personnel, in the chain of command to the Plant Manager, will remain at the currently required level. Furthermore, those key plant management individuals who will no longer be required to hold a[n] SRO License will be able to devote the time now spent in LOR [Licensed Operator Requalification] training to increase their overview and involvement in plant operating and planning activities. Accordingly, the probability of occurrence of an accident previously evaluated based on the training and qualification of key plant management personnel, is not increased by the proposed change to the current requirements concerning managers who must hold a[n] SRO License.

This proposed change does not involve any changes to plant systems, structures, or components (SSC). Therefore, no physical changes that could change the probability of occurrence of an accident previously evaluated would be made to the plant in order to implement this proposed change. The impact of the change to administrative requirements resulting from the implementation of this proposed TS change is discussed above, and has been determined to not increase the probability of occurrence of an accident previously evaluated.

The consequences of an accident previously evaluated could be affected by the qualifications of plant management personnel to which the plant operators report via the chain of command. As explained above, the proposed TS change to require at least one individual in the Operations organization chain of command to hold a[n] SRO License will continue to meet guidance provided by the applicable criteria in ANSI/ANS-3.1-1978.

The proposed TS change does not involve any physical changes to plant SSC, or in the manner in which plant SSC are operated, maintained, modified, tested, or inspected. Therefore, the proposed TS change does not increase the consequences of accidents previously evaluated.

Accordingly, as explained above, the proposed TS change does not involve an 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.

This proposed change involving the qualifications (e.g., obtain and hold a[n] SRO License) of key plant management personnel [cannot] create the possibility of a new or different type of accident than previously evaluated since no substantive change to the current requirements is involved as discussed above. Also, since the proposed TS change does not involve physical changes to plant SSC, the possibility of creating a different type of accident than previously evaluated in the SAR [cannot] be created. Therefore, the possibility of a new or different type of accident than previously evaluated in the SAR is not created.

3) The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety of overall plant operating activities is based in part on the TS requirements that personnel serving in key plant management positions satisfy qualification criteria specified in ANSI/ANS-3.1-1978. The proposed change to the TS does not reduce these established qualifications that key plant management personnel must currently satisfy. In addition, implementation of the proposed TS changes will allow the affected plant management individuals to use the time now spent in LOR training (i.e., approximately one week out of every six week period throughout the year) to increase their involvement in plant operational matters and planning activities. Therefore, the proposed TS change does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

*Attorney for licensee:* J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

*NRC Project Director:* Charles L. Miller

**Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania**

*Date of amendment request:* May 6, 1993

*Description of amendment request:* The amendments would revise the Technical Specifications (TS) contained in Appendix A of the Operating Licenses to extend the surveillance test intervals (STIs) and allowed outage

times (AOTs) for selected actuation instrumentation. Specifically, these changes propose to minimize STIs and remove restrictive AOTs that could potentially degrade the overall plant safety and instrument-data availability. Also, the amendment proposes several editorial changes.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes increase the STIs and AOTs for selected BWR actuation instrumentation. In addition, several editorial corrections are proposed. There are no changes in any of the affected systems themselves. Since there are no such changes, there can be no change in the probability of occurrence of an accident or the consequences of an accident or the consequences of malfunction of equipment. Regarding the probability of malfunction of equipment, [BWR Owners Group Report GENE-770-06-1] showed that actuation instrumentation system unavailability was increased slightly. However, this increase in unavailability is less than the established acceptance criterion. The NRC, in its review of [GENE-770-06-1], concurred with this conclusion. The changes proposed are consistent with the NRC issued SER . . . Therefore, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes do not create the possibility for an accident or malfunction of a different type than any previously evaluated. The proposed changes increase the STIs and AOTs for selected BWR actuation instrumentation and make several editorial corrections. There are no changes to any systems. Since there are no such changes, there is no possibility for an accident or malfunction of a different type than any evaluated previously.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed TS changes do not reduce the margin of safety as defined in the basis for any TS. The proposed TS changes do not change any setpoints of the selected BWR actuation instrumentation or their level of redundancy. Setpoints are based upon the drift occurring during the 18 month calibration interval. The proposed changes extend STIs and AOTs, and are bounded by the analyses in [GENE-770-06-1]. The [GENE-770-06-1 Reports] analyses reviewed and approved by the NRC, examined the effects of extending STIs and AOTs and found that the proposed changes do not involve a reduction in a margin of safety. The remaining proposed changes are editorial. Since they are editorial in nature, the changes will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

*Attorney for licensee:* J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

*NRC Project Director:* Charles L. Miller

**Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon**

*Date of amendment request:* March 16, 1993

*Description of amendment request:* The proposed amendment, by Portland General Electric Company, PGE or the licensee, would relocate those portions of the Trojan Technical Specifications (TS) that are related to the Trojan Fire Protection Program from the TS to Topical Report PGE-1012, "Trojan Nuclear Plant Fire Protection Plan."

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.92(a), the licensee have provided their analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the requirements of 10 CFR 50.92, Issuance of Amendment, this license amendment request is judged to involve no significant hazards consideration based upon the following:

1. The requested license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This amendment merely relocates the fire protection program elements from the Trojan Technical Specifications (TTS) to PGE-1012. No change is being made to the content of the TTS being relocated. Operating limitations will continue to be imposed, and required surveillances will continue to be performed in accordance with written procedures and instructions auditable by the NRC.

Although proposed future changes to the fire protection program elements previously located in the TTS will no longer be controlled by 10 CFR 50.90, proposed changes to the TS requirements relocated to PGE-1012 will be evaluated by a safety evaluation in accordance with the requirements of 10 CFR 50.59 to determine whether an unreviewed safety questions exists. Changes that do represent an unreviewed safety question will receive prior NRC approval before implementation.

Thus, programmatic controls will continue to assure that this change will not have the effect of permitting future proposed fire protection program changes to create an unreviewed safety question. It is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The requested license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

PGE-1012, incorporated by reference in Trojan FSAR Section 9.5.1, contains the Trojan fire hazards analysis. This amendment merely relocates the fire protection TS requirements from the TTS to PGE-1012. No change to the fire protection TS requirements is being made and thus the change does not create the possibility of a new or different accident from those previously evaluated.

As noted above, proposed changes to the TS requirements relocated to PGE-1012 will be evaluated by a safety evaluation in accordance with the requirements of 10 CFR 50.59 to determine whether an unreviewed safety question exists. Changes that do represent an unreviewed safety question will receive prior NRC approval before implementation.

3. The requested license amendment does not involve a significant reduction in a margin of safety.

This change does not involve a reduction to the approved fire protection program or TS fire protection requirements. The TS fire protection requirements are being relocated, without alteration to PGE-1012. Since there is no change to the requirements, there is no reduction in the margin of safety.

As noted above, proposed changes to the TS requirements relocated to PGE-1012 will be evaluated by a safety evaluation in accordance with the requirements of 10 CFR 50.59 to determine whether an unreviewed safety question exists. Changes that do not represent an unreviewed safety question will receive prior NRC approval before implementation.

The NRC staff has reviewed the analysis of the licensee and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

*Attorney for licensees:* Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

*NRR Project Director:* Seymour H. Weiss

**Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York**

*Date of amendment request:* May 4, 1993

*Description of amendment request:* The licensee has requested an amendment to the Technical Specifications (TS) to revise TS Section 3.2 (Chemical and Volume Control System), TS Section 3.3 (Engineered Safety Features), and TS Section 4.1 (Operational Safety Review) to eliminate all references to the Boron Injection Tank (BIT). In addition, the requested amendment would revise TS Section 4.4 (Containment Tests) to remove the containment temperature reference in the containment leak test acceptance criteria.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability of a previously-analyzed accident. These changes involve systems relied on to mitigate the consequences of an accident. In one accident case, analyses performed by Westinghouse show a higher [resulting] core power. This arises because the safety injection system must purge more water (conservatively assumed to be at 0 ppm boron) before injecting boron into the cold leg and the boron source (refueling water storage tank (RWST)) is both colder ($T_{RWST}$ [less than] 40°F assumed) and contains a lower boron concentration than the BIT. This causes the power to initially rise to a higher peak owing to the delay and to subsequent decay at a slower rate after the boron reaches the core. However, the consequences of this increase in core power during a postulated accident clearly show adequate margins of safety within acceptable NRC criteria. The analyses performed demonstrate that it is acceptable to bypass, eliminate, or reduce the boric acid concentration of the Indian Point 3 Boron Injection Tank. The changes to the leak rate acceptance criteria and associated basis do not involve a significant increase in the probability or consequences of any accident. The leak rate test is not performed at the peak calculated temperature. The current postulated peak accident Containment pressure and temperature will be 42.29 psig and 261.5°F, which are clearly within design values. The new peak values are below the Containment design pressure and temperature of 47 psig and 271°F and the equipment qualification temperature of 290°F, and the leak rate acceptance criteria of 42.42 psig is conservative with respect to the current peak calculated pressure of 42.29 psig.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed changes, as analyzed, do not involve new or different kinds of accidents from those previously evaluated. The proposed changes involve existing systems and do not have un-analyzed affects on the ability to mitigate the consequences of postulated accidents. The consequences of postulated accidents involving these systems are presently described in the FSAR. The Westinghouse analyses only present the affects of the proposed changes on these consequences and the intended modifications of the systems to allow continued safe operation and increased plant availability and reliability. The changes to the leak rate acceptance criteria and associated basis will not change the overall system operation or testing.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The elimination of the Boron Injection Tank (BIT) does not involve a significant reduction in a margin of safety. The analyses performed to increase the ultimate heat sink allowed temperature (Reference 4 [to licensee's letter dated May 4, 1993]) assumed a 0 ppm boron concentration in the BIT. For the Mass and Energy/Containment Pressure analysis, the impact of the BIT elimination was addressed to assure the containment pressure and temperature remain below design limits. For cases including increases in core power, Departure from Nucleate Boiling (DNB) analyses show that the DNB design basis is met and that no consequential fuel failures are expected. For the changes to the leak rate acceptance criteria and associated basis both the peak temperature and pressure of the latest analysis remain within design values, and the leak rate acceptance criteria of 42.42 psig is conservative with respect to the current peak calculated pressure of 42.29 psig.

In the April 6, 1983 Federal Register, Vol. 048, No. 67, Page 14870, the NRC published a list of examples of amendments that are not likely to involve a significant hazards concern. Example (vi) of that list applies to the elimination of the BIT and states:

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Project Director:* Robert A. Capra

**Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York**

*Date of amendment request:* May 18, 1993

*Description of amendment request:* The licensee commenced operating on a 24-month fuel cycle, instead of the previous 18-month fuel cycle, with fuel cycle 9. Fuel cycle 9 started in August 1992. In order to accommodate operation on a 24-month cycle, the licensee requested an amendment to the Technical Specifications (TS) and Environmental Technical Specifications (ETS) to incorporate the changes listed below:

(1) The licensee proposed changing the boric acid tank level calibration frequency (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(2) The licensee proposed changing the boric acid makeup flow channel calibration frequency (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(3) The licensee proposed changing the city water connection to charging pumps and boric acid piping testing frequency (specified in TS Table 4.1-3) to accommodate operation on a 24-month cycle.

(4) The licensee proposed changing the primary water storage tank channel calibration and functional testing frequency (specified in ETS Table 3.1-1) to accommodate operation on a 24-month cycle.

These proposed changes follow the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability or consequences of any accident previously analyzed. These changes propose extending the surveillance intervals for chemical and volume control system testing. The changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. An evaluation of past equipment performance and other system testing (e.g., monthly tests) provides assurance that the longer surveillance intervals will not degrade system performance.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed. These changes propose extending the surveillance intervals for chemical and volume control system testing. The changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. An evaluation of past equipment performance and other system testing (e.g., monthly tests) provides assurance that the longer surveillance intervals will not degrade system performance.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed changes do not involve a significant reduction in a margin of safety. These changes propose extending the surveillance intervals for chemical and volume control system testing. The changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. An evaluation of past equipment performance and other system testing (e.g., monthly tests) provides assurance that the longer surveillance intervals will not degrade system performance.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Project Director:* Robert A. Capra

**Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey**

*Date of amendment request:* May 6, 1993

*Description of amendment request:* This license change request would eliminate the requirement to place the filtration, recirculation, and ventilation system (FRVS) in operation when the reactor vessel level instrumentation is inoperable.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PSE&G has, pursuant to 10 CFR 50.92, reviewed the proposed amendment to determine whether our request involves a significant hazards consideration. We have determined that operation of the Hope Creek Generating Station in accordance with the proposed changes:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

FRVS is an engineered safety features (ESF) system designed to reduce offsite doses significantly below 10CFR100 guidelines during a loss of coolant accident, a refueling accident, or a high radioactivity event in the reactor building. FRVS is therefore intended to mitigate the consequences of various accidents but has no impact relative to initiation of any accident scenario. As a result, changes to FRVS requirements may impact the consequences of previously analyzed accidents, but would not be expected to affect the probability of any previously analyzed accident.

Operation of FRVS is credited in the evaluation of the radiological consequences of a fuel handling accident and a loss of coolant accident (LOCA); however, initiation of FRVS on Level 2 is applicable only for LOCA mitigation.

The proposed changes remove the requirement to operate FRVS when the reactor level instrumentation is inoperable as long as the reactor level is maintained at least 22 feet 2 inches over the top of the reactor pressure vessel flange, the suppression pool level is maintained at greater than or equal to 5 inches indicated level, at least one channel of the suppression pool high level alarm is operable, and the spent fuel pool gates are removed. The intent of the requirement to place FRVS in operation in this situation is to compensate for the loss of the automatic Level 2 FRVS initiation signal.

Other measures are also available to compensate for the loss of the Level 2 signal. These include: (1) the capability to detect a significant loss of vessel inventory and the associated capability to manually initiate FRVS from the control room and (2) the other automatic FRVS initiation signals. We believe that, during flood-up conditions, these measures would provide adequate assurance that FRVS would already be in operation if the Level 2 setpoint were to be reached. As a result, the assumptions made relative to FRVS in the evaluation of the radiological consequences for the accident scenarios analyzed in the Hope Creek UFSAR [i.e., updated final safety analysis report] are unaffected and the proposed changes will therefore not significantly increase the consequences of any previously analyzed accident.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Deletion of the FRVS start with inoperable level instrumentation has no effect on the function or operation of any plant system nor does it involve any type of plant modification. Additionally, no new modes of plant operation are involved with these changes. The proposed changes therefore will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

As noted in Criterion 1 above, other measures are available to compensate for the loss of the Level 2 FRVS initiation signal. PSE&G believes that, with at least 22 feet 2 inches over the top of the reactor pressure vessel flange, the suppression pool level maintained at greater than or equal to 5 inches indicated level, at least one channel of the suppression pool high level alarm is operable, and the spent fuel pool gates removed, the level of assurance that FRVS would already be in operation if the Level 2 setpoint were to be reached is comparable to that provided by the Level 2 signal itself. We therefore conclude that the proposed changes will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

*Attorney for licensee:* M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

*NRC Project Director:* Charles L. Miller

**Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey**

*Date of amendment request:* May 18, 1993

*Description of amendment request:* The proposed amendment would revise the surveillance requirements of Technical Specification 4.4.1.2, Reactor Coolant Recirculation System Jet Pumps such that: (1) The acceptance criteria for

the indicated diffuser-to-lower plenum differential pressure of any individual jet pump will be increased from 10% to 20% from established patterns. (2) During single loop operation, the surveillance requirement to demonstrate operability of the jet pumps at least once every 24 hours will be revised to be applicable only to the jet pumps for the operating loop. (3) The footnote associated with Technical Specification 4.4.1.2 that requires the gathering of baseline data for two-loop or single-loop operation during startup following any refueling outage is proposed to be deleted.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PSE&G has, pursuant to 10CFR50.92, reviewed the proposed changes to determine whether our request involves a significant hazards consideration. We have determined that operation of Hope Creek Generating Station in accordance with the proposed change:

1. Will not involve a significant increase in the probability or consequences of an accident [ . . . ] previously evaluated.

Increasing the acceptance criteria from 10% to 20% for the diffuser-to-lower plenum D/P [differential pressure] of any individual jet pump is consistent with the recommendations of GE SIL 330.

This criterion, along with the other criteria of Surveillance Requirement 4.4.1.2, will ensure that possible jet pump degradation is detected.

Degradation of an inactive jet pump during single loop operation is not considered credible due to significantly reduced stresses applied to the jet pump beam. Surveillance testing of the operating jet pumps and any surveillance testing completed prior to removing a recirculation loop from operation will continue to ensure that jet pump integrity is maintained. This will ensure that the core can be reflooded to a level of two thirds of the core height following a LOCA [loss of coolant accident].

Baseline data collection will be performed when single loop operation is entered for the first time during an operating cycle. Previous operating cycle baseline data for single loop operation will be utilized until new baseline data analysis can be completed. This previous data, along with surveillance results taken during two loop operation will provide the same degree of confidence that jet pump integrity is maintained. This will ensure that the core can be reflooded to a level of two thirds of the core height following a LOCA.

Therefore, the operation of Hope Creek Generating Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident or malfunction of equipment important to safety previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment to the jet pump surveillance requirements will continue to ensure that any significant jet pump degradation will be detected prior to jet pump failure. Failure of an inactive jet pump located in an inactive recirculation loop during single loop operation is not considered credible as discussed above. Therefore, the possibility of a new or different kind of accident previously evaluated is not created.

3. Will not involve a significant reduction in a margin of safety.

The proposed amendment to the jet pump surveillance requirements will continue to ensure that any significant jet pump degradation will be detected prior to jet pump failure. Jet pump integrity will be maintained thereby assuring the ability to allow reflooding of the core to a level of two-thirds core height during the reflood phase of a LOCA as well as maintain the assumed blowdown flow during a LOCA.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

*Attorney for licensee:* M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

*NRC Project Director:* Charles L. Miller

**Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey**

*Date of amendment request:* May 21, 1993

*Description of amendment request:* The licensee is proposing to revise surveillance requirement 4.8.1.1.2.h.3 to increase the voltage limit to 4785 volts (from 4580 volts) when performing the 18-month diesel full load rejection test.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PSE&G has pursuant to 10CFR50.92, reviewed the proposed amendment to determine whether our request involves a significant hazards consideration. We have determined that:

1. The operation of Hope Creek Generating Station (HCGS) in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change affects a surveillance requirement of the diesel generators which is performed along with various other tests to demonstrate operability. The operability of the diesel generators ensures that sufficient power will be available to supply the safety related equipment required for the safe shutdown of the facility and the mitigation and control of accident conditions within the facility during power operation. The operability during shutdown and refueling ensures that the facility can be maintained in the shutdown or refueling condition for extended time periods and ensures sufficient instrumentation and control capability is available for monitoring and maintaining the unit status.

The purposes for diesel generator operability as described above do not involve the probability of accidents that are already evaluated, but rather the diesel generators can impact the consequences of an accident (e.g. if one were to fail). This change, however, does not affect the diesels' ability to mitigate an accident nor does it affect its operability.

The purpose of performing a full load rejection test is to demonstrate that the engine will remain available (i.e., will not trip) if for some reason the generator output breaker were to open with the engine carrying all the design safety loads or for some other event that would cause a simultaneous loss of all loads. If this rejection were to occur, closing the output breaker and reloading the generator as quickly as possible would be desirable. Since there is no trip involved with a high voltage condition that might be experienced on a load rejection, the reason for having such a criteria is to demonstrate that the voltage regulator is capable of maintaining the generator stable.

The second parameter used as an acceptance criteria to demonstrate stability on a load rejection is engine speed. This tests the operation of the governor and the ability to adequately maintain engine control. Though 115% of nominal speed is given in the Committed Regulatory Guides as the acceptance criteria, engine speed is independent of voltage and is not part of this LCR [license change request].

The change being performed increases the acceptable voltage by 5% (205 volts) that the generator might experience on a loss of full load. Thus, the total acceptable value would be 15% (625 volts) over the nominal rating of 4160 volts. There is no detrimental effects on the generator if 4785 volts would be experienced. During the initial manufacturer's acceptance test, a high-pot on the generator was performed with a voltage of 1.5 times the nominal rating (6240 volts) applied to the unit. On the load rejection, the subsequent increase in voltage is a momentary spike as the voltage regulator will return the voltage to a lower steady state unloaded value. Operating the generator with a high voltage would have an effect on the

loads being supplied. However, this does not need to be evaluated since at the time the voltage spike would be experienced there would be no loads connected to the diesel generator. Only the generator would experience the increase in voltage and not the associated loads. The effect of this slight increase in voltage would have a negligible effect on the machine. The windings are able to withstand voltage values that are substantially higher. The point at which the insulation and connections break down (e.g. BIL value) are also substantially higher.

It can therefore be concluded that the increased voltage value on which the testing acceptance is based will not have an effect on the diesel generator operability. Since operability of the diesels is not effected, there is no increase in the consequences of an accident previously evaluated.

2. The operation of Hope Creek Generating Station (HCGS) in accordance with the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change involves an increase in the upper limit for a test acceptance criteria. There are no physical changes that are to be performed to the plant as a result of this change to the Technical Specifications nor is there a change to the manner in which the plant is operated. As discussed above, this new value does not affect the operability of the diesel generators. Therefore, no new or different kind of accident is created by this change.

3. The operation of Hope Creek Generating Station (HCGS) in accordance with the proposed change does not involve a significant reduction in a margin of safety.

The change does not affect the diesel generators' ability to mitigate the consequences of any loss of power accident. Allowing the generator an additional 205 volts increase for a loss of continuous rated load does not affect the ability to recover from the anticipated transient. All design requirements and parameters of the emergency diesel generators will be maintained. It [is] concluded that this change does not involve a significant reduction in safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

*Attorney for licensee:* M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

*NRC Project Director:* Charles L. Miller

**Sacramento Municipal Utility District (SMUD, the licensee), Docket No. 50-312, Rancho Seco Nuclear Generating Station (RSNGS), Unit No. 1, Sacramento, California**

*Date of amendment request:* January 19, 1993, and revised May 14, 1993

*Description of amendment request:* This proposed change would modify the SMUD nuclear organization that would oversee the operation of RSNGS at least through the Custodial SAFSTOR phase of the RSNGS decommissioning project. SMUD proposed the following nuclear organization and Rancho Seco Permanently Defueled Technical Specification (PDTS) changes:

1. Replace the Deputy Assistant General Manager (AGM), Nuclear position with a new position, the Manager, Plant Closure & Decommissioning (Plant Manager). The Plant Manager would take over the Rancho Seco site management responsibilities, previously held by the Deputy AGM, Nuclear, and be directly responsible for the overall day-to-day safe operation and maintenance of the Rancho Seco nuclear facility during the Permanently Defueled Mode (PDM).

2. Create a new corporate position, the Deputy AGM, Operations. The SMUD General Manager, through the AGM & Chief Operations Officer and the Deputy AGM, Operations would have the ultimate corporate responsibility for the overall safe operation of the Rancho Seco nuclear facility. The new position, Deputy AGM, Operations, is taking over the direct corporate responsibilities that the AGM & Chief Operations Officer had for ensuring the overall safe operation of the Rancho Seco nuclear facility during the PDM.

3. Combine PDTS Sections D6.2.1d and D6.2.1e into one specification in accordance with the guidance contained in NRC Generic Letter 88-06, "Removal of Organization Charts from Technical Specification Administrative Control Requirements." The individuals that carry out quality assurance functions would report to the appropriate on-site manager and shall have organizational freedom to ensure their independence from operating pressures. Furthermore, the licensee proposes to add a sentence to Specification D6.2.1d to clarify the relationship between the Quality organization supervisor and the Plant Manager and Deputy AGM, Operations, and indicate how the quality assurance functions are maintained independent from operating pressure.

4. The Management Safety Review Committee (MSRC) would report to and advise the new corporate position directly responsible for the Rancho Seco nuclear facility, the Deputy AGM, Operations.

5. The Plant Review Committee (PRC) would report to and advise the new management position directly responsible for the overall day-to-day operation and maintenance of the facility, the Plant Manager. The Plant Manager would replace and take over the duties previously performed by the Deputy AGM, Nuclear.

6. A change is to be made to the description of the position, under whom audits of facility activities are performed. The specific title, Manager, Nuclear Quality Assurance, is changed to the more generic position description, Quality organization supervisor.

7. Reference to the Radiation Protection Manager (RPM) is to be editorially modified to clarify that the individual assigned the RPM function will meet the RPM qualification requirements specified in NRC Regulatory Guide 1.8, September 1975, as required by PDTS Section D6.3, Facility Staff Qualifications.

The licensee also proposes to make the following editorial changes:

1. Reference in the PDTS to the Updated Safety Analysis Report (USAR) and the Operating License (OL) are to be changed to the Defueled Safety Analysis Report (DSAR) and the Rancho Seco Possession-Only License (POL), respectively, and

2. A wording change is to be made to PDTS Section D6.5.1.4 (PRC Meeting Frequency) to ensure Specification D6.5.1.4 clearly states that the PRC may convene more frequently than once per month at the discretion of the PRC Chairman or the Plant Manager.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

- A significant increase in the probability or consequences of an accident previously evaluated in the SAR will not be created, because the proposed organization changes continue to provide the management oversight features that are important to ensure overall safe operation of the Rancho Seco nuclear facility during the PDM, through the Custodial SAFSTOR decommissioning phase.
- The proposed amendment will not create the possibility of a new or different type of accident than previously evaluated in the SAR, because the changes are administrative in nature, maintain the appropriate organization relationships that will ensure safe plant operation in the PDM, and do not provide any new mechanisms by which an accident can occur.
- The proposed PDTS amendment will not involve a significant reduction in the margin of safety, because the District will continue to maintain the appropriate administrative controls, organizational relationships, and corporate and on-site line management responsibilities necessary to ensure Rancho Seco is operated safely during the PDM.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822

*Attorney for licensee:* Jan Schori, Esquire, Sacramento Municipal Utility

District, 6201 Street, P.O. Box 15870, Sacramento, California 95813

*NRC Project Director:* Seymour H. Weiss

**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 12, 1993

*Description of amendment request:* This proposed change would replace in its entirety the existing set of Technical Specifications incorporated in

*Facility Operating License No.* DRP-13 as Appendix A with a set of Permanently Defueled Technical Specifications (PDTS).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response: No*

Only two of the accidents that are evaluated in Chapter 15 of the UFSAR remain applicable for the permanently defueled plant: (1) a loss of offsite power (LOP) and (2) a fuel handling accident. The other Chapter 15 accidents are not applicable during the defueled condition. Maintaining the permanently defueled plant in accordance with the proposed PDTS does not affect the probability of occurrence of an LOP, but the probability of a fuel handling accident will be reduced. The consequences of both accidents will be reduced during the Permanently Defueled Mode. Additionally, the ability of the fuel storage facility to withstand other applicable UFSAR events, natural phenomena, and fires is either unchanged from the existing licensing basis or is improved during the defueled condition.

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*

Operating the permanently defueled plant in accordance with the proposed PDTS does not create the possibility of a new or different kind of accident from any previously considered. Most of the existing plant systems and functions will not be operational during the Permanently Defueled Mode since power operations are not allowed and all of the fuel at SONGS 1 is stored in the spent fuel pool. However, all systems and components that are necessary for safe fuel handling and storage activities will be maintained operable during the permanently defueled condition. The proposed PDTS provide operation and surveillance requirements and administrative controls which are sufficient to ensure that the required systems and components will be operable during the Permanently Defueled Mode.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

*Response: No*

The proposed PDTS are sufficient to ensure no reduction in a margin of safety, in part, because of the reduced range of design basis accidents against which the plant must be protected once the plant is permanently defueled. Only the LOP and fuel handling Chapter 15 accidents are relevant during the Permanently Defueled Mode. The margins of safety for both of these accidents will be improved by maintaining the plant in accordance with the proposed PDTS. None of the other Chapter 15 accidents are applicable since power operation will not occur during the defueled condition. Additionally, the margins of safety for other applicable UFSAR events, natural phenomena, and fires are either improved during the Permanently Defueled Mode or remain unchanged from the plant's current licensing basis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P.O. Box 19557, Irvine, California 92713

*Attorney for licensee:* James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

*NRC Project Director:* Seymour H. Weiss

**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 requests:* March 5, 1993

T3

*Description of amendment requests:* The licensee proposes to revise Technical Specification (TS) 3/4.7.1.1, "Turbine Cycle." This proposed change will increase the as-found setpoint tolerance for the Main Steam Safety Valves (MSSVs) from +/-1% to +2%/-3%. The existing ACTION statement will be revised to require HOT STANDBY instead of HOT SHUTDOWN. Table 3.7-2 will be revised to require a reduction in steady state operating power with MSSVs INOPERABLE. Also included in this proposed TS change are several editorial, format, and Bases changes which clarify the intent of this TS.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:No

The proposed change to increase the as-found setpoint tolerance of the Main Steam Safety Valves (MSSVs) to +2%/-3% maintains safety analysis requirements. Because the upper limit lift pressures are higher, peak primary and secondary pressures are affected. However, reanalyses of the limiting overpressure events, which are the Loss of Condenser Vacuum (LOCV) and Feedwater Line Break (FWLB), demonstrate that the proposed upper limits do not significantly affect peak primary or secondary pressures. Therefore, the proposed upper limits maintain the MSSVs within safety analysis limits. Also, margin between the as-left setpoints and the upper limit of the as-found setpoint tolerance is maintained by the proposed footnote to Limiting Condition For Operation 3.7.1.1 and Table 3.7-1.

If the MSSVs are set below the upper limit lift pressures, acceptable overpressure results are obtained. Therefore, lowering the minimum allowable lift pressure to -3% below each setpoint maintains valve setpoint staggering, safety analysis requirements, and sufficient margin between MSSV lift pressures and peak operating pressure. Also, a setpoint tolerance of -3% for the lowest set pair of valves maintains the current dose assumption associated with a Steam Generator Tube Rupture.

The proposed as-found setpoints have a marginal effect on transient Departure from Nucleate Boiling Ratio (DNBR). However, TS 3/4.2.4 reserves adequate DNBR overpower margin to ensure specified acceptable fuel design limits are not exceeded in the event of an Anticipated Operational Occurrence. The limiting required overpower margin is not adversely affected by this proposed change to MSSV setpoints.

Because this change still requires MSSVs to be set within safety analysis limits, there is no significant increase in the probability or consequences of a previously evaluated accident.

The change to ACTION statement a requires entry into HOT SHUTDOWN conditions within 12 hours instead of COLD SHUTDOWN within 30 hours. Reducing the completion time to 12 hours is more conservative than the existing requirements. Furthermore, the MSSVs are not required to be OPERABLE in HOT SHUTDOWN. Therefore, there is no significant increase in the probability or consequences of a previously evaluated accident due to this change.

Revising the title of column 2 of Table 3.7-2 to "Maximum Allowable Steady State

Power" requires reduction of Steady State Thermal Power instead of reduction of linear power high trip setpoints when one or more MSSVs are inoperable. The allowable power values are based on sufficient overpressure mitigation and decay heat removal capacities for the number of operable MSSVs. Reducing the allowable steady state powers from existing values provides margin for power indication error and is more conservative than existing allowable steady state power values. Reactor trip for overpressure events is maintained through a high pressurizer pressure trip. Analysis of the Control Element Assembly (CEA) Ejection and Withdrawal events initiated at reduced power levels demonstrates sufficient relief capacities with normal trip setpoints. Therefore, there is no significant increase in the probability or consequences of a previously evaluated accident due to this change.

The additional ACTION statement is a clarification to provide more explicit guidance to the operators for all configurations of inoperable MSSVs. Therefore, this change does not involve a significant increase in the probability or consequences of a previously evaluated accident.

Deleting the orifice size column from Table 3.7-1 is an editorial change only. This information is not used by the operators, nor do they have any control over MSSV orifice size. Therefore, removing this information does not significantly increase the probability or consequences of a previously evaluated accident.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

MSSVs are designed to provide overpressure protection and decay heat removal during design basis events. Therefore, widening the as-found setpoint tolerance to +2%/-3% for the MSSVs affects only those previously evaluated events which require MSSV actuation. The only effect MSSV setpoints have on normal plant operation is inadvertent opening of a valve due to a low setpoint. The minimum lift pressure of 1067 psia is sufficiently higher than peak secondary operating pressures so that the probability of inadvertent MSSV opening is not increased. Therefore, this proposed change will not create the possibility of a new or different type of accident from any accident previously evaluated.

Requiring HOT SHUTDOWN entry instead of COLD SHUTDOWN entry in Action a is acceptable because there is no credible event different from any previously evaluated requiring MSSV operation in HOT SHUTDOWN. Therefore, this proposed change will not create the possibility of a new or different type of accident from any accident previously evaluated.

Requiring reduced steady state power levels with one or more inoperable MSSV instead of reducing linear power level high trip setpoints is acceptable because reactor trip for overpressurization events occurs on high pressurizer pressure for all events. For the CEA Ejection or Withdrawal events, sufficient relief capacity is maintained by operating according to Table 3.7-2 with normal high power trip setpoints. A trip on reduced high linear power is unnecessary. Normal administrative controls provide reasonable assurance that the power limits for operation with INOPERABLE MSSVs are not exceeded. Therefore, there is no possibility of a new or different type of accident from any accident previously evaluated.

The additional action statement to require a mode reduction when less than five MSSVs are OPERABLE for any steam generator is a clarification to provide explicit guidance to the operators for all configurations of inoperable MSSVs. This is more conservative than the existing requirements. Therefore, this change does not create the possibility of a new or different type of accident from those previously evaluated.

Deleting the orifice size column from Table 3.7-1 is an editorial change only. This information is not used by the operators, nor do they have any control over MSSV orifice size. Therefore, removing this information does not create the possibility of a new or different type of accident from those that have been previously evaluated.

3. Will operation of the facility according to this proposed change involve a significant reduction in a margin of safety?

Response: No

The only margin of safety affected by this change is the increase in peak primary and secondary pressure due to raising the upper limit of allowable lift pressures. The limiting overpressure events, FWLB and LOCV were reanalyzed with the proposed upper limits and peak primary and secondary pressures remain within design limits. Therefore, there is no significant reduction in a margin of safety.

The change to a +2%/-3% expanded as-found setpoint tolerance maintains safety analysis requirements. The change requiring HOT SHUTDOWN entry instead of COLD SHUTDOWN entry is more appropriate than the existing specification. The change requiring a reduction in steady state power level instead of reducing the linear power level high trip setpoint continues to maintain the plant at a power level based on the operability of MSSVs. The additional ACTION statement is a clarification to provide explicit guidance to the operators for all configurations of inoperable MSSVs. Deleting the orifice size column from Table 3.7-1 is an editorial change only. Therefore, there is no significant reduction in a margin of safety as a result of this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P.O. Box 19557, Irvine, California 92713

*Attorney for licensee:* James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

*NRC Project Director:* Theodore R. Quay

**Southern California Edison Company, et al., Docket No. 50-362, San Onofre Nuclear Generating Station, Unit No. 3, San Diego County, California**

*Date of amendment requests:* April 30, 1993

T3

*Description of amendment requests:* The licensee proposes to revise Technical Specifications (TS) 3/4.4.8.1, "Pressure-Temperature Limits," TS 3.4.8.3.1, "Overpressure Protection Systems-RCS Temperature less than or equal to 302°F," and TS 3.4.8.3.2, "Overpressure Protection Systems-RCS Temperature ≤302°F," and associated Figures and Bases. The proposed change will revise the Reactor Coolant System (RCS) Pressure-Temperature (P-T) limit curves and the Low Temperature Overpressure Protection (LTOP) enable temperatures to be effective until 8 effective full power years (EFPY) of operation.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

To compensate for any increase in the reactor vessel nil ductility reference temperature($RT_{NDT}$) caused by neutron irradiation, limits on pressure-temperature (P-T) relationships are periodically changed in accordance with 10 CFR 50, Appendix G. This allows the materials for the pressure-retaining components of the reactor coolant pressure boundary to stay within their stress limits during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, over its service lifetime.

The updates to [TS] Figures 3.4-2, 3.4-4, and 3.4-5 incorporate the changes to the P-T limits calculated using conservative fluence values. The new P-T limit curves (Figures 3.4-6 and 3.4-7) for Remote Shutdown cooldown operation incorporate the higher Total Loop Uncertainties (TLUs) for pressure for shutdown instruments on the Remote Shutdown panel as compared to the lower TLUs for pressure for Control Room shutdown instruments. The temperature TLUs for both the Remote Shutdown instruments and the Control Room shutdown instruments are equal. These updates maintain margins of safety against nonductile

failure of the reactor pressure vessel based on the results of the Unit 3 surveillance capsule analysis and the updated material properties evaluated in response to GL 92-01, Revision 1 "Reactor Vessel Structural Integrity." Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change to the Low Temperature Overpressure Protection (LTOP) enable temperatures is in accordance with NUREG-0800 Branch Technical Position [BTP] RSB 5-2, Revision 1, "Overpressurization Protection of Pressurized Water Reactors While Operating at Low Temperatures." The results of the most limiting energy addition transient which is driven by the differential temperature between the Reactor Coolant System (RCS) and the steam generator are not changed by this revision to the LTOP. As such the proposed change is bounded by the original analysis. Therefore, the proposed LTOP enable temperature 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 this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change incorporates the change in reactor vessel $RT_{NDT}$ from different irradiation stages to reflect the accumulation of fast neutron exposure. Any increase in $RT_{NDT}$ due to irradiation is compensated for by limiting pressure-temperature relationships in accordance with 10 CFR 50 Appendix G to ensure pressure-retaining components of the reactor coolant pressure boundary stay within their stress limits over their service lives. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

All LTOP design basis energy addition and mass addition transients have been previously evaluated and remain bounding. The proposed changes do not result in any system configuration changes which would affect the capability of the Shutdown Cooling System (SDCS) Relief Valve to respond to design basis transients. Operation of the plant in accordance with TSs 3.4.1.3, "Hot Shutdown," and 3.4.1.4.1, "Cold Shutdown-Loops Filled," remain unchanged. Therefore, the proposed LTOP enable temperature changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in the margin of safety?

Response: No.

The purpose of the P-T limit curves is to limit thermal stresses induced by the normal load transients, reactor trips, and unit startup and shutdown operations. The proposed revision to the P-T limit curves incorporates the effects of neutron-induced embrittlement in the pressure-retaining component materials to preserve the margin of safety required by 10 CFR 50, Appendix G. Therefore, the proposed change will not involve a significant reduction in a margin of safety

The proposed LTOP enable temperatures of 267°F for heatup, and 250°F for normal and Remote Shutdown cooldown meet the recommendations of NUREG-0800 Branch Technical Position RSB 5-2, Revision 1. The proposed LTOP enable temperatures will assure the SDCS Relief Valve will be aligned to the RCS system to mitigate the consequences of low temperature overpressure events. Furthermore, the maximum RCS pressure used in the analysis bounds the worst case scenario of the postulated overpressurization event. Hence, it is assured that the P-T limits will not be exceeded by overpressurization transients. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

*Attorney for licensee:* James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

*NRC Project Director:* Theodore R. Quay

**Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of amendment request:* March 19, 1993 (TS 332)

*Description of amendment request:* The proposed amendment changes the surveillance frequency for emergency diesel generator maintenance inspections from once per year to 24 months.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequence of any accident previously evaluated.

The proposed surveillance interval has been determined by the manufacturer to be adequate to detect wear prior to any significant reduction in either capability or availability of the emergency diesel generators; therefore, the accident mitigation capability of the plant has not been adversely affected. Emergency diesel generator availability is expected to increase as a result of reduced outage time. Other surveillances which are specifically related to emergency diesel generator capability are not being changed. The accident mitigation capability of plant features is not reduced and the proposed amendment does not cause or allow the reactor plant to be operated under different conditions than currently licensed. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident which has been previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed amendment does not create or cause any new modes of operation. External conditions required for operations are not changed by the amendment. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The wear, corrosion and aging acceptance criteria associated with diesel generator inspection are not being changed. The reduction in the ability to detect wear has been evaluated by the manufacturer to be insignificant because the wear rate is small relative to the inspection interval under normal nuclear plant standby service. The availability of the diesel generators is expected to improve because of a reduction in maintenance outage time. For the above reasons, the capability and availability of the diesel generators to perform protective actions is not significantly reduced. Since the diesel generators remain capable of performing protective actions when required and before any plant parameters approach safety margins, the proposed amendment does not change any accident or transient analyses which has been used as a plant licensing basis. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

*NRC Project Director:* Frederick J. Hebdon

**Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of amendment request:* March 25, 1993 (TS 322)

*Description of amendment request:* The proposed amendment revises

technical specifications 3,1/4.1, 3.2/4.2, and 3.7/4.7 to eliminate reactor scram and main steamline isolation valve closure requirements associated with the Main Steamline Radiation Monitors (MSRM).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence of these accidents is based on initial conditions and assumptions which are not dependent on the use of or interactions with the MSRM system. Elimination of the scram and isolation function on a high radiation signal will not affect operation of other Reactor Protection System or primary containment isolation functions.

The analysis of the control rod drop accident is described in Section 14.6.2 of the BFN [Browns Ferry Nuclear Plant] Updated Final Safety Analysis Report (UFSAR). This analysis takes credit for closure of the MSIVs [Main Steam Isolation Valves] upon receipt of a MSRM high radiation signal. This closure signal limits the release of radioactivity via the condenser. Removal of the MSRM high radiation trip signal will delay the MSIV closure, allowing more radioactivity to reach the condenser and eventually be released. Although the resulting offsite doses calculated in the BWROG report are higher than those previously reported in the BFN UFSAR, they are not a significant increase and remain well below the limits of 10 CFR Part 100.

[The licensee has also provided information to support its claim that the performance of the Browns Ferry Nuclear Plant if the MSRM functions are modified as proposed will be bounded by a generic analysis performed by the General Electric Company. This analysis is described by a General Electric Licensing Topical Report, NEDO-31400, "Safety Evaluation For Eliminating The Boiling Water Reactor Main Steam Line Radiation Monitor." The NRC staff provided a safety evaluation of NEDO-31400 on May 15, 1987.]

In addition the Unit 2 specific calculation supports the change to the MSRMs calibration frequency of once/18 months.

Therefore, the proposed amendment does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from an accident previously evaluated.

This amendment affects the trip functions of the MSRMs. The sole purpose of these trip functions is to mitigate the consequences of a control rod drop accident [CRDA], a previously analyzed event. Removal of the high radiation trip signal was justified by NEDO-31400 which has been reviewed and accepted by the NRC. The Unit 2 specific calculation supports the change to the MSRMs calibration frequency of once/18 months. Therefore, the possibility of an accident of a new or different type is not created by this change.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The BFN Technical Specification Bases state that these monitors were provided to detect gross fuel failure resulting from the CRDA and provide MSIV closure to maintain radiological releases below 10 CFR Part 100 limits. As discussed in the NRC's SER approving NEDO-31400, the calculated radiological release consequences of the bounding CRDA are well within the acceptable dose limits as specified in 10 CFR Part 100. The Unit 2 specific calculation supports the change to the MSRMs calibration frequency of once/18 months. Unit 1 and 3 calculations will be performed prior to their restart to confirm their calibration frequency. Therefore, these changes will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

*NRC Project Director:* Frederick J. Hebdon

**Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* February 17, 1993

*Description of amendment request:* The proposed amendment would change some of the trip setpoints and the allowable values contained in Technical Specification (TS) 3/4.3.2.1, "Safety Features Actuation System Instrumentation," and TS 3/4.3.2.2, "Steam and Feedwater Rupture Control System Instrumentation." The changes would incorporate revised instrument string error allowances based on the methodology of the Instrument Society of America Standard, ISA S67.04-1982, "Setpoints for Nuclear Safety Related Instrumentation." Also, an increase in the containment high radiation trip is proposed to provide margin to accommodate changes in background radiation.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1a. The proposed change will not involve a significant increase in the probability of an accident previously evaluated because the analyses were performed using an industry standard that has been endorsed by the NRC in Regulatory Guide 1.105, Revision 2, "Instrument Setpoints for Safety Related Instrumentation."

1b. The proposed change will not involve a significant increase in the consequences of an accident previously evaluated because the licensee's analyses show that the increase due to a letdown line break event as a result of changing the reactor coolant system pressure - low setpoint is small and still meets the NRC Standard Review Plan acceptance criteria that doses be below 10% of 10 CFR Part 100 guideline values. Also, the analyses show that the remaining setpoint changes do not increase the radiological consequences.

2. The proposed change will not create the possibility of a new or different kind of accident from any previously evaluated accident because there are no design modifications or hardware changes being made.

3. The proposed change will not involve a significant reduction in a margin of safety because it is based on analyses performed using an industry standard that has been endorsed by the NRC in Regulatory Guide 1.105, Revision 2.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606

*Attorney for licensee:* Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037

*NRC Project Director:* John N. Hannon

**Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* May 6, 1993

*Description of amendment request:* The proposed amendment would change the reporting frequency requirements of Technical Specification (TS) 6.9.1.11 and related TS from semiannually to annually for submission to the NRC of the Radioactive Effluent Release Report consistent with the recent revision to 10 CFR 50.36a, "Technical Specifications on Effluents from Nuclear Power Reactors." Also, the proposed changes would clarify the reporting requirements contained in TS 4.4.5.5c, TS Table 4.4-2, and associated Bases 3/4.4.5 regarding notification to the NRC of steam generator tube inspection Category C-3 results. This would make the reporting requirements consistent with the New Standard Technical Specifications, NUREG-1430, Revision 0, TS 5.9.2. Finally, an editorial correction is also proposed to TS 4.4.5.2a.3 regarding the definition of a steam generator tube inspection.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Toledo Edison has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no initiators or assumptions for a previously evaluated accident are affected by the proposed administrative reporting requirement changes to TS 4.4.5.5c, Table 4.4-2, 1.32, 3.3.3.9, 3.11.1, 6.5.1.6s, 6.9.1.11 and 6.15, and Bases 3/4.4.5, or by the proposed editorial correction to TS 4.4.5.2a.3.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because no equipment, accident conditions, or assumptions which could lead to an increase in administrative reporting requirement changes or editorial correction.

2a. Not create the possibility of a new kind of accident from any accident previously evaluated because no new accident initiators are being introduced, no new hardware changes are being made, no new testing is being instituted and no new operating manipulations requirement changes or editorial correction.

2b. Not create the possibility of a different kind of accident from any accident previously evaluated because no different accident initiators are being introduced, no changes in hardware are being made, no different testing is being instituted, and no different plant manipulations are being created by these proposed administrative reporting requirement changes or editorial correction.

3. Not involve a significant reduction in a margin of safety because the proposed changes do not reduce or adversely affect the capabilities of any plant structures, systems or components, and involve only administrative reporting requirements and an editorial correction.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606

*Attorney for licensee:* Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037

*NRC Project Director:* John N. Hannon

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of amendment request:* December 15, 1992

*Description of amendment request:* The proposed amendment would make an administrative change to the SRM/IRM Surveillance Requirement for "Detector Not Fully Inserted" trip function and make "note 6" under calibration, "NA."

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change to correct the "Detector Not Fully Inserted" calibration interval from "not to exceed once per week" to "NA" reflects what is considered to be a correction to the Technical Specifications. The proposed calibration interval is consistent with that which appears in the BWR Standard Technical Specifications and the Technical Specifications of some other BWRs. The procedures currently performed to assure the "Detector Not Fully Inserted" Function is operable are actually covered by functional testing and equipment maintenance. This existing testing and maintenance, which will not change, has demonstrated that it is appropriate to assure reliable operation of the subject trip functions. The proposed change does not result in any system hardware modification or new plant configuration. The requested change to the existing calibration interval does not impact any FSAR safety analysis involving the Control Rod Block System. Operability is still assured and Control Rod Block Functions are still provided as required. Therefore, it is concluded that there is not a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed change to correct the calibration interval for control rod block instrumentation meets the intent of Technical Specification requirements for assuring operation of equipment as designed. This change does not relieve the operation of the Control Rod Block Instrumentation from existing requirements and this instrumentation system is still bounded by the assumptions used in the safety analysis. Based upon past operational history, current functional testing and maintenance performed at Vermont Yankee adequately assure operation as designed. The proposed change does not involve any change in Technical Specification setpoints, plant operation, redundancy, protective function or design basis of the plant. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Changing the calibration interval for the SRM and IRM "Detector Not Fully Inserted" Function from "not to exceed once per week" to "NA" does not affect any existing safety margins. Operation, testing and maintenance of this control rod block instrumentation will remain the same. The change is considered an Administrative change since it is believed to be correcting an error. None of the surveillances and testing presently performed on the instrumentation will change. Also, there are no additional surveillances required to be performed on this instrumentation. System function and design basis is maintained. Assurance that Control Rod Block Instrumentation operates within limits determined to be acceptable continues to be provided. Based upon the above, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of the standards in 10CFR50.92 by providing certain examples of (51FR7751, dated March 6, 1986) of actions likely to involve no significant hazards consideration. One of these examples (i) is a purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. This proposed change falls within the scope of this Commission example since it involves correcting a Technical Specification entry but not deleting any of the present surveillance or testing performed on the subject equipment.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301

*Attorney for licensee:* John A. Ritsher, Esquire, Ropes and Gray, One

International Place, Boston, Massachusetts 02110-2624

*NRC Project Director:* Walter R. Butler

**Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas**

*Date of amendment request:* March 8, 1993, as supplemented by letter dated June 2, 1993.

*Description of amendment request:* The proposed amendment would delete Technical Specification Section 3.3.3.7, Chlorine Detection Systems, and the associated Bases as a result of a future plant modification to remove the one-ton chlorine storage containers from the site. This proposed change would be made effective upon the removal of the one-ton chlorine storage containers from the site.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves deletion of the chlorine detection system technical specification based on a plant modification to remove the one-ton chlorine storage containers from the site. Therefore, there would be no increase in the probability of a chlorine release event. The worst case scenario per USAR [Updated Safety Analysis Report] Section 2.2.3.1.7 is eliminated by this change. Release of chlorine from a 150 lb. container at a distance of 100 meters or more from the control room normal air intake will not impair the control room operators before manual isolation of the ventilation system could be performed per Regulatory Guide 1.95. Therefore, the change would not involve an increase in the consequences of a chlorine release event.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change involves only the deletion of the chlorine detection system technical specifications based on a plant modification to remove the one-ton chlorine storage containers from the site. The release of 150 lbs. of chlorine from the Shop Building is bounded by Regulatory Guide 1.95, Section C.2 in that manual isolation capability for the control room ventilation system is acceptable. Therefore, the proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change would not alter the margins of safety provided in the existing USAR analysis for chlorine release events since the bases for the existing margin of safety, which are the Regulatory Guide 1.95 requirements, would not be altered by the change. The Regulatory Guide defines design requirements for chlorine release mitigation systems under various conditions of chlorine quantity and location (distance from the control room normal air intake) of chlorine storage/use areas. The proposed change to delete Technical Specification 3.3.3.7 would not result in a condition that conflicts with the Regulatory Guide. In fact, by eliminating the one-ton chlorine containers, this actually increases the margin of safety. Therefore, the proposed change would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room Locations:* Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

*NRC Project Director:* Suzanne C. Black

**Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas**

*Date of amendment request:* June 1, 1993

*Description of amendment request:* The amendment request proposes revising Technical Specification Section 6.9.1.7, Semiannual Radioactive Effluent Release Report, and associated reporting requirements in Technical Specification Sections 3.11 and 6.14 to extend the reporting period from semiannually to annually. The annual report submission date is proposed to be before May 1 of each year.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. These changes involve an administrative change and as such, have no effect on plant equipment or accident evaluations.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. These changes either do not impact any administrative controls nor involve physical alterations to the plant with respect to radioactive effluent. These changes do not involve any change to the installed plant systems or the overall operating philosophy of WCGS [Wolf Creek Generating Station].

3. Do the proposed changes involve a significant reduction in the margin of safety.

The proposed changes are an administrative change and do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room Locations:* Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

*NRC Project Director:* Suzanne C. Black

**Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas**

*Date of amendment request:* June 1, 1993

*Description of amendment request:* The request proposes a change to Technical Specification 3.8.3.1, Onsite Power Distribution, related to the allowable outage time for two motor control centers associated with the essential service water system. The proposed change would make the allowable outage time for the two motor control centers consistent with the limiting conditions of Technical Specification 3.7.4, Essential Service Water System.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated.

The implementation of the proposed technical specification change does not

involve any modifications to the physical plant or any change to the methods of operation of plant systems. The proposed change revises the limiting conditions for the essential service water system (ESWS) motor control centers (MCCs) contained within the technical specification covering the on-site A.C. power distribution system and eliminates inconsistent requirements for the ESWS. This change will not lessen the requirements imposed on ESWS operability. Therefore, this proposed change will not increase the probability or consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated.

The implementation of the proposed technical specification change does not involve any modifications to the physical plant or any change to the methods of operation of plant systems. As noted above, the proposed change eliminates inconsistent requirements from the technical specifications, but does not lessen the requirements on ESWS operability imposed by the technical specifications. Therefore, the proposed change does not create the possibility of any new or different kind of accident from those previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety.

The proposed change revises the existing 8 our limiting condition to 72 hours for the ESWS MCCs contained in the technical specification covering the on-site A.C. power distribution system and thereby eliminates inconsistencies with the requirements of the technical specification sections explicitly governing the ESWS. The requirements imposed by the technical specifications on ESWS operability are in no way lessened by this change. Therefore, this proposed change does not involve a reduction in any margin of safety.

The staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room Locations:* Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

*NRC Project Director:* Suzanne C. Black

## Notice of Issuance of Amendments to Facility Operating Licenses

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, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document rooms for the particular facilities involved.

**The Cleveland Electric Illuminating Company, Centerior Service 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:* June 30, 1992

*Brief description of amendment:* The amendment revised Technical Specifications 3.3.1, "Reactor Protection System Instrumentation," and 6.9.1.9, "Core Operating Limits Report (COLR)," to transfer the specific value of the simulated thermal power time constant from the Technical Specifications to the COLR.

*Date of issuance:* May 28, 1993

*Effective date:* May 28, 1993

*Amendment No.* 48

*Facility Operating License No.* NPF-58. This amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** August 19, 1992 (57 FR 37561)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1993.

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:* February 26, 1993

*Brief description of amendments:* The amendments revise the surveillance interval for the channel functional test of the Reactor Protection System Electrical Protective Assemblies (RPS-EPA units) per the guidance provided by Generic Letter 91-09, "Modification of Surveillance Interval for the Electrical Protective Assemblies in Power Supplies for the Reactor Protection System." The proposed change would eliminate the potential for inadvertent reactor trip caused by testing the RPS-EPA units during power operation.

*Date of issuance:* May 28, 1993

*Effective date:* May 28, 1993

*Amendment Nos.:* 142 and 137

*Facility Operating License Nos.* DPR-29 and DPR-30. The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** March 31, 1993 (58 FR 16855)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1993.

No significant hazards consideration comments received: No

*Local Public Document Room location:* Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

**Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York**

*Date of application for amendment:* November 12, 1992, as supplemented on February 8, 1993, and April 23, 1993.

*Brief description of amendment:* The amendment revises the Technical Specifications to delete requirements to demonstrate, by testing, that a redundant system/component is operable when a system/component is declared inoperable. The testing of alternate emergency diesel generators is deleted only if the emergency diesel generator is taken out of service for planned maintenance or testing.

*Date of issuance:* June 7, 1993

*Effective date:* June 7, 1993

*Amendment No.:* 163

*Facility Operating License No.* DPR-26: Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 23, 1992 (57 FR 61109)

The April 23, 1993, submittal withdrew proposed changes to Technical Specification Section 1.3, Definition of OPERABLE-OPERABILITY, on the basis that the change was not necessary.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 7, 1993.

No significant hazards consideration comments received: No

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

**Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan**

*Date of application for amendment:* September 28, 1992.

*Brief description of amendment:* This amendment revises Technical Specifications 4.8.1.1.2.c and d to update the standards used to specify the test methods for the emergency diesel generator fuel oil.

*Date of issuance:* June 7, 1993

*Effective date:* The date of issuance with the full implementation within 30 days of issuance.

*Amendment No.:* 90

*Facility Operating License No.* NPF-43. The amendment revises the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 12, 1992 (57 FR 53785)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 7, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

**Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania**

*Date of application for amendments:* February 19, 1993, as supplemented March 31 and April 19, 1993.

*Brief description of amendments:* The amendments revise the Appendix A Technical Specifications relating to reactor thermal design flow (TDF). The amendments reduce the minimum required TDF by about 1.5 percent.

*Date of issuance:* June 1, 1993

*Effective date:* As of date of issuance and to be implemented within 60 days of issuance.

*Amendment Nos.:* 172 and 51

*Facility Operating License Nos.* DPR-66 and NPF-73: Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** March 25, 1993(58 FR 16224)

The March 31 and April 19, 1993 submittals provided additional information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 1, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania**

*Date of application for amendments:* December 30, 1992 as supplemented on March 12, 1993.

*Brief description of amendments:* The amendments revise the Appendix A Technical Specifications (TSs) relating to steam generator (SG) tubing. The amendments permit sleeving of SG tubes at the tube support plate and tube sheet regions in accordance with the process performed by the vendor Babcock and Wilcox (B&W). TS 4.4.5.2 through 4.4.5.5 and Bases section 4.4.5 have been revised to reflect the sleeving option and to make minor editorial corrections.

*Date of issuance:* June 1, 1993

*Effective date:* June 1, 1993

*Amendment Nos.:* 173 and 52

*Facility Operating License Nos.* DPR-66 and NPF-73: Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 6, 1993 (58 FR 17912)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 1, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia**

*Date of application for amendments:* April 8, 1993

*Brief description of amendments:* The amendments modify the Technical Specifications by reducing the value of the peak containment pressure calculated for design basis accidents.

*Date of issuance:* June 2, 1993

*Effective date:* To be implemented within 30 days of issuance

*Amendment Nos.:* 63 and 42

*Facility Operating License Nos.* NPF-68 and NPF-81: Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 28, 1993 (58 FR 25856)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 2, 1993.

No significant hazards consideration comments received: No

*Local Public Document Room location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia**

*Date of application for amendments:* December 22, 1992

*Brief description of amendments:* The amendments revise the qualification requirements of the Independent Safety Engineering Group.

*Date of issuance:* June 7, 1993

*Effective date:* To be issued within 30 days from the date of issuance.

*Amendment Nos.:* 64 and 43

*Facility Operating License Nos.* NPF-68 and NPF-81: Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 17, 1993 (58 FR 8773)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 7, 1993.

No significant hazards consideration comments received: No

*Local Public Document Room location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia**

*Date of application for amendments:* January 22, 1993

*Brief description of amendments:* The amendments modify the Technical Specifications by revising the statistical summation of errors (≥Z'' value) assumed in analyses for steam generator level setpoints.

*Date of issuance:* June 7, 1993
*Effective date:* To be issued within 30 days from the date of issuance
*Amendment Nos.:* 65 and 44
*Facility Operating License Nos.* NPF-68 and NPF-81: Amendments revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** March 31, 1993 (58 FR 16861)
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 7, 1993.
No significant hazards consideration comments received: No
*Local Public Document Room location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of application for amendment:* March 3, 1993
*Brief description of amendment:* The amendment reduces the setpoint on the ninth (highest) safety valve from 1230 to 1221 psig.
*Date of issuance:* June 7, 1993
*Effective date:* June 7, 1993
*Amendment No.:* 164
*Facility Operating License No.* DPR-16. Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** March 31, 1993 (58 FR 16861). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 7, 1993.
No significant hazards consideration comments received: No.
*Local Public Document Room location:* Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

**GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania**

*Date of application for amendment:* October 28, 1992, as supplemented on May 12, 1993.
*Brief description of amendment:* The amendment deletes the requirement to place the plant in COLD SHUTDOWN condition when one Emergency Core Cooling System is inoperable for more than 72 hours. Instead, the plant would be placed in HOT SHUTDOWN when this condition exists.
*Date of issuance:* June 9, 1993
*Effective date:* June 9, 1993
*Amendment No.:* 174
*Facility Operating License No.* DPR-50. Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** December 9, 1992 (57 FR 58246)

The May 12, 1993 submittal provided additional information which did not change the initial proposed no significant hazards consideration determination.The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 9, 1993.

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.

**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:* November 24, 1992

*Brief description of amendment:* The amendment revises the Administrative Controls section of the NMP-1 TS. The revisions incorporate changes in the composition, alternates and quorum requirements of the Station Operations Review Committee. The Safety Review and Audit Board quorum requirements are revised to require a majority of the actual membership rather than only the Chairman or the Chairman's designated alternate and at least three members. A reference to a no longer existent "Appendix A" to 10 CFR Part 55 is deleted from TS 6.4.1 and replaced with a requirement for the retraining and replacement training program to include "familiarization with relevant industry operational experience."

*Date of issuance:* June 3, 1993

*Effective date:* June 3, 1993

*Amendment No.:* 141

*Facility Operating License No.* DPR-63: Amendment revises the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 23, 1992 (57 FR 61115)

The Commission's related evaluation of the amendment is contained in aSafety Evaluation dated June 3, 1993.

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.

**Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York**

*Date of application for amendment:* November 24, 1992
*Brief description of amendment:* The amendment revises Section 6.0, "Administrative Controls," of the Technical Specifications (TSs). TS 6.5.1 is revised to reflect changes in the size and composition of the Station Operations Review Committee (SORC) that are intended to improve the efficiency of the station review function. TS 6.5.3.6 is revised to change the quorum requirements for the Safety Review and Audit Board (SRAB) to ensure membership continuity during scheduled meetings. TSs 6.3 and 6.4 are revised to delete several references and thereby improve consistency with 10 CFR Part 55.
*Date of issuance:* June 3, 1993
*Effective date:* June 3, 1993
*Amendment No.:* 42
*Facility Operating License No.* NPF-69: Amendment revises the Technical Specifications.
*Date of initial notice in* **Federal Register:** January 6, 1993 (58 FR 597)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1993.
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.

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of application for amendment:* March 30, 1993, as supplemented by letters dated April 20 and 27, 1993.
*Brief description of amendment:* The amendment revises the Technical Specifications to extend the interval for surveillance testing of 42 instrumentation and control items presently required to be tested by June 13, 1993, or later, until the next refueling outage, but no later than September 30, 1993.
*Date of issuance:* June 8, 1993
*Effective date:* June 8, 1993
*Amendment No.:* 79
*Facility Operating License No.* NPF-49. Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** May 6, 1993 (58 FR 26988)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 8, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

**Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania**

*Date of application for amendment:* April 5, 1993

*Brief description of amendment:* The amendment revised the Technical Specifications to change the isolation signal for suppression pool cleanup line valves HV-15766 and HV-15768 from reactor vessel low water level 3 (+13") or high drywell pressure to reactor vessel low water level 2 (-38") or high drywell pressure.

*Date of issuance:* June 7, 1993

*Effective date:* June 7, 1993

*Amendment No.:* 125

*Facility Operating License No.* NPF-14: This amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 28, 1993 (58 FR 25862)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 7, 1993.

No significant hazards consideration comments received: No

*Local Public Document Room location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania**

*Date of application for amendments:* February 5, 1993

*Brief description of amendments:* The amendments change Technical Specifications (TS) Section 5.5.D concerning fuel storage criteria. The revised TS allow the use of the maximum k-infinity method of demonstrating compliance with fuel storage criticality limits, replacing the current U-235 loading/enrichment method by a k-infinity method.

*Date of issuance:* May 28, 1993

*Effective date:* May 28, 1993Amendments Nos.: 175 and 178

*Facility Operating License Nos.* DPR-44 and DPR-56: Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** March 3, 1993 (58 FR 12266)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1993.

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.

**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 application for amendments:* December 20, 1991

*Brief description of amendments:* These amendments revise Technical Specifications (TS) 3/4.4.8.3.1, 3/4.1.2.3 and 3/4.5.3, and the Basis for TS 3/4.4.8 to implement the recommendations of Generic Letter 90-06. In addition, these amendments correct an unrelated spelling error in TS 3/4.5.4.

*Date of issuance:* June 1, 1993

*Effective date:* June 1, 1993

*Amendment Nos.:* 105 and 94

*Facility Operating License Nos.* NPF-10 and NPF-15: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 17, 1993 (58 FR 8780)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 1, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

**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 application for amendments:* December 24, 1992

*Brief description of amendments:* The licensee proposes to revise Technical Specifications (TS) 3/4.4.1.4.1, "Cold Shutdown - Loops Filled," TS 3/4.4.1.4.2, "Cold Shutdown - Loops Not Filled," TS 3/4.9.8.1, "Shutdown Cooling and Coolant Circulation-Low Water Level," TS 3/4.9.8.2, "Shutdown Cooling and Coolant Circulation-Low Water Level," and associated Bases. This will allow for the use of Containment Spray (CS) pumps in place of Low Pressure Safety Injection (LPSI) pumps to perform Shutdown Cooling (SDC) during Modes 5 and 6 of operation.

*Date of issuance:* June 4, 1993

*Effective date:* June 4, 1993

*Amendment Nos.:* 106 & 95

*Facility Operating License Nos.* NPF-10 and NPF-15: The amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 17, 1993 (58 FR 8786)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 4, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Main Library, University of California, P. O. Box 19557, Irvine, California 92713

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of application for amendment:* March 26, 1993

*Brief description of amendment:* The amendment revises Technical Specification Section 6.0 to add and revise NRC-approved methodologies which will be used to generate cycle-specific limits in the Vermont Yankee Core Operating Limits Report (COLR) for Cycle 17.

*Date of issuance:* May 28, 1993

*Effective date:* To be implemented within 30 days from the date of issuance.

*Amendment No.:* 135

*Facility Operating License No.* DPR-28. Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 28, 1993 ( 58 FR 25866)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1993.

No significant hazards consideration comments received: No

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

**Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington**

*Date of application for amendment:* October 15, 1991, as supplemented May 20, 1992 and July 28, 1992.

*Brief description of amendment:* The proposed amendment increases the surveillance test intervals and allowable outage times for the reactor core isolation cooling (RCIC) system actuation instrumentation.

*Date of issuance:* June 10, 1993

*Effective date:* 30 days from the date of issuance

*Amendment No.:* 116

*Facility Operating License No.* NPF-21: The amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** May 13, 1992 (57 FR 20520)

The additional information contained in the supplemental letters dated May 20, 1992 and July 28, 1992, was clarifying in nature and thus within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 10, 1993.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Richland Public Library, 955 Northgate Street, Richland, Washington 99352

**Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington**

*Date of application for amendment:* March 10, 1993, with additional information provided on March 24, 1993.

*Brief description of amendment:* The amendment modifies the TS to implement replacement of the current noble gas monitor and grab sample system with an in-line, continuously operating post-accident sampler.

*Date of issuance:* June 10, 1993

*Effective date:* June 10, 1993

*Amendment No.:* 117

*Facility Operating License No.* NPF-21: The amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 28, 1993 (58 FR 25866)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 10, 1993.

Public comments on proposed no significant hazards consideration comments received: No.

*Local Public Document Room location:* Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Dated at Rockville, Maryland, this 16th day of June 1993.

For the Nuclear Regulatory Commission

**Steven A. Varga,**

*Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation*

[FR Doc. 93-14647 Filed 6-22-93; 8:45 am]

BILLING CODE 7590-01-F

**[Docket Nos. 70-00270; 30-02278-MLA; TRUMP-S Project]**

**The Curators of the University of Missouri (Byproduct License No. 24-00513-32; Special Nuclear Materials License No. SNM-247); Notice of Appointment of Adjudicatory Employee**

Pursuant to 10 CFR 2.4 (1993), notice is hereby given that Mr. Rex G. Wescott, a Commission employee in the Office of Nuclear Material Safety and Safeguards, has been appointed as a Commission adjudicatory employee within the meaning of § 2.4 in order to advise the Commission with respect to issues related to the pending appeals of LBP-91-31, and LBP-91-34, 34 NRC 29 and 159 (1991). Mr. Wescott has not previously been engaged in the performance of any investigative or litigating function in connection with this or any factually-related proceeding.

Until such time as a final decision is issued in this matter, parties to the proceeding shall not communicate with Mr. Wescott with regard to the merits of this case.

*It Is So Ordered.*

Dated at Rockville, Maryland, this 17th day of June 1993.

For the Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 93-14757 Filed 6-22-93; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-312]**

**Sacramento Municipal Utility District, Rancho Seco Nuclear Generating Station; Withdrawal of Consideration of Issuance of Exemption**

On May 14, 1992 (57 FR 20718), the U.S. Nuclear Regulatory Commission (NRC) published a Notice of Consideration of Issuance of Exemption from the requirements of 10 CFR 50.75(e)(1)(ii) to the Sacramento Municipal Utility District (SMUD). The proposed action requested on July 24, 1990, as supplemented on March 26 and July 19, 1991, would have exempted SMUD from the requirement to have full decommissioning funding at the time of termination of operations and would have allowed SMUD to accumulate necessary decommissioning funds up to the end of its operating license in 2008.

On July 9, 1992, the final rule on decommissioning funding for prematurely shut down power reactors (57 FR 30383) was issued. This rule, which became effective on August 10, 1992, amended the NRC regulation regarding the timing of collection of funds for decommissioning for prematurely shut down power reactors. The amendment to 10 CFR 50.82 permits the NRC to evaluate, on a case-by-case basis, decommissioning funding plans for power reactors that shut down prematurely. The rule further requires that the NRC evaluation take into account unique safety and financial situations at each power plant.

The NRC has evaluated the SMUD decommissioning funding plan in accordance with 10 CFR 50.82, and found that the licensee financial assurance plan offers adequate assurance that funds will be available to decommission the Rancho Seco Nuclear Generating Station in a manner that protects the public health and safety. This finding pursuant to the amended regulation makes the licensee request for an exemption moot.

Therefore, the NRC is withdrawing its consideration of issuance of an exemption to SMUD from 10 CFR 50.75(e)(1)(ii). The staff evaluation of the SMUD decommissioning funding plan, dated June 16, 1993, considered relevant public comments received on the May 14, 1992, Notice of Consideration of Issuance of Exemption.

Dated at Rockville, Maryland, this 16th day of June 1993.

For the Nuclear Regulatory Commission.

**Seymour H. Weiss,**

*Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.*

[FR Doc. 93-14762 Filed 6-22-93; 8:45 am]

BILLING CODE 7590-01-M

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

**Summary of Proposal(s)**

(1) *Collection title:* Medical Reports
(2) *Form(s) submitted:* G-3EMP, G-250, G-250a, G-260, GL-12, RL-11b and RL-11d
(3) *OMB Number:* 3220-0038
(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
(5) *Type of request:* Revision of a currently approved collection
(6) *Frequency of response:* On occasion

(7) *Respondents:* State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
(8) *Estimated annual number of respondents:* 27,300
(9) *Total annual responses:* 60,950
(10) *Average time per response:* .41324 hours
(11) *Total annual reporting hours:* 25,187
(12) *Collection description:* The Railroad Retirement Act provides disability annuities for qualified railroad employees whose physical or mental condition renders them incapable of working in their regular occupation (occupational disability) or any occupation (total disability). The medical reports obtain information needed for determining the nature and severity of the impairment.

**ADDITIONAL INFORMATION OR COMMENTS:** Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

**Dennis Eagan,**
*Clearance Officer.*

[FR Doc. 93–14726 Filed 6–22–93; 8:45 am]
BILLING CODE 7905–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–32478; File No. SR–CBOE–93–18]**

## Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Floor Broker Requirements for Trading FLEX Options

June 16, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 19, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE proposes to amend its rules respecting Flexible Exchange Options ("FLEX Options") to eliminate the minimum net liquidating equity requirement for floor brokers.[1]

The text of the proposed rule change is available at the Office of the Secretary, CBOE, 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 CBOE 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 CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to enable the Exchange to increase the number of its floor brokers who are eligible to trade FLEX Options, thereby enhancing competition and increasing the potential for exchange member participation in the FLEX Options market. This change would be achieved by eliminating paragraph (b) from Rule 24A.13.

Under current Rule 24A.13(b), any CBOE member acting as a floor broker must maintain at least $100,000 in net liquidating equity to be eligible to effect FLEX Option transactions. At the same time, Rule 24A.15(b) separately requires each floor broker that participates in FLEX Options trading to obtain a letter of authorization from a clearing member specifically accepting responsibility for the clearance of the floor broker's FLEX Options transactions. Based on the CBOE's experience with FLEX Options trading, the Exchange believes that the clearing member letter of authorization requirement, by itself, is sufficient to assure the financial integrity of floor brokers. The separate minimum net liquidating equity requirement appears to the CBOE to be superfluous. No similar requirement applies to floor brokers acting in respect of any other currently-traded CBOE product, as to which clearing member letters of authorization have proven sufficient, in the opinion of the Exchange, for financial responsibility and performance assurance purposes. Accordingly, the CBOE maintains that the only effect of the existing minimum net equity requirement is to give the larger floor brokers exclusive access to the FLEX Options market, without any regulatory justification for that limitation. As a result, the CBOE is now proposing to eliminate the minimum net liquidating equity requirement applicable to floor brokers.

The CBOE believes that the proposed rule change is consistent with section 6(b)(5) of the Act because it is designed to remove an unnecessary regulatory impediment to a free and open market and an unnecessary burden on competition among CBOE members, thereby promoting just and equitable principles of trade and promoting the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### 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 determinate 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.,

[1] See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (FLEX Options approval order).

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 CBOE. All submissions should refer to the file number in the caption above and should be submitted by July 14, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 93–14735 Filed 6–22–93; 8:45 am]

BILLING CODE 8010–01–M

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[Release No. 34–32481; File No. 600–27]

## Self-Regulatory Organizations; Clearing Corporation for Options and Securities; Notice of Filing of Application for Exemption From Registration As a Clearing Agency

June 16, 1993.

On December 14, 1992, the Clearing Corporation for Options and Securities ("CCOS")[1] filed with the Securities and Exchange Commission ("Commission" or "SEC") an application for exemption from registration as a clearing agency pursuant to section 17A of the Securities Exchange Act of 1934 ("Act")[2] and rule 17Ab2–1 thereunder.[3] The Commission is publishing this notice to solicit comments from interested persons.

### I. Introduction

CCOS is proposing to provide clearance and settlement services for government securities transactions executed through Chicago Board Brokerage, Inc. ("CBB").[4] CCOS's application for exemption, filed on Form CA–1, includes rules, procedures, and guidelines for the clearance and settlement of government securities. BOTCC, as sole owner and parent of CCOS, will guarantee CCOS's obligations arising under CCOS's rules, and the clearance and settlement services of CCOS will be modeled after established procedures currently utilized by BOTCC.

CCOS is seeking an exemption from registration as a clearing agency to permit CCOS to provide what it believes to be an innovative and important service related to the futures markets and the market for U.S. Treasury securities ("cash securities"). CCOS intends to file an application for registration as a clearing agency in the near future.[5]

### *A. Trade Clearance and Settlement*

As noted above, CCOS is proposing to provide clearance and settlement facilities for trades executed by CBB and its customers in the CBB trading system. The CBB trading system is designed to offer CBOT members an opportunity to execute a customized package of transactions related to Treasury futures contracts currently traded on the CBOT. CBB will execute the transaction as riskless principal, becoming the counterparty both to the buyer and to the seller. All trades will be effected through the CBB's electronic network.[6]

The system will permit the trading of cash securities, independently and in conjunction with CBOT futures on cash securities (also known as "basis contracts"),[7] and repurchase and reverse repurchase agreement contracts involving cash securities ("Dollar Rolls")[8] in cash securities. Under the CBB proposal, therefore, CBOT traders in cash securities will be able to buy and sell securities underlying CBOT futures contracts and through Dollar Rolls execute trades that help position and inventory management.

The cash securities listed for purchase or sale will consist of Treasury bills (with more than fourteen days to maturity), notes, and bonds, in their various maturities, deliverable under financial futures contracts traded on the CBOT. The settlement date for outright purchase and sale transactions will be the next business day, except for when-issued ("WI") securities,[9] which will

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[2] 17 CFR 200.30–3(a)(12) (1992).

[1] CCOS is a wholly-owned subsidiary of the Board of Trade Clearing Corporation ("BOTCC") which provides clearing services for futures and commodities transactions executed on the Board of Trade of the City of Chicago ("CBOT").

CCOS previously filed two applications for registration as a clearing agency. In its first application, filed on October 14, 1988, CCOS proposed to clear exchange-traded options issued by The Options Clearing Corporation. *See* Securities Exchange Act Release No. 27083 (August 1, 1989), 54 FR 32410. That application subsequently was withdrawn. Letter from Dennis Dutterer, Executive Vice-President and General Counsel, BOTCC, to Jerry Carpenter, Branch Chief, Division of Market Regulation, Commission (November 6, 1991). In the second application, filed on October 21, 1991, CCOS proposed to clear over-the-counter options on government securities. This application also has been withdrawn. Letter from Dennis Dutterer, General Counsel, CCOS, to Jonathan Kallman, Associate Director, Division of Market Regulation, Commission (December 11, 1992).

In this regard, the Commission staff will discuss the issues raised by this application, which involves transactions in and clearing of related cash government securities and futures positions, with the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System and the Department of the Treasury. This release does not address the application of the Commodity Exchange Act to issues discussed in this release.

[2] 15 U.S.C. 78q–1 (1988).

[3] 17 CFR 240.17Ab2–1 (1992).

[4] CBB will be a registered broker-dealer under the Act and is a wholly-owned subsidiary of the CBOT. As discussed below, CBB will execute trades in government securities (unmatured, marketable debt securities in book-entry form that are direct obligations of the United States Government).

[5] The Commission will publish notice of that filing in accordance with Section 19(a)(1) of the Act at the appropriate time.

[6] Each participant of CBB will obtain trading terminals having a CPU, video display monitor, specialized keypad, and a printer, which will be linked by datalines to a central computer facility operated by EJV Partners, L.P. ("EJV"). In order to obtain a terminal, the CCOS participant or non-CCOS CBOT member will be required to enter into a "customer agreement" with CBB which sets out the terms and conditions of access to and use of the terminals. In addition, an employee of a CCOS participant firm or a non-CCOS CBOT member or its employee obtaining a terminal will be required to obtain a certification that the CCOS participant clearing its transactions will be responsible for the acts of the CCOS participant employee, non-CCOS CBOT member, or non-CCOS CBOT member employee. Because each terminal is uniquely identified in its communications with the central site, CBB will know the identity of the customer entering each order through a terminal, *i.e.*, the identity of the CCOS participant, CCOS participant employee, non-CCOS CBOT member, or non-CCOS CBOT member employee to which the terminal has been made available. CCOS participants or non-CCOS CBOT members may establish agent terminals designed to enter quotations for multiple customers who are identified by subaccount numbers. CBB will maintain complete, time-sequenced electronic audit trails on all orders entered on, and all transactions executed through, the system. The recorded activity will indicate, for a given order or transaction, the identity of the customer entering, changing or cancelling orders, and the time and terminal through which such entry or change was effected, and the date, time, volume, security, customer, and price of each transaction executed through the system. Upon execution of an order, the customer will receive an electronic confirmation of the transaction, which can be printed out in hard copy on a dedicated printer connected to the customer's terminal.

[7] A basis trade is a trade in which the participants agree to simultaneously buy/sell cash securities against the offsetting equivalent CBOT Treasury futures contract. The basis represents the price differential between a cash security and the futures delivery price.

[8] In a Dollar Roll transaction, the seller of the contract delivers notes or bonds to the buyer in exchange for cash. Settlement occurs the same day. At the time of execution, the seller and buyer also agree to reverse the transaction at a price that includes a financing interest amount, with settlement occurring the next day.

[9] CBB will offer WI securities for forward purchase and sale. WI securities are those securities that the U.S. Treasury has announced it will sell in a public auction on a specific date in the near future or that have been auctioned but not settled. WI securities trade in the secondary market from the

Continued

settle on the day of issuance by the U.S. Treasury.

The system will permit users to execute basis trades as a single transaction where the price will reflect the spread in basis points between the futures contract and the underlying cash securities; the cash securities will be priced at a certain number of basis points above or below the futures contract.[10]

Dollar Roll transactions are designed to facilitate the financing of cash securities or the loaning of excess funds in exchange for cash securities.[11] Dollar Rolls will result in the creation of two simultaneous outright cash trades. For trades executed during the morning session, the first leg will be for same day ("T") settlement and the second leg will be for next day ("T+1") settlement. Dollar Rolls executed in the afternoon session will settle the first leg on T+1 and the second leg on the following business day ("T+2"). CBB will have one trading session for Dollar Rolls from the opening of trading, 8:00 a.m. to 11 a.m., and an afternoon session for Dollar Rolls from 3:15 p.m. to 5 p.m.[12]

Under the proposal, CBB will submit computer matched trades to CCOS on a real time basis so that trade data executed through CBB immediately flows to CCOS. CCOS will perform all clearance and settlement functions for transactions in cash securities, including: delivery versus payment processing, position consolidation, and original and variation margin calculation and processing as discussed below. BOTCC will enter into a cross-margining agreement with CCOS that will allow common participants to combine cash securities and futures positions for cross-margaining purposes.[13] BOTCC will act as guarantor of CCOS's obligations arising under CCOS's rules and will provide collection and payment services for CCOS variation and original margin payments.

CCOS will net for each participant all delivery obligations of the same CUSIP number. All delivery versus payment calculations will be monitored and controlled by CCOS, and the delivery instructions sent to the settlement bank (The Bank of New York) will reflect the daily settlement value marked to the market. Delivery and payment will occur through the Fedwire system. Thus, all CCOS participants must establish clearing arrangements with a bank having access to Fedwire. CCOS will carry forward any fails to deliver securities on a cumulative basis, after marking those obligations to market value and collecting, as necessary, additional variation margin.

The settlement prices for cash securities will be based upon the cash market indications at the close of futures trading (3:00 p.m.) plus the accrued interest amounts for each security.[14] CCOS will mark all net cash deliverable positions[15] to the settlement values.

*B. System Safeguards*

(1) Participation Standards

Participants in CCOS will be required to meet initial and continuing financial and operational standards, as determined by the CCOS board of directors and administered by CCOS management. CCOS will monitor each participant's financial condition as measured by its financial stability, the level and quality of its earnings, and other generally accepted measures of liquidity, capital adequacy, and profitability. In addition, CCOS will require each member to maintain personnel and facilities adequate to ensure the expeditious and orderly transaction of business with CCOS or other participants. Participation in CCOS will be limited to members of BOTCC and members of the CBOT that are affiliated with members of BOTCC.[16]

(2) Margin Payment/Collection

CCOS proposes to adopt, as one of its principal safeguards, a practice of collecting original and variation margin on participant obligations. CCOS proposes to adopt, in essence, the margin calculation and payment time frames currently used by BOTCC in connection with its clearance of CBOT futures contracts, modified to address specific aspects of the government securities market. Thus, for risk management purposes, CCOS[17] will convert cash securities to futures contract equivalents and then calculate original and variation margin. CCOS will calculate margin requirements at least twice daily, reflecting activity from 8 a.m. to 1:30 p.m. and activity from

time the U.S. Treasury announces their scheduled auction through the actual issuance of the securities. The Treasury announces the auction date, the maturity date of the securities, and the par amount to be auctioned. WI securities trade on the basis of yield to first call, instead of price, because the coupon rate for the securities is not determined until the auction.

[10] The futures leg of the basis trade will take the last reported trade price from the CBOT trading floor as the futures transaction price. The transaction ticket for the cash leg of basis trades will include the commission charges and accrued interest. Settlement for the cash leg will occur on the next business day in the same manner as outright cash trades.

[11] The CBB terminals will list the Dollar Roll spreads by bidding and offering financing rates reflecting the annualized interest rate paid or received on the transaction. The transaction amount or value price on the trade date will reflect the settlement value of the first leg of the Dollar Roll. The settlement value is the funds required to make or take delivery of the security. The transaction amount for the second leg of the Dollar Roll will reflect the fact that the holder of the overnight bond will not earn the coupon interest during the term of the transaction.

[12] Unless otherwise noted, all times stated are Eastern Standard Time.

[13] All cash securities positions traded through CBB will be held in the participants cross-margin account at CCOS. Futures positions generated by CBB basis trades for proprietary accounts are automatically placed in the cross-margin account at BOTCC while futures positions from customer basis trades executed through CBB by participants will not be permitted to be placed in the cross-margin account but will be transferred to the participants' BOTCC customer account. Participants may allocate futures from their BOTCC proprietary futures account to their BOTCC/CCOS cross-margin account to hedge unsettled cash securities, thereby reducing risk and original margin requirements.

[14] Initially, the cash market indications for settlement prices will be provided by EJV.

[15] The net cash deliverable position will reflect all outstanding cash positions, including outright trades, cash legs from basis trades, and Dollar Rolls. These positions will be reported to members by CUSIP number and settlement date. CCOS will have two daily processing cycles for determining net cash positions, mid-day and end of day. A participant with a same day delivery requirement because of a Dollar Roll transaction will be considered to have delivered in that position and the net cash deliverable position for that security will not be included in the mid-day original margin calculations. Any failed same day delivery obligations will be accounted for in the end of day processing cycle.

[16] BOTCC's by-laws require BOTCC members to be CBOT members, approved by the CBOT board of directors for BOTCC membership. In addition, the BOTCC board of directors sets, from time to time, BOTCC membership requirements, including, but not limited to, financial and operational requirements, continuing compliance with CBOT and BOTCC rules, financial and other reporting, and such other factors as the BOTCC board may consider necessary or appropriate in assessing an applicant's suitability for participation in BOTCC. BOTCC also has the authority to require additional capital on a discretionary basis and parental guarantees on member proprietary positions. *See, e.g.*, BOTCC By-Law 401.

Minimum financial requirements for CBOT futures commission merchants ("FCMs") include Adjusted Net Capital (as defined in CBOT's rules) of the greater of $250,000 or 4 percent of the funds required to be segregated and the foreign futures and options secured amount pursuant to the Commodities Exchange Act, 7 U.S.C. §§ 1, *et seq.* (1988), exclusive of the market value of commodity options purchased by option customers on or subject to the rules of a contract market up to the amount of customer funds in such option customer's account, plus an amount equal to guarantee deposits with clearing organizations, other than the CBOT, to the extent those assets cannot be used for margin purposes. The minimum financial requirements for CBOT broker-dealer/FCM members are similar to those for FCMs, although the broker dealer/FCMs also are subject to Commission rule 15c3–1(a), 17 CFR 240.15c3–1(a) (1992), limitations. CBOT Rules, Chapter 2, Rule 201.

[17] BOTCC, as facilities manager, will perform all margin calculations pursuant to a cross-margining agreement on positions in the cross-margining account for the benefit of both CCOS and BOTCC.

1:30 p.m. to 5 p.m. CCOS [18] will collect margin deficiencies from participants at 4 p.m. and 7:40 a.m. on T+1, and will retain the authority to collect additional margin at any time.

Original margin is a performance bond on all positions that will be delivered and not otherwise offset before delivery. The performance bond for all trades generally will be collected at 7:40 a.m. to T+1. The second requirement, variation margin, is a mark to the market payment, collected on a twice daily basis to account for changes in the value of the positions before the delivery process.

Original margin requirements will be calculated at 2:30 p.m. for trades executed from the 8 a.m. opening until 1:30 p.m. The original margin will be updated at 4 a.m. on T+1 to include trades executed from 1:30 p.m. on T until 4 a.m. on T+1,[19] and the total original margin requirement will be collected at 7:40 a.m. on T+1. In the event a clearing member fails to perform obligations to CCOS, the original margin will be used to cover any financial liabilities which may result from the failed obligation.

For mid-day processing at 3 p.m., CCOS will establish a settlement value for cash securities trades executed between 8 a.m. and 1:30 p.m. CCOS will mark new positions from their transaction value, established at the execution of the trade, to the settlement value,[20] reflecting gains or losses in the interim period, and CCOS will mark open positions that were previously marked to the prior day's settlement value to the new settlement value.[21] CCOS will calculate each participant's variation margin pay/collect amount and transmit the data to BOTCC for margin payment or collection. Payment or collection amounts for each participant will include the combined variation effects of the cash and futures positions in the participant's cross-margined account. Participants will pay or collect mid-day variation margin in same-day funds by 4 p.m. each day, through their settlement banks. BOTCC will pay out 80% of variation gains in excess of original margin deficits [22] and will collect 100% of variation losses.

Trades executed from 1:30 p.m. through the end of the day's trading session, 5 p.m., will be marked to the 3 p.m. settlement value, and the variation margin on the entire position will be calculated at the end of the day. Participants will pay or collect the second variation margin obligation the following morning at 7:40 a.m. CCOS will send delivery instructions for normal settlement of cash securities transactions executed on T to the participants' settlement banks at 11:30 a.m. on T+1.[23]

(3) Margin Calculation

CCOS believes cross-margined cash securities and futures products have essentially the same market and credit risks. Therefore, in establishing the original margin (or performance bond) for (cash securities it clears, CCOS will use the original margin rates for futures contracts [24] established by the Board of Governors of BOTCC following recommendations of the BOTCC Margin Committee.[25]

Original margin represents a performance bond that both buyers and sellers must post when entering the market to assure that their respective contractual obligations will be satisfied. In order to margin cash securities and futures positions in a parallel fashion, CCOS will convert cash securities to their futures-equivalents prior to original margin determination. CCOS will convert cash securities positions to futures-equivalents based upon conversion factors, as published by the CBOT, for the nearest futures delivery month and the futures contract par amounts (face values).[26] CCOS will net the futures-equivalent positions of all cash securities deliverable into each futures contract to produce a net cash futures-equivalent position for each futures contract.[27] An example of the effect of the proposed margin system on a hypothetical portfolio is attached as Exhibit A.

(4) Credit Enhancement

In addition to collecting margin from participants for open positions, CCOS proposes to rely on the assets and credit of its parent, BOTCC, to meet any

[18] BOTCC, as facilities manager, will perform all margin collection/payment functions on behalf of CCOS. CCOS will collect commissions and settlement payments through its agent, the Bank of New York.

[19] Up until 4 a.m., CCOS will permit transactions executed on the Globex Trading System to be included in the cross-margin account for the regular 7:40 a.m. original and variation margin pay/collect.

[20] Settlement values will reflect the settlement price established twice a day (obtained from EJV) and will include accrued interest, but will not include commissions and finance charges from Dollar Rolls.

[21] The transaction value provided by CBB to CCOS will include the accrued interest paid or received on each transaction. For normal deliveries the accrued interest at the time of the transaction and at marking to market are the same amount, but for failed deliveries the seller will have to pay the incremental accrued interest for each day the fail continues. The daily variation margin payments will include this incremental accrued interest.

[22] CCOS will withhold distribution of any variation margin gain from participants with original margin requirement deficits.

[23] Participants may transact Dollar Rolls (with same-day settlement for the first leg) between 8 a.m. and 11 a.m. on T+1 to offset delivery obligations due to settle on T+1.

[24] BOTCC collects clearing member margin on a portfolio, or net, basis, reflecting the overall risk to the clearing corporation associated with the totality of contracts in that clearing member's portfolio. BOTCC uses a portfolio-based simulation model, the Standard Portfolio Analysis ("SPAN") system, which establishes parameters to collect original margins based on the simulated losses of clearing member portfolios under various scenarios.

[25] The BOTCC Margin Committee is comprised of five of the nine Governors of the BOTCC Board of Governors. All nine Governors are owners or officers of BOTCC clearing member firms. The BOTCC Margin Committee meets once a month or at the call of the BOTCC Board Chairman or the Margin Committee Chairman. The Committee bases its recommendation upon review by BOTCC and CBOT staff of the conditions of the market place, including: statistical analysis of central tendencies, dispersion, and correlations between price changes of different commodities. Additionally, the Committee draws upon the experiences of its members and uses their judgement to predict market conditions in the near future. From this information, the Margin Committee will typically set margin rates that cover approximately the 95th percentile of absolute daily price changes over the previous one, three, and six month periods.

[26] The formula for the conversion of cash securities is:

$$\text{Futures-Equivalents} = \frac{\textit{Cash Par Amounts} \times \textit{Conversion Factor}}{\text{Futures Par Amount}}$$

[27] Futures on cash securities act as an index of the many bonds deliverable into them. Treasury bonds ("T-bonds") having at least fifteen years remaining to maturity are deliverable into the T-bond future. Ten-year Treasury notes ("T-notes") must have maturities between six and one-half and ten years to be deliverable into the ten-year T-note future. Five-year T-note futures accept Treasury notes with time to maturity between four years, three months and five years, three months. Two-year notes having maturities between one year, nine months and two years are deliverable into the two-year T-note future.

Since bonds being delivered into futures contract obligations will have greater or lesser value than the futures, the conversion factor is a means of equating bonds with various coupons and maturity dates with the standard bond set by BOTCC. The standard bond, which is equal to the corresponding future, has an 8% coupon and a conversion factor of 1.

For example, assume there are three bonds, Bond X, Bond Y, and Bond Z. Bond X is the standard bond having an 8% yield to maturity and conversion factor of 1 (Bond X is equal to the corresponding future). Bond Y is worth 1.5 times Bond X and Bond Z is worth 1.75 times Bond X (Bonds Y and Z could have greater coupon rates or longer periods to maturity). If the future is trading at 85 then Bond X is worth 85 and Bond Y is worth 1.5 times 85. Therefore, 1.5 is the conversion factor for Bond Y and 1.75 is the conversion factor for Bond Z. In order to determine the number of futures that equate with Bond Y, the face amount of Bond Y is multiplied by the conversion factor, producing the futures value amount. The futures value amount when divided by 100,000 (each futures contract equals $100,000) yields the number of futures contracts equal to the bond.

liquidity demands CCOS may incur. Under the proposed system, BOTCC will guarantee all of CCOS's obligations to participants arising under CCOS's rules. CCOS intends for the BOTCC guarantee to take the place of a clearing fund composed of participant contributions of cash or liquid securities.[28]

### III. Public Interest Statement

CCOS believes that granting CCOS an exemption from clearing agency registration during the period before full registration is granted is critical to enabling CBB to enter the cash government securities business. CCOS maintains that the CCOS/CBB business plan will provide increased access to the cash securities markets through an integrated electronic transaction and margin system, which, CCOS believes, lowers transaction costs, creates processing and cash flow efficiencies, provides credit enhancement, ensures fairness and price transparency, and provides a complete audit trail. CCOS asserts that these efficiencies are created because of the computerization that will eliminate back-office paperwork and shorten settlement cycles by decreasing the time required for order entry, trade matching, netting, and telecommunication to the appropriate clearing agency.

CCOS believes that the CCOS/CBB trading and clearance systems will enable persons other than primary dealers to participate in the government securities market while controlling counterparty risk. Also, the CCOS/CBB system will preserve a key feature of the existing interdealer broker system: Anonymous trading without substantial counterparty risk.

CCOS believes further that the ability to net (cross-margin) original and variation margin with respect to futures positions cleared at BOTCC and cash securities positions cleared at CCOS will eliminate duplicative performance bond requirements that do not reflect collective market risk, exemplifying the type of link mandated by section 17A(a)(1)(D) of the Act.[29] Furthermore, CCOS believes that these links are consistent with Congress's direction to the SEC in the Market Reform Act of 1990[30] to facilitate linked or coordinated facilities for clearance and settlement of securities, options, futures, options on futures, and commodity options. Also, by applying same-day margining and cash flow conventions of the futures market to cash transactions, CCOS believes it will further "the development of a modern, nationwide system for the safe and efficient handling of securities transactions in a manner which best serves the financial community and investing public."[31] Finally, because the SEC will impose and monitor certain volume limits during the period CCOS operates under exemption from registration, CCOS believes that its operations will not present increased risk to the marketplace.

### IV. Specific Request for Comments

#### *A. Statutory Standards*

Section 17A of the Act directs the Commission to develop a national clearance and settlement system through, among other things, the registration and regulation of clearing agencies. The statutory scheme contemplates that clearing agencies not only provide clearance and settlement functions consistent with statutory goals, but also that those clearing agencies, as self-regulatory organizations, exercise certain regulatory functions in furtherance of other statutory goals. In fostering the development of a national clearance and settlement system generally and in overseeing clearing agencies in particular, Section 17A authorizes and directs the Commission to promote and facilitate certain goals with due regard for: the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers, dealers, clearing agencies, and transfer agents.[32] Further, section 17A, as amended by the Market Reform Act, directs the Commission to use its authority to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options.[33]

Section 17A(b)(1) of the Act authorizes the Commission to exempt applicants from some or all of the requirements of Section 17A if it finds such exemptions are consistent with the public interest, the protection of investors, and the purposes of section 17A, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds. Historically, the Commission has never exercised its authority to exempt an applicant entirely from the requirements of Section 17A of the Act. The Commission has, however, granted newly registered clearing agencies narrowly drawn, temporary exemptions from specific statutory requirements imposed by section 17A, in a manner that achieves statutory goals.[34]

The Commission recognizes that clearing agencies, more than other self-regulatory organizations, pose systemic safety and soundness concerns. Accordingly, the Commission has published standards for clearing agency registration and exercises significant continuing oversight of all aspects of clearing agency operations and functions.[35] The market crash in

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[28] BOTCC, as a commodities clearing corporation, guarantees the settlement of all futures and options contracts traded on the CBOT and cleared by BOTCC. BOTCC will extend this guarantee to the obligations of CCOS. BOTCC has total shareholders' equity of over $110 million, including current assets of over $109 million with the large majority in U.S. Treasury bills and notes. Its current liabilities are approximately $3.5 million. In addition, BOTCC has credit enhancement facilities in place in the form of lines of credit totalling $300 million. *See* 1992 BOTCC Annual Report [File No. 600–27].

As a general rule, the Commission has recommended that a clearing agency have a clearing fund which (1) is composed of contributions based on a formula applicable to all users; (2) is in cash or highly liquid securities; and (3) is limited in the purpose for which it may be used. Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920. Its use should be limited to protecting participants and the clearing agency from participant defaults and unusual, significant clearing agency losses. *Id.*

The Commission has permitted a clearing agency, Delta Government Options Corp. ("Delta"), to register without a clearing fund. There, the Commission relied on other factors to determine that Delta's risk management system was adequate despite the lack of a clearing fund. *See* Securities Exchange Release No. 26450 (January 12, 1989), 54 FR 2010.

[29] 15 U.S.C. 17A(a)(1)(D) (1988).

[30] Market Reform Act of 1990, Pub. L. No. 101–432, 104 Stat. 963 (1990) ("Market Reform Act").

[31] Conference Report to Accompany S. 249, H.R. Rep. No. 229, 94th Cong., 1st Sess. 102 (May 19, 1975).

[32] For legislative history concerning Section 17A of the Act, *see, e.g.*, Report of Senate Comm. on Housing and Urban Affairs, Securities Acts Amendments of 1975: Report to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 4 (1975); Conference Comm. Report to Accompany S. 249, Joint Explanatory Statement of Comm. of Conference, H.R. Rep. No. 229, 94th Cong., 1st Sess., 102 (1975).

[33] Market Reform Act of 1990, § 5, amending § 17A(a)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78q–1 (1990).

[34] *See, e.g.*, order approving Government Securities Clearing Corporation's ("GSCC") temporary registration as a clearing agency where the Commission temporarily exempted GSCC from compliance with Section 17A(b)(3)(C) of the Act. Securities Exchange Act Release No. 25749 (May 24, 1988), 53 FR 19839.

[35] *See* Securities Exchange Act Release Nos. 16900 (June 17, 1980), 45 FR 41920 (announcement of standards for the registration of clearing agencies ("Standards Release")) and 20221 (September 23, 1983), 48 FR 45167 (omnibus order granting full registration as clearing agencies to The Depository Trust Company, Stock Clearing Corporation of Philadelphia, Midwest Securities Trust Company, The Options Clearing Corporation, Midwest Clearing Corporation, Pacific Securities Depository, National Securities Clearing Corporation, and Philadelphia Depository Trust Company).

October 1987 and decline in October 1989 demonstrated the central role of clearing agencies in U.S. securities markets in reducing risk, improving efficiency, and fostering investor confidence in the markets.[36]

In light of the foregoing, the Commission preliminarily believes it is appropriate for applicants requesting exemption from clearing agency registration to meet the standards substantially similar to those required of registrants to assure that the fundamental goals of the Act (*i.e.*, safe and sound clearance and settlement) will not be undermined. Thus, the Commission invites commentators to address whether the Commission should apply those standards, subject to appropriate modifications, in considering CCOS's application for exemption from clearing agency registration while assuring achievement of the goals of section 17A of the Act.

The Commission also invites commentators to address whether granting the proposed exemption would further the goals of section 17A and whether attaching specific conditions to that exemption, if any, would be appropriate to further specific statutory goals. Specifically, would granting the exemption further the development of a national clearance and settlement system, promote linked and coordinated clearing facilities (among options, futures, and securities), and promote the maintenance of fair competition?

*B. Fair Competition*

Section 17A of the Act requires the Commission, in exercising its authority under that Section, to have due regard for the maintenance of fair competition among clearing agencies.[37] In addition, no clearing agency may be registered, if its rules "impose any burden on competition not necessary or appropriate in furtherance of the purposes" of the federal securities law.[38] The Commission therefore must consider an applicant's likely affect on competition and on the nation's securities markets in its review of any application to register as a clearing agency.[39] Accordingly, to the extent that approval of CCOS's application for exemption from registration will restrain competition and, at the same time, benefits other statutory goals, the Commission must balance those benefits against the resulting restraint on competition. The Commission emphasizes that within the constraints of this balancing test, the Commission consistently has demonstrated its strong preference for eliminating barriers to competition. Where possible, the Commission has looked to regulatory or market discipline to create an atmosphere where competition may be expanded.

Consistent with this approach, the Commission invites commentators to address whether registration of CCOS would result in increased competition among broker-dealers, including greater access to the government securities market by persons other than primary dealers, and among clearing agencies, such as GSCC, in the clearing of transactions in government securities.[40] Such competition may result in the development of improved systems capabilities, new services offered, and perhaps lower prices to participants.

The Commission invites commentators to address whether the proposal would impose any burden on competition that is inappropriate under the Act. In particular, would CCOS's ability to offer cross-margin facilities to members for inter-market trades involving cash securities and futures have such a result if GSCC cannot offer its members cross-margin facilities on the same terms and conditions as CCOS offers its members? If such a result would ensue, what if any steps should the Commission take to facilitate a level field of competition between CCOS and other clearing agencies? For example, should the Commission take steps to ensure that GSCC is given reasonable access to the open interest in particular futures or futures options products held by BOTCC or to any cross-lien arrangement for cash securities and futures products entered into between BOTCC and CCOS?

*C. Common Clearing of Government Securities*

As stated above, Section 17A directs the Commission to develop a national system for the prompt and accurate clearance and settlement of securities transactions. In carrying out this responsibility, the Commission is authorized and ordered to facilitate the establishment of linked or coordinated facilities for the clearance and settlement of securities, securities options, contracts of sale for future delivery and options thereon, and commodity options.[41] This is largely because, as the Act states, "the linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and on behalf of investors."[42]

CCOS's application, in effect, raises the question of whether the establishment of multiple government securities clearing corporations is consistent with section 17A of the Act and one-account settlement. The introduction of multiple clearing

*See also* Section 19 of the Act, 15 U.S.C. 78s (1988), and Rule 19b–4, 17 CFR 240.19b–4 (1992), setting forth certain procedural requirements for registration and continuing Commission oversight of clearing agencies and other self-regulatory organizations.

[36] Gerald Corrigan, President of the Federal Reserve Bank of New York ("FRBNY"), noted: "[T]he greatest threat to the stability of the financial system as a whole [during the 1987 market break] was the danger of a major default in one of these clearing and settlement systems." Luncheon Address: Perspectives on Payment System Risk Reduction by E. Gerald Corrigan, President, FRBNY, *reprinted in The U.S. Payment System: Efficiency, Risk and the Role of the Federal Reserve* 129–30 (1990).

[37] 15 U.S.C. 78q–1(a)(2) (1988).

[38] 15 U.S.C. 78q–1(b)(3)(I) (1988).

[39] *See* Bradford National Clearing Corporation v. S.E.C., 590 F.2nd 1085 (D.C. Cir., 1978). The court noted:

> to the extent the legislative history provides any guidance to the Commission in taking competitive concerns into consideration in its deliberations on the national clearing system, it merely requires the [Commission] to "balance" those concerns against all others that are relevant under the statute. *Id* at 1105.

[40] Currently, the only registered clearing agency that offers a centralized, automated system for the clearance and settlement of trades in cash government securities is GSCC. GSCC offers comparison and netting services to members and functions as a risk assessment, credit risk reduction, and risk containment facility for eligible trades in government securities that are submitted to GSCC for comparison and netting. *See* Securities Exchange Act Release No. 25749 (May 24, 1988), 53 FR 19639 (order approving the temporary registration of GSCC as a clearing agency).

[41] 15 U.S.C. 78q–1(a)(2)(A)(ii) (1988).

[42] 15 U.S.C. 78q–1(a)(1)(D) (1988). Past Commission actions support this approach. For example, in 1973, the Commission directed the exchanges to develop a centralized system for the clearance and settlement of standardized options either through the formation of a resulting single clearing entity or through multiple interfaced entities. *See* Securities Exchange Act Release No. 11144 (December 19, 1974), 39 FR 45333. (The exchanges proposed and the Commission approved the establishment of OCC as the sole entity for the clearance and settlement of standardized options.) The Commission believed the resulting single entity approach was consistent with Commission policy favoring one-account settlement. *See* Securities Exchange Act Release No. 10631 (February 7, 1974), 39 FR 9717.

The Commission next addressed the structure of the national system for corporate debt and equity securities traded on exchanges, through NASDAQ facilities, and over-the-counter. In 1977, the New York Stock Exchange, American Stock Exchange, and the National Association of Securities Dealers clearing facilities merged into one entity, the National Securities Clearing Corporation ("NSCC"). In balancing the goal of clearing organization competition against enhanced broker-dealer competition, the Commission chose to place greater emphasis on the latter and to permit the proposed merger to occur, subject to the condition, among others, that NSCC establish interfaces, without fees, with other competing clearing organizations in support of the one-account settlement concept.

agencies into the government securities markets could increase the risks entailed in liquidating defaulting participants. One of the benefits of a single clearing agency is centralized default administration. Accordingly, fragmentation of the government securities clearance and settlement system, particularly in light of the netting of government securities by GSCC, could impede the prompt resolution of member defaults.[43] As the October 1987 market break illustrated, an unexpected market move may cause a clearing member to default on its obligations to its clearing organization. Based on its experience in October 1987 and October 1989, the Commission believes that coordinating the prompt resolution of such a default is critical to maintaining the stability of a clearing corporation and its members.[44]

In addition, the Commission seeks comment on whether or not one-account settlement can be achieved if CCOS's application is approved. Specifically, the Commission seeks comment on whether or not the different forms of netting by GSCC and CCOS[45] would preclude one-account settlement. Therefore, the Commission requests comment on whether it should approve or deny the CCOS application, which, if granted, would result in multiple clearing facilities for government securities.

Commentators should discuss applicable law and the costs and benefits of single versus multiple clearing facilities for government securities, including whether the risk exposure to individual clearing organizations would be increased by the fragmentation in the netting of cash securities. Finally, commentators should address the effects that market stress (e.g., high volume and volatility) likely would have on such a multiple clearing system.

[43] Expeditious transfer of customer accounts, for example, any be more difficult with two government securities clearing agencies. This is but one example of areas where coordination will be more difficult.

[44] *See* Division of Market Regulation, Market Analysis of October 13 and 16, 1989, Chapter 5 (December 1990).

[45] In its effort to manage systemic risk in the clearance and settlement of government securities, GSCC seeks to reduce net settlement positions of participants by netting offsetting government securities transactions in the same CUSIP number, thereby eliminating delivery obligations. CCOS intends to hedge futures positions held by participants with the participant's futures-equivalent cash government securities which have not settled, thereby recognizing for margining purposes the offsetting risks of the positions.

*D. Linkage of Multiple Clearing Systems*

Section 17A(a)(2)(A)(ii) of the Act[46] specifically requires the Commission to "facilitate the establishment of a national system of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for futures delivery and options thereon, and commodity options." The Commission requests comment on the manner in which multiple clearing facilities for cash securities and affiliated clearing facilities for cash securities and futures contracts on those securities could efficiently integrate those systems. Commentators should address, without limitation: the manner in which clearing organizations would assure payment of obligations to other clearing organizations, the manner in which multiple clearing systems should respond to common member defaults and the default of a clearing organization, the manner in which multiple clearing systems should allocate costs associated with integration and services performed for one another, and the manner in which multiple clearing systems should operate net money settlement with their members and among themselves.

Specifically, the Commission asks that commentators address, without limitation, the proposed margin calculations and procedures, operational safeguards, and legal and other policy issues related to linking these markets. In this regard, commentators are asked to state specifically any benefits or risks the proposed system may pose to the clearance and settlement of government securities.

*E. Risk Management*

As described in detail above, CCOS will treat cash securities, for risk management purposes, as futures contract equivalents, and then calculate original and variation margin. Consistent with this approach, CCOS intends to cross-margin cash securities positions it clears with futures contracts cleared by BOTCC. Commentators are asked to consider the proposed margin calculations and procedures, and address the perceived benefits and risks of the proposal. The Commission also seeks comment on whether, during the exemptive period, the Commission should require that CCOS impose margin rate floors below which the margin rates may not be lowered. The margin rate floors would apply to all original and maintenance margin rates for all futures, futures-equivalent cash securities, and basis spreads, and include limits on intercommodity spread credits provided by CCOS. Further, the Commission invites commentators to address whether, given the unique role of BOTCC as a clearing agency for the futures contract market, it would be prudential and appropriate for BOTCC to represent that it will maintain minimum levels of margin during the exemptive period to insure safety and soundness in the clearance and settlement of government securities.

The CCOS application would expand the group of participants trading in the government securities market. As discussed above, CCOS participants and non-CCOS CBOT members will be able to access the cash market through terminals located on the floor of the CBOT. Commentators are asked to address the perceived benefits and risks associated with expanding the perceived benefits and risks associated with expanding the base of participants in the government securities market. Commentators also should address the perceived risks posed to the national clearance and settlement system from permitting participants with relatively smaller capital bases than at present to trade in government securities.[47]

Like other clearing corporations, CCOS will assume all counterparty credit risk by guaranteeing all matched trades executed through CBB. The Commission believes that a clearing agency should be an adequately funded entity capable of providing the guarantee and performing risk management functions. While Section 17A does not set standards for clearing agency capitalization, the Commission has required other clearing agencies to meet certain minimum requirements.[48] As discussed above, the Commission generally recommends that a clearing agency have a clearing fund, use of which is limited to protecting participants and the clearing agency from participant defaults and unusual, significant clearing agency losses.[49] In

[46] 15 U.S.C. 78q–1(a)(2)(A)(ii) (1991).

[47] *Supra* note 16 and accompanying text.

[48] *E.g.*; prior to its original temporary registration, GSCC represented to the Commission that the capital from its initial stock offering was intended to exceed $5 million. In addition to its contributed capital, GSCC maintains a clearing fund designed to: (1) have on deposit from each netting member cash or other collateral sufficient to satisfy a loss as a result of that member's default and subsequent close-out of settlement positions; (2) maintain total assets in an amount sufficient to satisfy potential losses to GSCC resulting from the default of more than one member; and (3) ensure that GSCC has sufficient liquidity at all times to meet its payment and delivery obligations. Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19839 and 27006 (July 7, 1989), 54 FR 29798.

[49] *Supra* note 28.

lieu of such clearing fund, BOTCC proposes to guarantee all of CCOS's obligations arising under CCOS's rules, and CCOS, therefore, proposes to rely on the assets and credit of its parent, BOTCC, to meet any liquidity demands CCOS may incur.[50] Commentators are asked to address the perceived risks of relying on BOTCC as guarantor of CCOS's obligations, rather than a clearing fund or similar alternatives to ensure system liquidity. Specifically, the Commission seeks comment on appropriate levels of capitalization for CCOS and whether the BOTCC guarantee is sufficient, considering the extent of BOTCC's guaranteed obligations in the futures contract markets and other obligations, to meet the Commission's standards ensuring the safeguarding of securities and funds.

Finally, given the heightened concerns of safety and soundness in the approval of an application for exemption from registration as a clearing agency, the Commission seeks comment on whether an order granting an exemption should contain certain clearing volume limits. Such limits could provide a measure of protection during the exemptive period so that the clearance and settlement system for government securities would not be subject to unnecessary risks. Specifically, commentators should address the structure of such volume limits and the appropriate level of such limits.

## V. Solicitation of Comments

You are invited to submit written data, views, and arguments concerning the foregoing application by July 23, 1993. Such written data, views, and arguments will be considered by the Commission in deciding whether to grant CCOS's request for exemption from registration. Persons desiring to make written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. 600–27. Copies of the application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

[50] Although most clearing agencies employ some form of risk mutualization among participants, risk mutualization is not mandated by the Act. In those cases where the Commission has not required a clearing fund or risk mutualization, there have been credit enhancement facilities maintained by such clearing agency. *See* Securities Exchange Act Release No. 27611 (January 12, 1990), 55 FR 1890 [File No. 600–24] (order granting temporary registration as a clearing agency to Delta Government Options Corporation).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[51]

**Margaret H. McFarland,**

*Secretary.*

**Exhibit A**

As an example of the original margin calculation, assume a participant had both cash securities and futures contract positions in 30-year T-bonds and futures contract positions in 10-year T-notes, as follows:

T-bonds

Long 100 30-year T-bonds with an 8% annual yield (cash securities)
Long 75 futures contracts, expiring in June, 1993, on 30-year T-bonds with an 8% annual yield
Short 80 futures contracts, expiring in September, 1993, on 30-year T-bonds with an 8% annual yield
Short 20 futures contracts, expiring in December, 1993, on 30-year T-bonds with an 8% annual yield
Long 10 futures contracts, expiring in March, 1994, on 30-year T-bonds with an 8% annual yield

T-notes

Short 150 futures contracts, expiring in March, 1994, on 10-year T-notes with an 8% annual yield

First, BOTCC will examine the 30-year T-bond futures and 30-year T-bond futures-equivalent positions:

Month 0+100
June+75
September – 80
December – 20
March (1994)+10

The Month 0 futures are the cash securities stated as futures-equivalent positions, which are assumed, for this example, to convert 1:1 into futures positions. BOTCC will net the monthly futures and cash futures-equivalent positions to arrive at a net futures position (100+75 – 80 – 20+10=85).[1] Next, the margin amount per future set by the BOTCC Margin Committee (currently, $1,500/30-year T-bond future) is multiplied by the net futures/futures-equivalent position.[2]

(A) +85×$1,500=$127,500

The $127,500 is defined by BOTCC as the Maximum Loss on the participant's position in 30-year T-bonds and futures on 30 year T-bonds.

Second, BOTCC will examine the participant's ten-year T-note and T-note futures position. As stated above, the participant has a 10 year T-note position of -150 March futures. Assume that the BOTCC Margin Committee has set a margin requirement of $1000/10-year T-note future. The presumed "Maximum Loss" on the 10-year T-note futures would be:

(B) 150×$1000=$150,000

Third, BOTCC will calculate an additional risk margin, accounting for futures spreads (*i.e.*, intermonth netting) of 30 year T-bond futures positions, to reflect divergence in the correlation among futures contracts with different delivery dates. Excluding Month 0 T-bond futures-equivalents,[3]

(June), +75 March 1994 +10 versus
September, – 80 December – 20 = +85 versus – 100

there is a total of 85 T-bond futures spreads in the intermonth netting and 15 naked short T-bond futures positions. Assuming the BOTCC Margin Committee has set a risk margin for intermonth spreads at $100 per spread, the additional margin for the intermonth spreads will be:

(C) 85×$100=$8,500 (included in the final margin requirement)

Fourth, BOTCC will determine if any basis spreads exist in 30 year T-bond futures by matching T-bond futures with the cash futures-equivalent positions. In this example, the remaining -15 T-bond futures (naked short positions) are not offset against the cash futures-equivalents[4] to determine the margin for any basis spreads that exist in the portfolio. This reflects the potential divergence between cash and futures positions.

-15 (T-bond futures) versus +100 (Month 0 futures [cash T-bonds])

Because there are more than 15 Month 0 futures contracts to offset the -15 futures contracts, there are 15 basis spreads for which, currently, the BOTCC Margin Committee has set a $50 per spread basis risk margin requirement.

(D) 15×$50=$750 (included in final margin requirement)

Fifth, BOTCC then conducts the same analysis for 10 year T-note futures. Because the portfolio in this example does not include cash or multi-month futures positions in 10 year T-notes, this step yields no change in margin requirements.

Sixth, BOTCC will determine if the exposure in T-bond and T-note futures and futures-equivalent positions interact to reduce overall portfolio exposure. Thus, BOTCC will compare the participant's net commodity positions[5] in 30-year T-bonds and 10-year T-notes and provide a margin

[51] 17 CFR 200.30–3(a)(16) (1992).

[1] Since bonds being delivered into futures contract obligations will have greater or lesser value than the futures, the conversion factor is a means of equating bonds with various coupons and maturity dates with the standard bond set by BOTCC. The standard bond, which is equal to the corresponding future, has an 8% coupon and a conversion factor of 1. *See supra* note 27.

[2] The commodity margin rate is the same for long or short positions, so the charge for a fixed number of contracts will be the same regardless of market position. For cash securities positions, the charge will apply to the positions after the conversion to futures-equivalents.

[3] The Month 0 futures are the futures-equivalents of the cash 30-year T-bonds, after conversion, pursuant to the above formula. *Supra* note 26. Because the positions generally are subject to next-day delivery and have been accounted for in other parts of the margin calculation process, BOTCC has excluded these position from the intermonth spread additional margin calculations.

[4] +100 from the example above.

[5] The net commodity positions in T-bonds or T-notes are the positions remaining after the intermonth futures spreads and futures/futures-equivalents basis spreads have been netted out of the T-bond or T-note positions.

credit[6] for any offsets due to correlated short or long cash positions and short or long futures positions.[7] For purposes of this example, assume that the BOTCC Margin Committee has calculated a 1:2 correlation in price volatility between futures on 30 year T-bonds and futures on 10 year T-notes (*i.e.*, futures on the 30-year T-bonds are twice as volatile as, and are positively correlated with, futures on 10 year T-notes).[8] In the example above, this operation results in 75 spreads between the futures-equivalents of the 30 year T-bonds and the futures-equivalents of the 10-year T-notes.

+85 30 year T-bonds versus −150 10-year T-notes
= +85 T-bonds, versus −75 T-bonds (two 10-year T-notes = 1 30 year T-bond)
= 75 spreads, +10 outright T-bond futures-equivalents

Thus, 75 T-bond futures-equivalents and 150 T-note futures are eligible for intercommodity spread credits. To address the potential for divergence in assumed correlations, BOTCC reduces the allowable credit by applying a ten percent deduction against the applicable original margin requirement. Thus, the intercommodity spread credit in the above example would be:

(E) 75 × $1350=$101,250 (T-note futures offset on T-bond futures)

(F) 150 × $900=$135,000 (T-bond futures offset on T-note futures)

*Summary:* the margin requirement would be:

(A) $127,500 (Maximum Loss on +85 T-bonds including cash positions on T-bonds)

(B) $150,000 (Maximum Loss on −150 T-notes, including cash positions on T-notes)

(C) $8,500 (85 intermonth T-bond futures spreads, not including cash positions on T-bonds)

(D) $750 (15 basis spreads [naked futures versus cash])

(E) −$101,250 (30-year T-bond margin credit, applying T-note futures positions to reduce futures margin requirements)

(F) −$135,000 (10-year T-note margin credit, applying T-bond futures and cash positions to offset T-note futures margin requirements).

= $50,500 Total Margin Requirement

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[6] BOTCC will examine all of the clearing member's positions, including the five-year T-notes and two-year T-notes that the member holds. In the above example, the clearing member holds only 30 year T-bonds, futures on 30-year T-bonds, and futures on 10 year T-notes.

[7] In order to establish the intercommodity spread credit, BOTCC staff analyzes the correlations between the various bills, notes, and bonds deliverable into the futures to determine their respective relationships. BOTCC and CCOS will review the margin rates on a monthly basis, and as needed, to respond to changes in market conditions.

[8] BOTCC would pair each long position in one 30-year T-bond to two short positions in 10-year notes.

[Release No. 34–32484; File No. SR–MSE–93–10]

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Midwest Stock Exchange, Incorporated Seeking Permanent Approval of SuperMAX and a Two-Tiered Fill-Size Parameter for SuperMAX Issues

June 16, 1993.

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 5, 1993, the Midwest Stock Exchange, Incorporated ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to establish its SuperMAX system on a permanent basis[1] and to amend the current SuperMAX "fill size" parameters for eligible issues by establishing a two-tiered system for SuperMAX fills. The two-tiered system will consist of (1) the top 500 most actively traded issues, which will have an increased fill size parameter set at 1099 shares; and (2) all other issues, which will continue at the current fill size parameter of 599 shares.

SuperMAX, which is currently operating as pilot program, provides that the guaranteed execution price of small agency market orders received over the Midwest Automated Execution System (MAX) are automatically improved from the consolidated best bid or offer according to certain pre-defined criteria. For a period of time, the MSE operated SuperMAX and an "Enhanced" version of SuperMAX concurrently as pilot programs. However, the Exchange recently determined to continued with only SuperMAX as its system of choice.[2]

The Exchange seeks Commission approval of SuperMAX on a permanent basis while continuing to operate SuperMAX as a voluntary system, by specialist, on a stock by stock basis. The Exchange also seeks approval of the two-tiered system for fill size parameters for SuperMAX eligible issues with tier-one set at a 1099 fill size and tier-two set at a 599 fill size.

### 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 MSE 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 MSE has prepared summaries, set forth in section (A), (B) and (C) below, of the most significant aspects of such statements.

#### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed filing is to seek permanent approval of the Exchange's SuperMAX system on a voluntary basis and to raise the fill size parameters for certain SuperMAX issues. By increasing the fill-size parameters for SuperMAX issues in the top 500 most actively traded issues to 1099 shares (while keeping the fill size for other SuperMAX issues at 599), a larger universe of agency market orders are eligible for SuperMAX executions. Because SuperMAX allows for small agency market orders to be guaranteed an execution at a price that is better than the consolidated best bid or offer according to certain pre-defined criteria, this change works to increase the number of agency market orders that could benefit from better price executions through SuperMAX.

As is now the case during the SuperMAX pilot program, the Exchange seeks to continue participation in SuperMAX on a voluntary basis, by specialist, on a stock by stock basis. SuperMAX will apply to agency market orders in Dual Trading System issues according to the two-tiered system for fill size parameters outlined above.

MAX executes agency market orders through the SuperMAX program without any specialist intervention based upon the following criteria:

(1) Both buy and sell orders in markets quoted with a minimum variation (⅛th spread) or orders which do not meet the criteria in 2 or 3 below

[1] The Exchange initially established SuperMAX as a pilot program on May 14, 1990. (*See*, Release No. 34–28014, May 14, 1990, Order approving SR–MSE–90–5). The Exchange initially sought permanent approval for SuperMAX in its filing SR–MSE–90–17; however, that request was held in abeyance while the Exchange operated both the SuperMAX and the Enhanced SuperMAX pilot program.

[2] The pilot program for Enhanced SuperMAX expired on April 14, 1993. The Exchange did not seek permanent approval for Enhanced SuperMAX at any time, nor does it seek permanent approval here.

will be executed based upon the consolidated best bid or offer.

(2) Buy orders in markets quoted with more than ⅛th spread will be executed at a price ⅛th better than the consolidated best offer if (a) an execution at the consolidated best offer would create a double up-tick based upon the last sale in the primary market or (b) an execution at the consolidated best offer would result in a greater than a ⅛th price change from the last sale in the primary market.

(3) Sell orders in markets quoted with more than ⅛th spread will be executed at a price ⅛th better than the consolidated best bid if (a) an execution at the consolidated best bid would create a double down-tick based upon the last sale in the primary market or (b) an execution at the consolidated best bid would result in a greater than a ⅛th price change from the last sale in the primary market.

For example, the execution price for a market buy order in a ¼–½ quoted market is as follows:

| Tick/last sale | Execution price |
|---|---|
| +½ | ½ |
| +⅜ | ⅜ |
| −⅜ | ½ |
| −¼ | ⅜ |
| +¼ | ⅜ (if in range) |

The execution price for a market buy order in a ¼–⅝ quoted market, is as follows:

| Tick/last sale | Execution price |
|---|---|
| +⅝ | ⅝ |
| +½ | ½ |
| +⅜ | ½ |
| −½ | ⅝ |
| −⅜ | ½ |
| −¼ | ½ |
| +¼ | ½ |

The execution price for a market sell order in a ¼–½ quoted market is as follows:

| Tick/last sale | Execution price |
|---|---|
| −¼ | ¼ |
| −⅜ | ⅜ |
| +⅜ | ¼ |
| +½ | ⅜ |

Any eligible order in a stock included in SuperMAX which is manually presented at the specialist post by a floor broker must also be guaranteed an execution by the specialist pursuant to the above listed criteria. In the event that a contra side order which would better a SuperMAX execution is presented at the post, the incoming order which is executed pursuant to the SuperMAX criteria must be adjusted to the better price.

SuperMAX will operate during the trading day from 8:30 a.m. (CST) until the close. During volatile periods, individual stocks or all stocks may be removed from SuperMAX with the approval of two members of the Committee on Floor Procedure.

In support of its request seeking permanent approval, and consistent with the Commission's interest in receiving information regarding SuperMAX, the Exchange's Specialist participation in SuperMAX is approximately 80 percent for the 900 issues traded over the SuperMAX system, or about 40 percent of the total issues traded on the Exchange. While the Exchange cannot provide historical information regarding the number of times an execution is bettered through SuperMAX, there is never an instance where SuperMAX provides an inferior fill to a regular MAX execution. However, when a market is quoted with a one quarter point spread, or more, and an execution would result in a double up-tick or double down-tick, or in an execution more than ⅛ point away from the last sale, customers receive price improvement 100% of the time.[3]

The MSE believes the proposed rule change is consistent with Section 6 of the Act in that it will promote just and equitable principles of trade and will help to perfect the mechanism of a free and open market and a national market system and will foster competition among markets.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The MSE does not believe that any burdens will be placed on competition as a result of the proposed rule change.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange's Floor Procedure Committee approved the proposal creating the two-tiered fill size parameters and supports SuperMAX on a permanent, voluntary basis.

**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 as (i) 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, an 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 at the principal office of the MSE. All submissions should refer to the file number in the caption above and should be submitted by July 14, 1993.

For the Commission by the Division of Market Regulations, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 93–14794 Filed 6–22–93; 8:45 am]

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[3] For example, if the market in ABC stock is ¼–½ with the last sale at ⅜ on an uptick, and an agency market order is received to buy 200 shares of ABC at the market, the order would automatically be filled at ⅜.

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**[Release No. 34–32483; File No. SR–MSRB–93–7]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Use of the CDI Pilot System by Issuers

June 16, 1993.

On May 17, 1993, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–93–7), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder. The proposed rule change is described in Items I, II, and III

below, which Items have been prepared by the Board. The Board has designated this proposal as one concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A) of the Act, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested people.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Board is filing herewith a proposed rule change to accelerate the implementation of the second phase of its Continuing Disclosure Information Pilot ("CDI Pilot" or "Pilot") system in order to accept disclosure notices from issuers.[1] In an earlier filing with the Commission (which was approved on April 6, 1992), the Board stated that it would implement the CDI Pilot system in phases: During the first six months of operation (which currently is in progress), the system accepts disclosure notices only from trustees. After this initial phase, the system also will accept disclosure notices from issuers.[2] The Board wishes to accelerate the second phase of this schedule so that issuers may begin immediately submitting disclosure notices to the Pilot system.

**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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board 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*

(a) On April 6, 1992, the Commission approved the CDI Pilot system for an 18-month period.[3] The Pilot system began operating on January 21, 1993, and functions as part of the Board's Municipal Securities Information Library TM ("MSIL" TM) system.[4] The Pilot system accepts and disseminates voluntary submissions of official disclosure notices relating to outstanding issues of municipal securities, *i.e.*, continuing disclosure information. The CDI Pilot system is scheduled to be implemented in phases: During its first phase of operation, which currently is in progress (and originally scheduled for a six-month period), the system accepts disclosure notices only from trustees. During its second phase, the system also will accept disclosure notices from "issuers of municipal securities," as that term is defined in SEC Rule 15c2–12.[5] The Board wishes to accelerate the implementation of this second phase, and begin accepting voluntary submissions of disclosure notices from issuers as of May 17, 1993. The Board is confident in its ability to manage an increased number of submitters to the Pilot system by accepting and disseminating such disclosure notices. Moreover, the Board believes that delaying the implementation of the second phase of the Pilot system for another few months would serve no useful purpose. As the Commission noted in its order approving the CDI Pilot system:

> Currently, a number of municipal securities issuers are experiencing financial difficulties. In such an environment, disclosure mechanisms become especially important to investors and potential investors in these securities * * *. [G]reater availability of CDI will reduce the risk of sales practice fraud and manipulation in the municipal market by making investors more informed and better able to detect such practices.[6]

The CDI Pilot system currently accepts only short submissions (one to three pages in length, or the equivalent in electronic form) by mail, facsimile, and electronically by computer modem, using specific submission procedures. Issuers who wish to submit documents to the system for dissemination will follow the same submission and verification procedures that trustee submitters currently utilize.[7]

The Pilot system uses two methods of dissemination to subscribers: (1) CDI that has been submitted to the system by mail or facsimile is disseminated by facsimile transmission; and (2) CDI that has been submitted to the system electronically by computer modem is disseminated electronically. In addition, after the Board processes and transmits the disclosure notices to subscribers, it makes these documents available at its Public Access Facility ("PAF") in Alexandria, Virginia, where any interested person may review the documents free of charge and copy the documents at $.20 per page (plus sales tax).

The Board will continue to operate the output side of the Pilot system to ensure that the information is available to any party who wishes to subscribe to the service. As with all MSIL system services, this service is available, on equal terms, to any party who requests the service.

(b) The Board believes the proposed rule change is consistent with Section 15B(b)(C) of the Act, which provides that the Board's rules shall:

> Be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

In addition, section 15B(b)(2)(I) authorizes the Board to adopt rules which provide for the operation and administration of the Board.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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[1] The CDI Pilot system was approved in Securities Exchange Act Release No. 30556 (April 6, 1992). A full description of the system is contained in that approval order.

[2] *See* File No. SR–MSRB–90–4 Amendment No. 1 (Oct. 7, 1991), which was approved in Securities Exchange Act Release No. 30556 (April 6, 1992).

[3] Securities Exchange Act Release No. 30556.

[4] The MUNICIPAL SECURITIES INFORMATION LIBRARY System and the MSIL System are trademarks of the Board. The MSIL system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991), is a central facility through which information about municipal securities is collected, stored and disseminated.

[5] As noted in its prior filing, at the end of each phase of the Pilot, the Board will evaluate and address any technical, policy and cost issues which arise during that phase, prior to committing the Pilot system to greater capacity. The Board will report to the Commission on each phase after it is completed. The first such report was provided to the Commission on May 17, 1993. In addition, the Board will report to the Commission at the end of the pilot period, and any changes or requests for permanent approval will be filed under SEC Rule 19b–4. *See* File No. SR–MSRB–90–4 Amendment No. 1 (Oct. 7, 1991), and Securities Exchange Act Release No. 30556 (April 6, 1992).

[6] Securities Exchange Act Release No. 30556 at 25–28 (April 6, 1992).

[7] For a full description of the Pilot system's submission and verification procedures, *see* Securities Exchange Act Release No. 30556 (April 6, 1992).

*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 Board has designated this proposal as one concerned solely with the administration of the self-regulatory organization under section 19(b)(3)(A) of the Act, which renders the proposal effective upon receipt of this filing by the Commission. At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested people are invited to submit written data, views, and arguments concerning the foregoing. People 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 Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–93–7 and should be submitted by July 14, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200–30–3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 93–14793 Filed 6–22–93; 8:45 am]

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**[Release No. 34–32482; File No. SR–MSRB–93–8]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fees for Backlog Document Collections of the MSIL System

June 16, 1993.

On May 26, 1993, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–93–8), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A) of the Act, which renders the fee effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested people.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Board is filing herewith a proposed rule change to establish prices for backlog document collections relating to its Official Statement/Advance Refunding Document ("OS/ARD") subsystem of the Municipal Securities Information Library TM (MSIL TM) system [1] (hereinafter referred to as the "proposed rule change"). The Board will charge $7,000 (plus postage or delivery charges) for a collection of 1992 documents, and $6,000 (plus postage or delivery charges) for a collection of 1990 documents.[2] The purposed fees are structured to defray the Board's dissemination costs. The Board does not expect or intend to make a profit from the MSIL system, and will review the MSIL system fees annually to ensure that dissemination costs are paid for from user fees. The Board will file any new or modified fees with the Commission, pursuant to section 19(b)(1) of the Act.

**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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board 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*

(a) The OS/ARD subsystem, which was activated on April 20, 1992, is a central electronic facility through which information collected and stored pursuant to MSRB rule G–36 [3] is made available electronically and in paper form to market participants and information vendors.[4] The annual subscription fee for the OS/ARD system is $12,000.[5] The fees contemplated for backlog document collections are substantially less because, while an annual subscription requires the Board to send a computer tape to the subscriber each business day whether or not the tape is completely filled, the purchase of a backlog collection will require fewer tapes.[6]

In its prior filings with the Commission, the Board stated that it intends to use its general revenues for collecting, indexing and storing the OS/ARD subsystem's documents, and that the costs of producing and disseminating magnetic tapes (and paper copies) would be paid for by user fees.[7] Thus, the Board is establishing fees to defray its cost of disseminating backlog tapes. This is consistent with the Commission's policy that self-regulatory organizations' fees be based on expenses incurred in providing

[1] The Municipal SECURITIES INFORMATION LIBRARY system and the MSIL system are trademarks of the Board. The MSIL system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991), is a central facility through which information about municipal securities is collected, stored and disseminated.

[2] The Board is in the process of imaging its 1991 documents, and plans to make that collection available by the end of the year. All collections will consist of imaged documents on magnetic tapes.

[3] Rule G–36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified timeframes for most new issues issued since January 1, 1990.

[4] The Commission approved the OS/ARD subsystem and the MSIL system on June 13, 1991. Securities Exchange Act Release No. 29298.

[5] Securities Exchange Act Rel. No. 30306 (Jan. 30, 1992).

[6] Currently, it takes two to three business days' worth of documents to fill one optical disk.

[7] Securities Exchange Act Rel. No. 28197 (July 12, 1990).

information to the public.[8] The Board believes that employing cost-based prices is in the public interest since it will ensure that a complete collection of vital information will be available, at fair and reasonable prices, for the life of the municipal securities.

(b) The Board believes the proposed rule change is consistent with section 15B (b)(2)(C) of the Act, which provides that the Board's rules shall:

> be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board believes that the fees are fair and reasonable in light of the costs associated with disseminating the information, and that the services provided by the MSIL system are available on reasonable and non-discriminatory terms to any interested person.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, since the fees will apply equally to all persons.

*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 rule change is effective upon filing, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder, because the proposal is "establishing or changing a due, fee or other charge." At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested people are invited to submit written data, views, and arguments concerning the foregoing. People 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 Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–93–8 and should be submitted by July 14, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 93–14795 Filed 6–22–93; 8:45 am]

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**[Release No. 34–32486; File No. SR–NYSE–93–21]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by New York Stock Exchange, Inc. Relating to Streamlined Listing Procedures for Debt Securities

June 17, 1993.

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 April 26, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On June 14, 1993, the NYSE submitted to the Commission Amendment No. 1 to the proposed rule change in order to clarify certain aspects thereof.[1] 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 streamline the listing process for debt securities offerings. For that purpose, it proposes to amend Paragraph 501.06 (Bond Signatures), Paragraph 702.02 (Timetable for Original Listing), Paragraph 702.04 (Supporting Documents), Paragraph 703.01 (General Information) and Paragraph 703.06 (Debt Securities Offerings Listing Process) of its *Listed Company Manual*. The proposal would eliminate the indemnification agreement requirement and generally make the listing process easier for issuers.

**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*

1. Purpose

The Exchange is proposing to streamline its existing process for the listing of debt securities offerings. In particular, the Exchange seeks to eliminate the indemnification agreement requirement and to revise the list of supporting documents that an applicant must file in support of its listing application. The Exchange intends that, by making the application process less burdensome for issuers, the Exchange will make its bond trading

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[8] *See e.g.*, Securities Exchange Act Release No. 20874 (April 17, 1984) *affd, NASD* v. *SEC*, 801 F. 2d 1415 (D.C. Cir. 1986).

[1] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated June 11, 1993 ("Amendment No. 1"). Amendment No. 1 would add specificity to the content of the opinion of counsel that the Exchange requires in connection with a debt listing application and would clarify the proposed rule change by adding cross-references and other language to make the text of the *Listed Company Manual* easier to follow.

and reporting systems more readily accessible for issuers.

*Indemnification Agreement*

Where an issuer authorizes the facsimile signatures of two authorized officers of the issuer to effectuate the execution of a debt security, Paragraph 501.06 of the Listed Company Manual currently requires the issuer to enter into an agreement in which it: (1) Requires an authorized officer of the trustee or of the authenticating agent of the trustee to manually authenticate the security; (2) authorizes innocent purchasers for value to rely on the facsimile signatures; and (3) agrees to indemnify and hold harmless those purchasers and the Exchange for damages that result from a reliance upon the authenticity of the facsimile signatures.

In light of the availability of other legal remedies and the fact that neither depositories, clearing agencies nor other exchanges that trade debt securities require similar indemnities, the Exchange proposes to eliminate the indemnification agreement requirement.[2]

Even without the agreement, the Exchange anticipates that manual authentication of the facsimile signatures by an authorized agent of the trustee or of the authenticating agent of the trustee will remain standard industry practice for debt securities.

As a result, the Exchange proposes to delete from Paragraph 501.06 of the Listed Company Manual the references to the eliminated indemnification agreement requirement.

*Supporting Documentation*

The Exchange is proposing to change the list of documents that the Exchange requires an issuer to provide in support of a listing application for any debt security, as follows:

(1) *Distribution Information:* The Exchange proposes to delete the requirement that the issuer provide distribution information.

(2) *Notice of Availability:* The Exchange currently requires the issuer to have its transfer agent notify the Exchange of the availability of eligible securities for trading. The Exchange proposes to limit that requirement to debt securities that have been issued within the past 30 days. The Exchange believes that after 30 days the availability of securities should be readily apparent.

(3) *Prospectus:* Currently, the Exchange requests the applicant to provide four copies of both the preliminary and final prospectuses. The proposed rule change would eliminate the preliminary (but not the final) prospectus requirement. In addition, where an issue has been outstanding for more than one year, the proposed rule change would allow the applicant to satisfy the requirement by supplying either the final prospectus or an issue term sheet describing such relevant information as the coupon rate and payment dates, maturity, denominations and conversion price (if applicable).[3]

(4) *Mortgage or Indenture:* The proposed rule change seeks to allow the issuer of multiple issues to satisfy the indenture requirement by providing copies of the master indenture and of the separate indenture provisions specific to each issue.

(5) *Indemnification Agreement:* Elimination of the indemnification agreement requirement of Paragraph 501.06 obviates the need for the issuer to provide the indemnification agreement in connection with the listing process.

(6) *Registration Statement:* The Exchange notes that it has currently pending before the Commission a request to exempt from the registration requirements of the Act the debt securities of an issuer that has any securities that are registered under section 12(a) of the Act or that has a reporting obligation under section 15(d) of the Act.[4] The proposed rule change does not propose to eliminate the registration statement requirement in the "exempt debt security" context. However, if the Commission acts to grant all or any part of that exemption, the Exchange will make conforming changes to the Listed Company Manual.

(7) *Listing Fee Agreement and Listing Agreement:* The Exchange is eliminating the need to provide listing fee agreements and listing agreements in recognition of the fact that the Exchange does not require those agreements in connection with the listing of debt securities, although it does require them in connection with the listing of equity securities.

(8) The Exchange will no longer subject debt securities to advance notice in the Weekly Bulletin.[5]

Having proposed to streamline the listing process pursuant to Paragraph 703.06, the Exchange also proposes to amend Paragraphs 702.02, 702.04 and 703.01 to further the process of making the listing process less burdensome and to conform to the proposed Paragraph 703.06 changes. Thus, because the Exchange proposes to have Paragraph 703.06 govern the timetable and supporting documentation aspects of debt security listings exclusively, the Exchange proposes to amend Paragraphs 702.02, 702.04 and 703.01 to remove their application to those aspects of debt security listings.

By streamlining the listing process for debt securities, as provided in the proposed rule change, the Exchange hopes to increase the number of debt listings. The Exchange believes that such an increase serves the public interest because it will make a greater number of bond issues accessible to the Exchange's trading and disclosure systems.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[2] The Exchange is not proposing to eliminate the indemnification agreement requirement in the context of the listing process for equity securities.

[3] According to the NYSE, once an issue has been outstanding for six months to a year, the information in the prospectus may be too dated to be helpful in the listing process. If so, the NYSE will allow the applicant to satisfy the prospectus requirement by submitting another document that sets forth the relevant terms of the issue. The NYSE has indicated that there will be no standardized form for this "issue term sheet;" instead, the Exchange will work with each applicant, on a case-by-case basis, to develop an appropriate document. Telephone conversation between Fred Siesel, Director, Fixed Income Markets, NYSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on June 1, 1993.

[4] *See* letter from Donald J. Solodar, Executive Vice President, Fixed Income, Options and Administration, NYSE, to William H. Heyman, Director, Division of Market Regulation, SEC, and Linda C. Quinn, Director, Division of Corporation Finance, SEC, dated April 7, 1992.

[5] The Commission notes that, in addition to the changes set forth above, the NYSE is proposing to revise the content of another supporting document: the opinion of counsel (*i.e.*, the representations about the company and its securities that the issuer's attorney is required to make). *See* Amendment No. 1, *supra*, note 1. According to the NYSE, the content of the revised opinion of counsel would be a combination of the current requirements for original and subsequent listing applications, except that any provisions specifically for equity securities would be deleted. Telephone conversation between Fred Siesel, Director, Fixed Income Markets, NYSE, and Beth Stekler, Attorney, Division of Market Regulation, SEC, on June 11, 1993.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the publication of this notice in the Federal Register or within such other 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 the 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–21 and should be submitted by July 14, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 93–14791 Filed 6–22–93; 8:45 am]

BILLING CODE 8010–01–M

**[Release No. 34–32485; File No. SR–PSE–93–07]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Listing and Trading of Quarterly Index Expiration Options Based on the Wilshire Small Cap Index

June 17, 1993.

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 April 21, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission or Sec") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PSE. 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 PSE is proposing to amend its rules to permit the trading of quarterly index expiration ("QIX") options based on the Wilshire Small Cap Index").[1]

The text of the proposed rule change is available at the Office of the Secretary, PSE, and 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 PSE 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 PSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The Exchange is seeking approval to trade QIX options based on the Wilshire Index.[2] The PSE proposes that these options will expire on the last business day of each calendar quarter, will have a European-Style Exercise,[3] and the index value will be derived from the closing prices of the component securities on the last trading day prior to expiration ("P.M.-settled"). In addition, the Exchange proposes to retain the flexibility to assign an index multiplier for these options other than the customary 100 up to a maximum of 500, in order to allow the Exchange to accommodate the needs of larger portfolios.

The PSE further proposes that QIX options on the Wilshire Index will be aggregated with positions in other option contracts based on the Wilshire Index for purposes of Exchange position and exercise limits. In particular, the Exchange proposes that Wilshire Index QIXs be subject to the 37,500 contract limit requested for "regular" Wilshire Index options,[4] without the 22,500 contract limit or "telescoping requirement" for the series with the nearest expiration date applicable to regular Wilshire Index options. Under the proposal, regular Wilshire Index options would be aggregated with Wilshire Index QIXs, so that the aggregate of all options contracts based on the Wilshire Index could not exceed 37,500 contracts on the same side of the market. Regular Wilshire Index options, however, would remain subject to the 22,500 contract telescoping requirements.[5]

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 promote just and equitable principles of trade and to protect investors and the public interest.

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[1] The Commission has recently approved similar QIX option proposals based on the Standard & Poor's ("S&P") Corporation 100 and 500 Indexes and on the Major Market, Institutional, and S&P 400 MidCap Indexes. *See* Securities Exchange Act Release Nos. 31800 (February 1, 1993), 58 FR 7274 and 31844 (February 9, 1993), 58 FR 8796 respectively.

[2] The Commission approved the PSE's proposal to list and trade options on the Wilshire Index on November 3, 1992. *See* Securities Exchange Act Release No. 31397 (November 3, 1992), 57 FR 53368. Options on the Wilshire Index commenced trading on the Exchange on January 11, 1993 simultaneously with the commencement of trading at the Chicago Board of Trade ("CBOT") of futures contracts and options on futures contracts on the Wilshire Index.

[3] A European-style option is one that may be exercised only during a specified period prior to the expiration of the option.

[4] *See* Securities Exchange Act Release No. 31793 (January 29, 1993), 58 FR 7283 (notice of File No. SR–PSE–92–45).

[5] The Exchange believes that regular Wilshire Index options, which are A.M.-settled, should not be subject to a telescoping requirement because the index value is derived from opening prices of the component securities comprising the index rather than from closing prices. *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376. Accordingly, the Exchange may in the future file a separate proposal with the Commission that would eliminate the telescoping requirement applicable to regular Wilshire Index options.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The PSE does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to the File No. SR–PSE–93–07 and should be submitted by July 14, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[6] 17 CFR 200.30–3(a)(12) (1992).

**Margaret H. McFarland,**
*Deputy Secretary.*

[FR Doc. 93–14790 Filed 6–22–93; 8:45 am]
BILLING CODE 8010–01–M

**[Rel. No. IC–19526; 812–8078]**

## Affiliated Fund, Inc. et al.; Notice of Application

June 17, 1993.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** Affiliated Fund, Inc., Lord Abbett Bond-Debenture Fund, Inc., Lord Abbett California Tax-Free Income Fund, Inc., Lord Abbett Cash Reserve Fund, Inc., Lord Abbett Developing Growth Fund, Inc., Lord Abbett U.S. Government Securities Fund, Inc. (formerly Lord Abbett Income Fund, Inc.), Lord Abbett Tax-Free Income Fund, Inc., Lord Abbett Value Appreciation Fund, Inc. (collectively, the "Original Applicants"), Lord Abbett Fundamental Value Fund, Inc., Lord Abbett Global Fund, Inc., Lord Abbett Series Fund, Inc., Lord Abbett Equity Fund, Lord Abbett Tax-free Income Trust, Lord Abbett Research Fund, Inc., (collectively, the "Additional Applicants," and collectively with the Original Applicants, the "Lord Abbett Funds"), and Lord, Abbett & Co.

**RELEVANT ACT SECTIONS:** Conditional, amended order requested under section 6(c) of the Act granting an exemption from sections 13(a)(2), 18(f)(1), 22(f), and 22(g), and under section 17(d) and rule 17d–1 thereunder.

**SUMMARY OF APPLICATION:** Applicants seek a conditional, amended order under sections 6(c) and 17(d) of the Act, and rule 17d–1 thereunder, permitting certain registered open-end investment companies to enter into deferred compensation arrangements with their directors or trustees who are not interested persons of such companies within the meaning of section 2(a)(19).

**FILING DATE:** The application was filed on September 2, 1992, and amended on February 6, 1993, May 6, 1993, and June 15, 1993.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 12, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 767 Fifth Avenue, New York, New York 10167.

**FOR FURTHER INFORMATION CONTACT:** James J. Dwyer, Staff Attorney, at (202) 504–2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicants' Representations**

1. Lord, Abbett & Co. is the sponsor and investment adviser of the Lord Abbett Funds.

2. Each director and trustee of the Lord Abbett Funds who is not an interested person of the Lord Abbett Funds within the meaning of section 2(a)(19) of the Act earns fees from the Lord Abbett Funds (except, currently, from Lord Abbett Research Fund, Inc.) for service as director or trustee or, where applicable, for service on audit committees.

3. The SEC issued an order in 1986 (the "Existing Order"),[1] permitting the Original Applications to enter into deferred compensation arrangements with their non-interested directors. Applicants request an amendment to the Existing Order extending the relief granted therein to the Additional Applicants and to other registered open-end investment companies for which Lord, Abbett & Co., or any successor thereof by way of reorganization from a partnership to another form of business entity and/or under the laws of different states, is or becomes the sponsor and investment adviser (the Additional Applicants and such other registered investment companies are collectively referred to herein as the "Funds"). Under the amended order, the Funds would enter into deferred compensation arrangements (the "Arrangements") with their non-interested directors and trustees (the "Participants") substantially in conformity with the terms and conditions applicable to the

[1] Investment Company Release Nos. 14835 (Dec. 9, 1985) (notice) and 14884 (Jan. 3, 1986) (order).

deferred compensation arrangements entered into by the Original Applicants pursuant to the Existing Order.

4. The Arrangements would permit the Participants to elect to defer receipt of their fees so that they may defer payment of income taxes on such fees, and for other reasons. The deferred fees will be accrued to each Participant's benefit on a monthly basis, based on the annual compensation rate for the Participant in effect from time to time during the year. The fees for attending meetings of a board or of a committee will be accrued on the business day following such meeting.

5. Each Participant's deferred fee will be credited to an account on the applicable Fund's books established for the Participant. The value of each account will be determined by reference to the number of shares of the applicable Fund that the deferred fee would have purchased on the date it is credited to the Participant's account, and the value of the shares that would have been acquired through the reinvestment of dividends and capital gains distributions. Thus, the account will be subject to the same expenses, income, and capital changes as a shareholders's account, although no shares will actually be issued to fund the account. Each Fund's obligations to make payments of amounts accrued under the Arrangements will be general unsecured obligations, payable solely from the general assets and property of the respective Fund.

6. The Arrangements will be evidenced by deferred compensation plans which are the same in all substantive respects (except for the inclusion of provisions permitting a Participant to change a previous election as to the timing and manner of distributions) as the plans adopted by the Original Applicants pursuant to the Existing Order, and will be substantially similar in their provisions to such plans as they recently have been amended.

7. Each Participant's right to receive payment under the applicable Arrangement would be nontransferable, except that in the event of the death of the Participant, amounts payable to him or her under the Arrangement would be payable to his or her designated beneficiary or to his or her estate.

8. Certain of the Additional Applicants have implemented deferral of directors' and trustees' compensation on a basis similar to that proposed under the Arrangements. Those Additional Applicants will not transfer any amounts under such existing deferred fee arrangements to the Arrangements in reliance upon any order issued in connection with this application.[2]

**Legal Analysis**

1. Applicants contend that the proposed Arrangements possess none of the characteristics of senior securities which led Congress to enact sections 13(a) and 18 of the Act. They assert that there would be no "borrowing" under the Arrangements in the sense which concerned Congress, and all liabilities created under the Arrangements would be offset by essentially equal assets of the Funds that would not exist if the fees were paid on a current basis. Applicants contend that the Arrangements would not induce speculative investments by the Funds or provide opportunity for manipulation of the Funds' expenses and profits.

2. Section 22(f) bars undisclosed restrictions on transferability or negotiability of redeemable securities by open-end investment companies. Applicants contend that restrictions on transferability of Participants' accounts are included primarily to benefit the Participants and would not affect the interests of the Participants or of any shareholder of the Funds adversely.

3. Section 22(g) prohibits registered open-end investment companies from issuing securities for services or for property other than cash or securities. This provision prevents the dilution of equity and voting power that can result when securities are issued for consideration that is not readily valued. Applicants contend that the Arrangements will not have the effect of diluting the equity or voting power of shareholders as prohibited by section 22(g). They also argue that the Arrangements may be viewed as being issued not in return for services, but in return for not being required to pay such fees on a current basis.

4. Applicants submit that the proposed Arrangements meet the standards for an order under rule 17d–1(c). Each Fund would determine its general obligations accruing under the proposed Arrangement as though the deferred fees were invested in its shares. As such, applicants contend that the income, realized gain or loss on investments, and unrealized appreciation or depreciation of assets attributed to the account of a Participant would be identical in amount to the income, realized gain or loss, and appreciation or depreciation received by the applicable Fund's shareholders. The Participants neither directly nor indirectly would receive a benefit which would otherwise inure to a Fund or its shareholders.

5. Applicants contend that the deferral of fees would have a negligible impact on the Funds' assets, liabilities, net assets, and net income per share, because the total fees paid to each Participant are *de minimis* in comparison to the size of each Fund's assets.

6. Applicants submit that the proposed amended order is appropriate because the ability of the Funds to recruit and retain highly qualified directors or trustees will be enhanced by the Funds' ability to defer payment of Participants' fees.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 93–14792 Filed 6–22–93; 8:45 am]

BILLING CODE 8010–01–M

[2] The staff notes that applicants have not requested, and any order will not grant, an exemption to allow the implementation or continuance of existing deferred compensation arrangements which were not adopted pursuant to the Existing Order.

## DEPARTMENT OF STATE

**[Public Notice 1822]**

### U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), U.S. National Committee and Study Group A; Meeting

The Department of State announces that the National Committee and Study Group A, U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on July 21, 1993 at the Department of State, 2201 C Street, NW., Washington DC 20520. The U.S. National Committee will meet from 9 a.m. to 12 p.m. in room 1105. U.S. Study Group A will meet from 1 p.m. to 4 p.m. in room 1105.

The agenda for the National Committee meeting will include a report of the June meeting of the Telecommunication Standards Advisory Group (TSAG) and preparations for the continuation of TSAG tasks. Intellectual property policies may also be discussed. The Study Group A meeting will include reports and discussion of the results of recent ITU-TS Study Group 2 and Study Group 3 meetings, and any other matters within the purview of Study Group A.

Members of the general public may attend these meetings and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the

Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meetings. Persons who plan to attend should advise the Office of Earl Barbely, Department of State, (202) 647–0201, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Please bring 50 copies of documents to be considered at these meetings. If the document has been mailed to the membership, bring only 10 copies.

Dated: June 10, 1993.

**Earl Barbely,**

*Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.*

[FR Doc. 93–14721 Filed 6–22–93; 8:45 am]

BILLING CODE 4710–45–M

## DEPARTMENT OF TRANSPORTATION

**[Order 93–6–23; Docket 48871]**

### Order Establishing a Proceeding for Guam/Saipan-Osaka Service

**AGENCY:** Department of Transportation.

**ACTION:** Institution of the Guam/Saipan-Osaka Combination Service Proceeding to select two U.S. carriers to provide this service.

**SUMMARY:** Two U.S. carriers can provide scheduled combination service between Guam/Saipan and Osaka under the aviation agreement between the United States and Japan. When a new Osaka airport opens in late 1994, U.S. carriers will be able to exercise these rights that are now precluded by environmental constraints at the existing airport. Three carriers—Continental Micronesia, United Air Lines and Northwest Airlines—have applied for either new authority and/or designations under the agreement to activate their dormant authority.

The Department has decided to institute a non-oral, evidentiary proceeding to select two carriers to serve these markets. The Department has also dismissed the requests of Continental Micronesia and United for immediate exemption authority and deferred their designation requests pending a final decision in the case.

**DATES:** Applications, amended applications, motions to consolidate, petitions for leave to intervene and petitions for reconsideration are due not later than June 29, 1993. Answers are due not later than July 6, 1993.

**ADDRESSES:** Applications, amended applications, motions to consolidate, petitions for leave to intervene and petitions for reconsideration should be filed in Docket 48871 addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., room 4107, Washington, DC 20590, and should be served on all parties in Docket 48871.

Dated: June 16, 1993.

**Patrick V. Murphy,**

*Acting Assistant Secretary for Policy and International Aviation.*

[FR Doc. 93–14801 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–62–M

## National Highway Traffic Safety Administration

### Announcing the First Meeting of the Motor Vehicle Titling, Registration and Salvage Advisory Committee

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Meeting announcement.

**SUMMARY:** This notice announces the first meeting of the Motor Vehicle Titling, Registration, and Salvage Advisory Committee. The Committee was established as required by section 140 of the Anti Car Theft Act of 1992, Public Law 102–519, and in accordance with the Federal Advisory Committee Act, for the purpose of studying problems related to motor vehicle titling, registration, and controls over motor vehicle salvage which may affect the motor vehicle theft problem. The committee will develop and submit a report to the President, the Congress, and the chief executive of each State concerning the results of this study, which will include recommendations to solve these problems. The purpose of this meeting is to discuss the issues and topics related to this problem and to develop and agenda for the Committee to follow. At this meeting the Committee will discuss definitions of salvage and junk and title branding of salvage, junk, and reconstructed or rebuilt vehicles.

**DATES AND TIME:** The meeting is scheduled to begin at 9 a.m. on Tuesday, July 20, 1993, and conclude at 4 p.m. on Wednesday, July 21, 1993.

**ADDRESSES:** The meeting will be held in room 4234–38 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

**SUPPLEMENTARY INFORMATION:** In April 1993, the Motor Vehicle Titling, Registration, and Salvage Advisory Committee was established as required by section 140 of the Anti Car Theft Act of 1992, Public Law 102–519. The purpose of the Committee is to study problems which relate to motor vehicle titling, registration, and vehicle salvage controls, including the lack of uniformity in State laws, which may contribute to motor vehicle theft and fraud problems.

The Committee will prepare a report containing the results of the study, including appropriate recommendations to solve the problems identified. The report shall be submitted to the President, the Congress, and to the chief executive officer of each State not later than April 1994.

This meeting is open to the public; however, participation will be determined by the Committee Chairperson.

A public reference file (P.F. 93–001) has been established to contain products of the Committee and will be open to the public during the hours of 9:30 a.m. to 4 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–2678.

**FOR FURTHER INFORMATION CONTACT:** Richard C. Morse, Odometer Fraud Staff, Office of the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, NEF–20, room 5321, 400 Seventh Street, SW., Washington, DC 20590, Phone: 202–366–4761.

Issued on: June 18, 1993.

**William A. Boehly,**

*Associate Administrator for Enforcement.*

[FR Doc. 93–14766 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–59–M

**[Docket No. 93–24; Notice 2]**

### Determination That Nonconforming 1990 Mercedes-Benz 300TE Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of determination by NHTSA that nonconforming 1990 Mercedes-Benz 300TE passenger cars are eligible for importation.

**SUMMARY:** This notice announces the determination by NHTSA that 1990 Mercedes-Benz 300TE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for

importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1990 Mercedes-Benz 300TE), and they are capable of being readily modified to conform to the standards.

**DATES:** The determination is effective June 23, 1993.

**FOR FURTHER INFORMATION CONTACT:** Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) petitioned NHTSA to determine whether 1990 Mercedes-Benz 300TE passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 26, 1993 (58 FR 22014) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

**Vehicle Eligibility Number for Subject Vehicles**

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP # 40 is the vehicle eligibility number assigned to vehicles admissible under this determination.

**Final Determination**

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1990 Mercedes-Benz 300TE (Model ID 124.090) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1990 Mercedes-Benz 300TE originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

**Authority:** 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 17, 1993.

**William A. Boehly,**

*Associate Administrator for Enforcement.*

[FR Doc. 93–14718 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–59–M

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**[Docket No. 93–25; Notice 2]**

## Determination That Nonconforming 1989 Toyota Camry Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of determination by NHTSA that nonconforming 1989 Toyota Camry passenger cars are eligible for importation.

**SUMMARY:** This notice announces the determination by NHTSA that 1989 Toyota Camry passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified vision of the 1989 Toyota Camry), and they are capable of being readily modified to conform to the standards.

**DATES:** The determination is effective June 23, 1993.

**FOR FURTHER INFORMATION CONTACT:** Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

J.K. Motors, Inc. of Kingsville, Maryland (Registered Importer No. R–90–006) petitioned NHTSA to determine whether 1989 Toyota Camry passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 26, 1993 (58 FR 22016) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

**Vehicle Eligibility Number for Subject Vehicles**

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP

#39 is the vehicle eligibility number assigned to vehicles admissible under this determination.

**Final Determination**

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1989 Toyota Camry not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1989 Toyota Camry originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

**Authority:** 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 17, 1993

**William A. Boehly,**

*Associate Administrator for Enforcement.*

[FR Doc. 93–14719 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–59–M

## Denial of Motor Vehicle Noncompliance Petition

This notice sets forth the reasons for the denial of a petition submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seg.*).

Mr. Frederick E. Grim, P.E., petitioned the agency to determine that the 1990 Dodge Shadow vehicle and other makes and model years of Chrysler vehicles equipped with a tilt steering column, fail to comply with Federal Motor Vehicle Safety Standards (FMVSS) No. 203, "Impact protection for the driver from the steering control system," No. 204, "Steering control rearward displacement," and No. 208, "Occupant crash protection." Mr. Grim included with his petition information and photographs of two vehicles involved in real-world crashes, characterized by Mr. Grim as low speed collisions, in which the steering wheel separated from the tilt steering column. The petitioner believes that the steering wheel separation is caused by the rearward displacement of the steering shaft in a crash, causing the tilt mechanism to fracture prior to proper air bag deployment and operation.

Specifically, this petition requests NHTSA to commence a proceeding to determine whether to issue an order requiring owner notification and remedy of a failure of the subject vehicles to comply with the aforementioned FMVSS. To address the merits of the petition, the agency wrote to Chrysler Corporation (Chrysler), requesting information and data from all tests used by Chrysler in the assessment of vehicle performance relative to the requirements of FMVSS Nos. 203, 204, and 208. Separately, the agency procured a Dodge Shadow vehicle with the subject tilt steering column and tested the vehicle to the requirements of the applicable standards. Based on NHTSA's review of all available information, as discussed below, there are no data to suggest the subject vehicles did not comply with the applicable standards. Thus, the petition for the commencement of a proceeding to determine whether to issue an order regarding failure of the subject vehicles to comply with the applicable standards is denied. However, the information obtained during the course of the analysis pertaining to the subject petition indicated that it would be appropriate to consider whether the subject vehicles contain a safety-related defect related to the design and performance of the steering column. Accordingly, a defect investigation has been initiated.

Concerning the petitioner's request regarding compliance to the safety standards, it is noted that FMVSS No. 203 does not apply to vehicles which use a driver position air bag to meet the frontal crash protection requirements of FMVSS No. 208. All Dodge Shadow and Plymouth Sundance vehicles, beginning with model year 1990, were equipped with a driver's air bag. Therefore, no basis exists for conducting a determination of compliance with respect to FMVSS No. 203.

Review of all information and data available indicates that these vehicles meet the requirements of FMVSS Nos. 208 and 204. Chrysler submitted the results of 14 tests used to certify compliance to the requirements of FMVSS No. 208. In each of the tests, the vehicle met the injury criteria established in FMVSS No. 208. In addition, Chrysler submitted the results of nine non-certification tests on vehicles with the subject tilt column design. These developmental tests indicated that compliance with standards 204 and 208 was not affected by the tilt steering column design. NHTSA conducted a compliance test of a 1993 Dodge Shadow to assess its performance relative to FMVSS No. 208. FMVSS No. 208 requires that the Head Injury Criteria (HIC) not exceed 1,000, the chest acceleration not exceed 60 g's, the chest deflection not exceed 3 inches and the compression loads in the upper legs not exceed 2,250 lb. The driver dummy in the Dodge Shadow, restrained by an air bag measured a HIC of 188, a chest acceleration of 34 g's, a chest deflection of 1.1 inches and upper leg loads of less then 1,100 lb. These data indicate a large margin of compliance with the performance measures established in FMVSS No. 208. Based on the data submitted by Chrysler and the NHTSA compliance test, there are no data to suggest a noncompliance with the requirements of FMVSS No. 208.

Concerning FMVSS No. 204, the standard requires that the steering control may not have a horizontal rearward displacement of more than 5 inches when the vehicle is impacted into a barrier at 30 mph. Chrysler submitted data on two vehicle crash tests to support the compliance of the subject vehicles to the requirements of FMVSS No. 204. THe maximum displacement of the steering control was 3.9 inches. In NHTSA's FMVSS No. 208 compliance test mentioned above, photographic measurement indicated the rearward displacement complied with the requirements of FMVSS No. 204. Again, there are no data to suggest a noncompliance of the subject vehicles with the requirements of FMVSS No. 204.

Although the analysis of all available data indicate that the subject vehicles comply with the performance requirements of FMVSS No. 208 and FMVSS No. 204, the review indicated several instances of tilt column damage in laboratory crash tests. While this damage did not adversely affect compliance with the subject safety standards, NHTSA concluded that further review of tilt steering column safety performance was warranted. Accordingly, the agency has initiated a defect investigation to assess the safety performance of the steering column in these vehicles. This investigation, EA93–009, is ongoing and no conclusions have been reached.

In consideration of all available information, it was concluded that there was not a reasonable possibility that an order concerning noncompliance in relation to the petitioner's allegations would be issued at the conclusion of an investigation. Further commitment of resources to determine whether a noncompliance exists does not appear to be warranted. Therefore, the petition was denied.

**Authority:** Sec. 124, Public Law 93–492: 88 Stat. 1470 (15 U.S.C. 140a); delegations of authority at 49 CFR 1.5 and 501.8.

Dated: June 17, 1993.

**William A. Boehly,**

*Associate Administrator for Enforcement.*

[FR Doc. 93–14715 Filed 6–22–93; 8:45 am]

BILLING CODE 4910–59–M

# Sunshine Act Meetings

Federal Register
Vol. 58, No. 119
Wednesday, June 23, 1993

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).

**U.S. CONSUMER PRODUCT SAFETY COMMISSION**

**TIME AND DATE:** 10:00 a.m., Thursday, June 24, 1993.

**LOCATION:** Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

**STATUS:** Open to the public.

*1. Pride in Public Service*

The Commission will present the Pride in Public Service Award to June's recipient.

*2. Loperamide*

The staff will brief the Commission on a final rule under the Poison Prevention Packaging Act to require child-resistant packaging for products containing more than 0.045 milligrams of loperamide in a single package.

For a recorded message containing the latest agenda information, call (301) 504–0709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, (301) 504–0800.

Dated: June 18, 1993.

**Sheldon D. Butts,**

*Deputy Secretary.*

[FR Doc. 93–14926 Filed 6–21–93; 2:59 pm]
BILLING CODE 6355–01–M

# Corrections

Federal Register
Vol. 58, No. 119
Wednesday, June 23, 1993

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.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 75

[FRL-4543-5]

### Acid Rain Program: General Provisions and Permits, Allowance System, Continuous Emissions Monitoring, Excess Emissions and Administrative Appeals

*Correction*

In rule document 93-1 beginning on page 3590 in the issue of Monday, January 11, 1993, make the following corrections:

**§ 75.1 [Corrected]**

1. On page 3702, in the first column, in § 75.1(b), in the last line, "appendix C" should read "appendix G".

**§ 75.6 [Corrected]**

2. On page 3703, in the second column, in § 75.6(a)(12), in the last line, "the part" should read "this part".

**§ 75.12 [Corrected]**

3. On page 3705, in the third column, in § 75.12(c)(1), in the third line, "fact or" should read "factor".

**§ 75.14 [Corrected]**

4. On page 3706, in the third column, in § 75.14(d), in the second line, "*engines*" should read "*engine*".

**§ 75.15 [Corrected]**

5. On page 3707, in the first column, in § 75.15(a)(3)(iii), in the third line, "the outlet" should read "and outlet".

5. On the same page, in the same column, in § 75.15(b), in the first line, "$SO^2$" should read "$SO_2$".

**§ 75.16 [Corrected]**

6. On page 3708, in the third column, in § 75.16(b)(2)(i), in the first line, after "from" insert "each".

**§ 75.17 [Corrected]**

7. On page 3709, in the second column, in § 75.17(b), in the second line, "*units(s)*" should read "*unit(s)*".

**§ 75.20 [Corrected]**

8. On page 3710, in the first column, in § 75.20(a)(1), in the first line, "*Notification*" was misspelled.

**§ 75.33 [Corrected]**

9. On page 3716, beginning in the first column, in § 75.33(c)(2)(ii)(B), remove the text beginning with subparagraph (2) at the bottom of the page and ending with subparagraph (B) in the second column at the top of the page.

**§ 75.41 [Corrected]**

10. On page 3718, in the second column, in § 75.41(b)(2)(i), under "(Eq. 13)":

a. "*X*" should be lowercased each time it appears in the next three lines.

b. In the first line, after "value at" insert "hour".

c. In the third line, before the equal sign, insert an end parenthesis.

11. On page 3720, in the first column, in § 75.41(c)(2)(ii), the phrase "(Eq. 27)" should be removed.

**§ 75.48 [Corrected]**

12. On the same page, in the third column, in § 75.48(a)(3)(vii), in the second line, "§ 7.6.4" should read "section 7.6.4".

**§ 75.50 [Corrected]**

13. On page 3721, in the third column, in § 75.50(c)(3)(ii), in the first line, "emission" should read "emissions".

**Appendix A to Part 75 [Corrected]**

14. On page 3727, in the third column, in **Appendix A to Part 75—Specifications and Test Procedures**, under the heading *1.2 Flow Monitors*, in the eighth line, "Text" should read "Test".

15. On the same page, in the third column, under the heading 1.2.2 Alternative Monitoring Location, in the first paragraph, in the second line, "grater" should read "greater".

16. On page 3730, in the 1st column, under the heading 2.1.4 Flow Monitors, in the 1st full paragraph, in the 13th line, "fmp" should read "fpm".

17. On the same page, in the third column, under the heading *3.2 Linearity Check*, in paragraph (2), in the last line, "restrictive" was misspelled.

18. On page 3736, in Figure 2., in footnote 3, "of" should read "or".

**Appendix C to Part 75 [Corrected]**

19. On page 3741, in the first column, in **Appendix C to Part 75—Missing Data Estimation Procedures**, in paragraph 1.2.4.6, delete the first through sixth lines.

20. On the same page, in the second column, in paragraph 2.2.1, in the heading to Table C—1, "Loan" should read "Load".

21. On page 3742, in paragraph 2.1.3, in the second column, in the seventh line, "§ 6.5.2" should read "section 6.5.2".

22. On the same page, in the third column, in paragraph 2.2.6, in the eighth line, "or" should read "of".

23. On page 3743, in the third column, in paragraph 2.1.2.2, in the sixth line, remove "fuel" after "dual-fuel".

24. On the same page, in the same column, in paragraph 2.1.2.3, in the third line, "Methods 7E of 3A" should read "Methods 7E and 3A".

**Appendix F to Part 75 [Corrected]**

25. On page 3747, in the third column, **Appendix F to Part 75—Conversion Procedures**, in paragraph 4.3, in the entry for $H_R$, in the first line, "emissions" was misspelled.

26. On page 3748, in the first column, in paragraph 5.2.2, in the second line, "concentrations" should read "concentration".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 916

### Kansas Permanent Regulatory Program

*Correction*

In rule document 93-13852 beginning on page 32847 in the issue of Monday, June 14, 1993, make the following correction:

On page 32855, in the first column, amendatory instruction 3. should read:

"3. Section 916.16 is amended by revising paragraph (a); amending paragraph (b) by revising the introductory text, removing and

reserving paragraphs (b)(1) through (7), (b)(9), (b)(11) through (16), (b)(18) through (23), (b)(25) through (29), (b)(31) through (42), and revising paragraphs (b)(8), (10), (17), (24), and (30); and by adding paragraph (c) as follows:"

BILLING CODE 1505-01-D

federal register

Wednesday
June 23, 1993

Part II

# Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 58 and 92

HOME Investment Partnerships Program; Interim Rule

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Secretary**

**24 CFR Parts 58 and 92**

**[Docket No. R–93–1658; FR–3410–I–01]**

**RIN 2501–AB49**

## HOME Investment Partnerships Program

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Interim rule.

**SUMMARY:** This rule amends the existing interim rule for the HOME Investment Partnerships Program by making conforming changes required by the Housing and Community Development Act of 1992 and by implementing program changes, in response to public comment, that would facilitate the operation of the program. It also provides specifically for its applicability to the HOME program, and to broaden, where appropriate, current program-specific references to various activities, responsibilities and categorical exclusions so that they apply to activities and participants under the HOME program.

**DATES:** *Effective date:* July 23, 1993.

*Comment due date:* Comments on these amendments to the interim rule must be submitted on or before August 23, 1993.

**ADDRESSES:** Interested persons are invited to submit comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. FAXES will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Concerning 24 CFR part 92, subparts A–L: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, room 7162, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2470, TDD (202) 708–2565. (These are not toll-free numbers.)

Concerning 24 CFR part 92, subpart M: Dominic Nessi, Director, Office of Indian Housing, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW. room 4140, Washington, DC 20410, telephone (202) 708–1015. A telecommunications device for speech and hearing impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

Concerning 24 CFR part 58: Richard H. Broun, Director, Office of Environment and Energy, room 7240, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2894, TDD (202) 708–2565. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:**

### I. Paperwork Reduction Act Statement

The information collection requirements for the HOME Program have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, and have been assigned OMB Control Number 2501–0013. This rule, through the elimination of certain provisions, reduces information collection requirements. Information on these requirements is provided as follows:

ANNUAL REPORTING AND RECORDKEEPING BURDEN

| Regulation section | Number of respondents | Record-keeping hours | Reporting hours | Estimated annual burden hours |
|---|---|---|---|---|
| 92.51 (deleted) | 50 | 0 | −5 | −250 |
| 92.208 (deleted) | ..... | ..... | ..... | ..... |
| 92.209 (deleted) | 54 | −4 | 0 | −216 |
| 92.210 (revised) | ..... | ..... | ..... | ..... |
| 92.222 (revised) | 330 | 0 | −5 | −1,650 |
| Total Annual Reporting and Recordkeeping Burden Reduction | ..... | ..... | ..... | −2,116 |

### II. Background

The HOME Investment Partnerships Program (HOME) was enacted under title II (42 U.S.C. 12701–12839) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (Pub. L. 101–625, approved November 28, 1990). On March 19, 1991, the Department published a proposed rule (56 FR 11592) to implement the HOME Program. The Department received 119 public comments in response to the proposed rule. After reviewing and considering these comments, HUD published an interim rule on December 16, 1991 (56 FR 65313), inviting additional comments on the program.

The Department received 118 public comments on the interim rule. In partial response to these comments and HUD's experience in implementing the program, a rule to make necessary changes on an expedited basis to the December 16, 1991 interim rule was developed. In addition, the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992) included a substantial number of amendments to the HOME program. A memorandum dated November 9, 1992 and signed by the Acting Assistant Secretary summarizing the HCDA 1992 amendments to the HOME program was mailed to all participating jurisdictions (PJs) soon after the passage of HCDA 1992. Most of the HCDA 1992 amendments to the HOME program were determined by the Department to be immediately effective, requiring only conforming amendments to the HOME rule to bring it into accord with the statutory changes. Other HCDA 1992 chances were determined to require the publication of a proposed rule (58 FR 26048, April 29, 1993) with an opportunity for public notice and comment before they could be implemented. Some of the HCDA 1992 amendments that were determined to be immediately effective were included in the "necessary changes" interim rule, which was published on December 22, 1992 (57 FR 60960). The Department has received 27 public comments on this rule. Since the publication of the interim rules, the Department has also conducted more than thirty HOME Program training sessions across the country which also served as forums for airing issues and comments concerning the rules.

The remaining changes to the HOME rule necessary to make it conform to the additional HCDA 1992 amendments determined to be immediately effective are being implemented in this interim rule. The Department is also using this interim rule to implement additional changes that are being made in response to comments on both the December 16, 1991 and December 22, 1992 interim rules, and that will improve the operation of the HOME program. Amendments applicable to subpart M, HOME funds for Indian tribes, are also being made in this rule.

*A. HCDA 1992 Amendments*

Currently, a jurisdiction must receive $750,000 through formula distribution to become a participating jurisdiction, or must receive at least $500,000 by formula and "make up the difference" to $750,000. These thresholds are amended by HCDA 1992 section 202 to provide that, in years where Congress appropriates less than $1.5 billion for title II of NAHA (e.g., Fiscal Year 1993), jurisdictions must receive at least $335,000 by formula and meet a threshold of $500,000 in order to participate. A new § 92.50(f) is being added to provide for the use of the alternate $335,000 formula threshold, and § 92.102 and § 92.103(b) are being amended to include references to the new alternate participation threshold amount of $500,000. In addition, because the redistribution calculations under the allocation formula begin at one-half the threshold amount, § 92.50(f) also provides for the use of $167,500 in redistribution calculations when the alternate formula threshold of $335,000 applies. These new thresholds were reflected in the FY 1993 Notice of Fund Availability (NOFA) for the HOME Program, published in the Federal Register on January 27, 1993 (58 FR 6289).

Section 202 of HCDA 1992 also creates new thresholds, applicable only in years when the HOME appropriation falls below $1.5 billion, under which a PJ's designation may be revoked. HUD may revoke a jurisdiction's designation as a PJ if its allocation drops below $500,000 for three consecutive years, $410,000 for two consecutive years and $335,000 for any one year. These new thresholds are being added to § 92.107(b).

The rental production set-aside and all restrictions for new construction activities, including the new construction list and the special justifications for new construction under neighborhood revitalization and special needs housing are eliminated by HCDA 1992 section 203. Site and neighborhood standards, 24 CFR 92.202, still apply to new construction. In addition, these statutory changes eliminate the 36 month commitment deadline for rental housing production set aside funds. Now, all HOME funds (including FY 1992 allocations) must be committed within 24 months. Accordingly, §§ 92.51 Establishing list of participating jurisdictions that may use funds for new construction and rental housing production set-aside, § 92.208 New construction: HUD authorized, and § 92.209 New construction: Neighborhood revitalization, are being removed and reserved; §§ 92.52, 92.102(b)(2), and 92.500(d)(2) are being revised to remove references to the rental production set-aside or new construction; and § 92.210, currently entitled New Construction: Special needs, is re-titled, Tenant-based rental assistance: Security deposits, and is being completely revised to reflect HCDA 1992 section 204(a), which permits HOME funds to be used for security deposits, whether or not HOME funds are provided for other forms of tenant-based rental assistance.

The revised § 92.210 enables the participating jurisdiction to define the term "security deposit" for purposes of the HOME program, with the additional requirements that the security deposit may not exceed the equivalent of two months' rent. Only tenants, not landlords, are permitted to apply for this form of assistance. Since the use of HOME funds for security deposits is a form of tenant-based rental assistance, the tenant lease protection provisions of § 92.253 (a) and (b) are applicable. Conforming changes are also being made to include security deposits in the definition of tenant-based rental assistance at § 92.2; as a part of program description at § 92.150(b)(6); in the listing of eligible activities at § 92.205(a)(1) and eligible costs at § 92.206(e); and as a component of § 92.211 Tenant-based rental assistance.

Section 205 of HCDA 1992 provides that permanent housing for disabled homeless persons, transitional housing and single-room occupancy housing (SRO) are included in the term "affordable housing." The only effect of this provision is to add transitional housing as an eligible HOME activity, since all permanent and SRO housing is currently eligible under the HOME interim rule. A definition of "transitional housing" is being added at § 92.2. Transitional housing is designed to provide housing and appropriate supportive services. Its purpose is to facilitate the movement of individuals to independent living within a period prescribed by the PJ or project owner. Because this specified time limitation is applicable to transitional housing, § 92.253(c) is revised to permit the termination of tenancy after the prescribed period. Section 92.205(a)(1) is being revised to specify HOME assisted housing must be permanent or transitional housing and includes housing for disabled homeless persons, and single-room occupancy housing. Emergency shelters are not transitional or permanent housing and are not eligible for the HOME program, and the definition of "housing" at § 92.2 is amended to clarify this point.

HCDA 1992 section 207 permits each PJ to use an amount equal to 10 percent of its HOME allocation for administrative and planning costs, including salaries of staff persons involved in the administration and management of HOME-assisted activities, incurred on or after October 28, 1992, the effective date of HCDA 1992. Section 92.206(f) is being amended to reflect this use of HOME funds. The Department will also allow PJs to use up to ten percent of any return on the investment of HOME funds, as defined in section 92.503, for administrative and planning costs.

Section 207 also provides that no administrative costs will be recognized as match, and eliminates the seven percent match credit for administrative costs paid with State, and local or CDBG funds. The conforming change to § 92.220(a)(5) to eliminate administrative costs as an eligible form of match is being implemented in the HOME proposed rule for HCDA 1992 amendments. The proposed rule would revise this section by replacing administrative costs with bond proceeds, newly eligible as a form of match in accordance with HCDA section 210(b).

In § 92.218 Amount of matching contribution, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to clarify that HOME funds used for administrative expenses and for operating expenses and capacity building of community housing development organizations do not have to be matched. Section 92.221 Match credit is also being revised by removing the text of paragraph (a) and moving up the texts of paragraphs (b) and (c), with conforming changes to delete references to administrative expenses. Section 92.221(a)(6) has been reserved to accommodate changes to be made by the proposed rule.

Section 207(g) of HCDA 1992 permits a participating jurisdiction in the HOME program to use up to five percent of its

HOME allocation for the payment of operating expenses for community housing development organizations (CHDOs). To implement this section, the Department has defined operating expenses at § 92.2. The definition seeks to be as inclusive as possible while still focusing on eligible operating expenses, as opposed to project costs. HOME funds for operating expenses may not be used to pay the administrative costs incurred by a CHDO acting as a subrecipient or contractor of a PJ to administer any or all of a PJ's HOME program activities. A PJ may use its administrative funds under the 10% cap for this purpose. Operating expenses for CHDOs are added to the list of eligible activities at § 92.206(g). To encourage the development of HOME-assisted projects by CHDOs, a new section is added at § 92.300(e) to explain that if funds for operating expenses are provided under § 92.206(g) and the CHDO is not also receiving CHDO set-aside funds to develop, own, or sponsor housing, the participating jurisdiction must enter into a written agreement with the community housing development organization. The written agreement must provide that the CHDO is expected to receive CHDO set-aside funds within 24 months of receiving the funds for operating expenses, and sets forth the terms and conditions upon which this expectation is based. In § 92.302(d)(1) "operating budget" is changed to read "operating expenses," and the text of this entire paragraph is being moved to a new paragraph established at § 92.300(f), and § 92.302(d) has been renumbered to accommodate this change. Moving this text, which deals with limitations on the assistance that may be provided to CHDOs, is necessary because the limitation applies to all operating expenses, and not just to housing education and organizational support under § 92.302. The new § 92.300(f) also reflects HCDA 1992 section 212(c), which limits the amount of HOME assistance for operating expenses to the greater of 50 percent or $50,000 of the organization's fiscal year total operating budget, without regard to other Federal assistance being provided.

The tiered match requirements have been amended by HCDA section 210(a). PJs must now provide the same 25 percent match (rather than 33 percent) for substantial rehabilitation as for rental assistance and rehabilitation; and a 30 percent match (rather than 50 percent) for new construction. These match requirements apply to any HOME funds drawn down on or after October 1, 1992, the beginning of FY 1993. The rule at § 92.218(a) is amended to substitute these new match requirements.

Section 92.220(a)(6) is added to the rule to include as an eligible match the value of site preparation and construction materials, and donated or voluntary labor, in connection with site preparation and construction or rehabilitation of affordable housing, as permitted by HCDA 1992 section 210(b). For the purpose of valuation, a single rate will be applicable for all donated or voluntary labor. The labor rate for FY 1993 is $10/hour. The labor rate will be reviewed each year, and be specified in the notice of funding availability announcing the formula allocation amounts as specified at 92.52, and the participating jurisdictions that receive a reduction of the matching contribution requirement. Donated materials are credited as match at the time they are used for the affordable housing, and donated or voluntary labor is credited at the time the work is performed, as specified in new § 92.221(a)(6).

HCDA 1992 section 210(c) amended the requirements for reduction of the match requirement. To implement these amendments, the current match reduction procedures at § 92.222(a), which permit a percentage reduction of the match over a three year period, are stricken and replaced by procedures described below. Section 210(c) requires the reduction of the match on the basis of the fiscal distress of the PJ, with some variation depending upon whether a State or local PJ is involved. A PJ other than a State is entitled to a 50 percent match reduction during any fiscal year that it is determined to be in fiscal distress, or a 100 percent match reduction during any fiscal year that it is determined to be in severe fiscal distress. The statute provides two distress criteria for local PJs, one based on the poverty rate of a PJ, the other based on a PJ's per capita income, each using data made available by the Bureau of the Census for the calendar year immediately preceding the PJ's match reduction fiscal year. The statute defines "fiscal distress" to mean that one of the distress criteria has been satisfied; "severe fiscal distress" means that both criteria have been satisfied. Because the statute does not establish distress criteria for States, and requires the Department to take into consideration a State's fiscal capacity and expenditure needs, a separate procedure for State PJs will be issued in a proposed rule for HCDA 1992 amendments to the HOME program. Section 92.222(a)(2) is reserved to this interim rule to accommodate the State procedure.

Although these fiscal distress criteria for local governments are specified in the statute, the information for these indicators is not updated by the U.S. Bureau of the Census any more frequently than every two years. The most current available data from this source will, therefore, be used. The Department will compute and publish distress determinations for PJs on an annual basis, even though new data may not be available each year, because additional jurisdictions may be eligible to participate in the program, or the configuration of existing PJs may change, which could result in different distress determinations. Because the Department will be making and publishing the distress determinations, it will not be necessary for a PJ to submit a certification of distress.

A PJ will meet the first criterion if its percent of families in poverty is 125 percent or more of the United States average; and a PJ will meet the second criterion of distress if its per capita income is less than 75 percent of the United States average. The Department has made available a list of local PJs that meet the distress criteria for FY 1993, and in the future will provide the list annually in the HOME Notice of Funding Availability (NOFA).

In order to permit the full benefit on the match reduction to be taken into account for planning purposes by participating jurisdictions, the reduction will be effective for the fiscal year in which the distress determination is published and for the next fiscal year. A 100 percent match reduction will, in every instance, be effective for this two year period. However, if in the second year of a 50 percent match reduction period the published distress determination indicates severe fiscal distress, a new two year 100 percent match reduction period is initiated and becomes immediately effective, superseding the second year of the 50 percent match reduction.

Section 210(c) of HCDA 1992 also permits the Department to reduce the match requirement by up to 100 percent for a PJ located in an area in which a declaration of major disaster is made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. If a participating jurisdiction is located in an area in which a declaration of major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is made, HUD may reduce the matching requirement by up to 100 percent of the fiscal year in which the declaration of major disaster is made and the following fiscal year for a local participating jurisdiction, and for the State participating jurisdiction, by

up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year with respect to any HOME funds expanded in an area to which the declaration of a major disaster applies. Since the inclusion of the match reduction for disaster areas in HCDA was prompted by several disasters in 1992, the Department will allow these jurisdictions to apply for the match reduction, which would count for FY 1993 and FY 1994. To request a reduction, a participating jurisdiction must submit to the local HUD Field Office a copy of the disaster declaration. The provisions of this new match reduction replace the current text at § 92.222(b), which contained the procedures for implementing the match reduction provisions eliminated by HCDA 1992.

Section 210 of HCDA 1992 also amends the match requirements with respect to contribution made to affordable housing and contributions made from bond proceeds. These amendments have been determined to require notice and comment rulemaking, and will be separately published in a proposed rule.

Under HCDA 1992 section 212(a), the time period in which jurisdictions must reserve at least 15 percent of their HOME allocations for community housing development organizations (CHDOs) has been extended from 18 months to 24 months, and the conforming change is being made to § 92.300(a). This is the same time period in which funds must be committed to projects under 24 CFR 92.500(d)(2). This deadline for project commitments remains unchanged.

If during the first 24 months of its participation in the HOME Program a PJ cannot identify a sufficient number of capable CHDOs, HCDA 1992 section 212(b) provides that up to 20 percent of the minimum CHDO setaside of 15 percent (but not more than $150,000 during the 24 month period) may be made available to develop the capacity of CHDOs in the jurisdiction. These funds may be used for this purpose as soon as the PJ determines there are an insufficient number of capable CHDOs. These funds are not available for this purpose after the initial 24 months. This provision is being added to § 92.300(b) of the rule.

Section 213(a) of HCDA 1992 permits the use of technical assistance funds provided through intermediary organizations to support community land trusts (CLTs) and community groups establishing community land trusts, and to support groups involved in construction to support women in the homebuilding professions. A new § 92.302(c)(6), titled Community Land Trusts, is being added, to provide that intermediary technical assistance funds to support CLTs may be used for organizational support, technical assistance, education and training, and continuing support. A CLT must meet the definition of a CHDO (except the requirements in section 104(6) (C) and (D) of NAHA) in addition to several other statutory criteria, outlined in this section.

Section 213(b) provides that technical assistance may be made available through intermediaries to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities. This might include facilitating access by women to, and providing apprenticeship and other training programs regarding non-traditional skills, recruiting women to participate in such programs, providing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses. Up to ten percent of these technical assistance funds devoted to this purpose may be used to provide materials and tools for training such women.

Assistance to facilitate access for women in the homebuilding professions may be made available to community-based organizations, as defined in the Job Training Partnership Act, or a public housing agency with demonstrated experience in this activity. New paragraphs 92.302 (a)(3), (b)(1)(v), and (c)(7) are being added to include the section 213(b) provisions in the rule.

The law in section 214 creates an additional purpose for which funds designated for capacity building may be used: to facilitate the establishment and efficient operation of programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of HOME. This, however, does not mean that HOME funds may be used for land banking. Acquisition of vacant land is predicated upon construction of affordable housing, which must commence within 12 months of committing HOME funds for acquisition. A new paragraph (a)(6) is being added for this purpose to § 92.400 Coordinated federal support for housing strategies.

Section 92.500(a) has been amended to implement HCDA 1992 section 218(a) to allow joint projects between contiguous jurisdictions.

The definition of "first-time homebuyer" is amended by HCDA 1992 section 219 to provide that "an individual shall not be excluded from consideration as a first-time homebuyer on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

(i) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

Not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure."

This second provision has wide application beyond owners of manufactured housing and applies to individuals living in units that do not meet applicable standards and cannot be rehabilitated cost-effectively, as described in paragraph (ii), above, in the documented judgment of the PJ. The definition of First-time homebuyer" at § 92.2 is being revised to include this amendment.

*B. Amendments Made in Response to Comments on the December 16, 1991 and December 22, 1992 Interim Rules*

As discussed, above, in addition to bringing the HOME rule into conformity with the remaining effective HCDA 1992 provisions, this interim rule is implementing certain changes in the HOME program in response to comments submitted on the December 16, 1991 and December 22, 1992 interim rules. Taking into account those comments, comments received at HOME Program training sessions and the Department's experience with the program, the Department has determined that these changes are appropriate to simplify and expedite the administration of the HOME program. They are being implemented here in this interim rule because the notice and comment requirements of 24 CFR part 10 have already been satisfied with the publication of the December 16, 1991 and December 22, 1992 interim rules. These changes would have been issued in final rule form, but for the fact that the complete text of the HOME rule is not yet ready for publication as a final rule.

The definition of "first-time homebuyer" at § 92.2 is revised to clarify that an individual, in addition to an individual and his or her spouse (as

the definition currently reads), is included within its scope.

This rule amends one of the provisions relating to consortia at § 92.101(c). The HOME regulation had required that the consortium qualification period must be coterminous with that of urban county members. However, since some consortia have multiple urban counties which themselves have noncoterminous, three year, urban county qualification cycles, and since the CDBG statute precludes adjustments of the urban county cycles, the rule could not be complied with in these cases. Consequently, this interim rule deletes the coterminous requirement, but permits a consortium with one or more urban counties which have qualification cycles that are not coterminous with the consortium, to get in sync with an urban county by shortening a consortium qualification period to less than three fiscal years. The subsequent consortium qualification period will then revert to the usual three fiscal years cycle set forth in the rule. This interim rule also clarifies that the failure of an urban county consortium member to requalify under the CDBG program as an urban county for a fiscal year included in the consortium's qualification period terminates the period. This is consistent with the requirement that no included unit of general local government may withdraw from a consortium during a qualification period.

The Department received thirty comments requesting modification of the current provision in the rule that sets the maximum value of homeowner properties eligible for HOME assistance. Section 215(b)(1) of NAHA (42 U.S.C. 12745(b)(1)) provides that "Housing that is for homeownership shall qualify as affordable housing * * * only if the housing has an initial purchase price that does not exceed 95 percent of the median purchase price for the area * * *." By regulation, at 24 CFR 92.254, the Department imposes the section 203(b) FHA mortgage limits as a proxy for 95 percent of the median purchase price. These limits apply both to first-time homebuyers' purchases and to existing homeowners' rehabilitation.

The section 203(b) cap applies even for those PJs where 95 percent of the median area purchase price is actually much higher. HUD adopted this policy since it seemed inappropriate for a low-income HOME-assisted family to be able to purchase a home with a higher value than a non-subsidized middle-income family could purchase using FHA mortgage insurance under section 203(b). However, the effect of using these FHA limits has been to impede the full implementation of HOME activities in high-cost jurisdictions, as pointed out in eighteen comments received and as noted by the Department in its administration of the program.

In approximately 30 percent of the HOME PJs, the existing section 203(b) mortgage limits are capped well below 95 percent of the median purchase price. Commenters noted that in many of these areas, there are very few properties whose purchase price are under the section 203(b) limits. PJs in these areas are prevented from using HOME funds to assist firt-time homebuyers. In addition, by applying the section 203(b) limits to properties owned by low-income homeowners, particularly elderly, most homes are ineligible for rehabilitation assistance because the market value of the property (even before rehabilitation) often exceeds the section 203(b) limits.

For these reasons, this rule is revising paragraphs (a)(1) (i), (a)(1) (ii), and (b) of § 92.254, "Qualification as affordable housing: Homeownership", to track the statute and delete any reference to section 203(b) mortgage limits. This permits housing to qualify as affordable housing even if the initial purchase price or after rehabilitation value exceeds the FHA mortgage limits, as long as the value remains within 95 percent of the area's median purchase price.

This 95 percent limit will be implemented in accordance with procedures already in place. At present, the Department determines the median purchase for every metropolitan statistical area (MSA) in the nation based on data from the Federal Housing Finance Board and the WEFA Group, a private national economic forecasting organization. Within the statutory dollar amount limit, the section 203(b) limits are set at a level of 95 percent of median purchase price for most communities in the nation, and these limits will be used in the HOME program. However, for communities whose section 203(b) limits are capped below 95 percent of median purchase price because of the overall statutory limit, the Department will use the actual 95 percent of median purchase price figure for determining value in the HOME program. At the time of distribution of the section 203(b) limits, the Department will notify the capped communities of the 95 percent of median purchase price limits that will be used for HOME program purposes.

Because information on the median purchase price is available only on the MSA level, it may not necessarily reflect an accurate median purchase price for each jurisdiction in a MSA. The Department accepts appeals of its section 203(b) determinations from cities if they can submit current data to demonstrate that the Department's median purchase price figure is inaccurate. This procedure will be followed in the HOME program for jurisdictions that claim their HUD-determined 95 percent level is inaccurate. The appeals process, and data required, is outlined at 24 CFR 203.18(b). The Department publishes all appeals granted and reviews and adjusts them annually.

Section 92.254(a)(4)(i)(B) was promulgated in the interim rule published in the **Federal Register** on December 22, 1992 to address the concern that the continuance of HOME long-term affordability requirements upon foreclosure would act as a significant disincentive to private lending institutions to make loans to HOME projects. This section, in general, provides for the suspension of the affordability requirements upon foreclosure by a lender or other transfer in lieu of foreclosure. To promote a consistent approach between the HOME program and a soon-to-be-published final rule on mortgage assumability and release requirements for the Single Family Mortgage Insurance Program, particularly regarding assignment of an FHA insured mortgage to HUD, § 92.254(a)(4)(i)(B) is being amended by this rule. The amendment provides that the affordability restrictions must terminate, rather than be suspended, upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. However, the affordability restrictions are revived according to the original terms if, during the original affordability period, the owner of record before the termination event reacquires title to the property.

Another change that relates to the definition of affordability is being implemented in this rule. Section 92.254(a)(4)(ii)(B) was also amended in the interim rule published on December 22, 1992. There, the first-time homebuyer resale affordability provisions were amended to increase the maximum monthly housing payment (principal, interest, taxes and insurance) allowable for subsequent purchasers with an income between 76 and 80 percent of median to 30 percent of adjusted gross income. However, this change merely made adjustments to the

30 percent of income limitation used for affordability purposes.

Upon further consideration of several comments and the actual operation of the program, the Department agrees that the 30 percent limitation does not permit adjustment of the affordability standard in response to changes in the factors that determine affordability, such as home prices, market interest rates, local economic conditions, and the individual buyer's credit and payment history. This rule amends § 92.254(a)(4)(ii)(B) to permit the individual PJ, based upon relevant local factors, to establish a reasonable affordability standard and adjust it as necessary in response to changing circumstances. The new provision eliminates the 30 percent limitation, and instead requires that each participating jurisdiction define affordability for purposes of homebuyer resale in its HOME Program.

Section 209 of HCDA 1992 enables participating jurisdictions administering a program for first-time homebuyers to recapture HOME assistance and reinvest those funds to assist other first-time homebuyers, in lieu of restricting resale of that property to another low-income buyer, except where there are no net proceeds or where the net proceeds are insufficient to recapture the full HOME investment. In its interim rule of December 22, 1992 the Department implemented this provision and further required PJs to recapture the full net proceeds, when they are insufficient to repay the full HOME subsidy. The interim rule, at § 92.254(a)(4)(ii), defined "net proceeds" as the sales price minus loan repayments and closing costs.

Three commenters noted that this provision in the December 22, 1992 interim rule does not allow a PJ to permit the homeowner to recover his or her investment in affordable housing. The Department agrees with these commenters that PJs should have the option to allow the homeowner to recover the amount of his/her investment (i.e., downpayment, principal payments and any capital improvements), or some portion of it. This option is particularly important in steady or depreciating real estate markets where recapture of the total HOME investment does not allow the homeowner to recover any of his/her investment from the sale of the property.

Therefore, this interim rule amends § 92.254(a)(4)(ii) to provide the PJ this option. When the net proceeds are less than the amount of the HOME investment plus the homeowner's investment, the PJ may reduce a proportion of the HOME investment to be recaptured that is equivalent to the proportion of the amount of time the homeowner occupied the unit to the affordability period. For example, if the homeowner occupies for five years a unit with a fifteen year period of affordability, the PJ may reduce by one-third the HOME investment that is recaptured.

*Example*

A PJ provides a second mortgage to a first-time homebuyer for the acquisition of a unit that requires no rehabilitation. The total cost of acquisition is $50,000, financed as follows:

| | |
|---|---|
| $25,000 | First mortgage, private lender. |
| 21,000 | HOME second mortgage. |
| 4,000 | Homeowner downpayment. |
| 50,000 | |

The period of affordability for this unit is fifteen years, and the homebuyer must sell it in year five, due to a job change. During its tenancy, the family added a bath to the basement and constructed a deck, investing a total of $10,000 in improvements. The values in the neighborhood have been steady, but have not appreciated and the unit sells for $52,000. No payments have been made on the HOME loan and closing costs and principal payments by the homeowner are negligible.

The PJ has specified in its recapture guidelines approved by HUD, that where the net proceeds are less than the HOME investment plus the homeowner's investment it will reduce the share of the HOME investment that is proportional to the length of occupancy by the first-time homebuyer relative to the period of affordability.

*Step one: Determine the net proceeds.* For this transaction, the net proceeds are:

| | |
|---|---|
| $52,000 | Sale price. |
| −25,000 | Repayment of first mortgage and closing costs. |
| 27,000 | Net proceeds. |

*Step two: Determine that the net proceeds are less than the HOME investment plus the homeowner's investment.*

| | |
|---|---|
| $21,000 | HOME investment. |
| +14,000 | Homeowner's investment ($4,000 down payment + $10,000 improvements). |
| 35,000 | Combined investment. |

Since $27,000 net proceeds is less than $35,000 combined investment, the PJ may pro-rate the amount of the HOME subsidy that must be recaptured based on the family's occupancy. Since the first-time homebuyer occupied the unit for one-third of the affordability period (5 of the 15 years), the PJ may forgive up to one-third of the HOME subsidy amount, or $7,000. It must recapture at least $14,000 of the HOME investment.

*Step three: Determine distribution of sales proceeds.* The proceeds of sale would be distributed as follows:

| | |
|---|---|
| $52,000 | Sale price. |
| −25,000 | First mortgage repayment. |
| −14,000 | HOME investment that must be recaptured. |
| 13,000 | Balance to be retained by homeowner. |

By retaining the balance of sale proceeds, the initial owner is able to recover most of his $14,000 investment. At the same time, this method ensures the recapture of $14,000 of the HOME investment to be used by another first-time homebuyer.

In addition, § 92.254(a)(4)(ii) clarifies that the HOME assistance subject to the recapture provision is the assistance provided to enable the homebuyer to purchase the unit. In most instances this will be the direct assistance to the homebuyer, such as soft second mortgages, downpayment and closing cost assistance. Generally, when HOME assistance is provided for development costs (new construction or rehabilitation) it need not be recaptured. In some cases, particularly in low-income neighborhoods where property values are deflated, development costs may well exceed the property's market value. The portion of HOME funds invested in costs of such "overdevelopment" are never required to be recaptured. However, when development subsidies are used to reduce the purchase price below market value, and therefore to make the unit affordable to the homebuyer, the difference between market value and the purchase price is subject to recapture.

*Example*

A PJ acquires and rehabilitates a property as part of a neighborhood preservation and revitalization program. Total development costs ($30,000 for acquisition and $30,000 for rehabilitation) are $60,000. The market value is $50,000, but to make the unit affordable, the PJ sells it to a low-income family for $42,000. The $10,000 difference between development cost and market value is not subject to recapture, but the $8,000 write-down of the purchase price below market value is subject to recapture.

Conforming amendments are being made to § 92.150(b)(5) and § 92.152 to include recapture guidelines in the contents of program descriptions and amendments to program descriptions.

Section 92.254(a)(4)(ii) is amended to permit recapture of the HOME investment, as described above.

Another area in which a program correction is being made is in the way assets are included in income calculations for eligibility purposes. The HOME regulation, at § 92.203, currently requires that participating jurisdictions make determinations of annual income, adjusted income, monthly income and monthly adjusted income, as those terms are defined in 24 CFR part 813 (i.e., in accordance with the U.S. Housing Act of 1937). The definition of "annual income" in part 813 includes "net family assets" which, in turn, includes the passbook value of the equity in a house as part of the calculation when determining annual income.

Twenty commenters expressed concern about the use of this definition of "annual income" for homeowner rehabilitation programs. They point out that including the passbook value of the equity in a house as part of annual income has a negative effect on house-rich but income-poor individuals and families, who are frequently elderly. In rapidly appreciating markets, including the value of land and a substandard structure in the determination of income prohibits many needy, otherwise eligible, owners from receiving rehabilitation assistance. PJs should be allowed to assist these owners to live in a safer, standard environment. The inability to rehabilitate the deteriorating homes of owners excluded by this provision also defeats many revitalization strategies where the aim is to treat a neighborhood and upgrade the housing units as well as the infrastructure. In particular, this provision tends to severely limit or exclude owner-occupied rehabilitation programs in many communities in New England, the Washington metropolitan area and California. Many public comments were received from these areas.

The Department agrees with these commenters, To remedy this situation, § 92.203 Income determinations, is being amended to exclude the value of equity in the homeowner's principal residence, as required under part 813, when determining the income of an existing homeowner for an owner-occupied rehabilitation program. The passbook value of the equity in a house will continue to be included when determining the income of an applicant for rental assistance.

A change is also being made to § 92.252(a)(5), which requires the HOME rental projects remain affordable for required periods "pursuant to deed restrictions or covenants running with the land," to allow participating jurisdictions to adopt other legal mechanisms for ensuring long-term affordability of HOME projects, with HUD approval. This change is made in response to several public comments.

This change will provide additional flexibility by allowing a PJ that developed an alternative mechanism to preserve affordability to implement it. However, the requirement for prior HUD approval enables HUD to review whether the PJ's alternative mechanism would meet the statutory requirement in section 215(a)(1)(E) of NAHA to preserve the affordability requirement without regard to the term of the mortgage or to transfer of ownership, thereby reducing the likelihood that a PJ would have to repay HOME funds because it was unable to enforce long-term affordability requirements.

This rule also amends the environmental procedures contained in 24 CFR part 58, which implements statutory provisions that provide for the assumption by program recipients of responsibilities for environmental review, decision making and action pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), and other related provisions of law specified by the Secretary of HUD. Section 288 of NAHA provides for the assumption of these responsibilities by PJs under the HOME program and § 92.352 requires PJs to comply with environmental requirements in part 58. Part 58, however, is currently written only to apply to the Community Development Block Grant, Rental Rehabilitation, and Housing Development Grant programs, and there has been some confusion concerning the applicability of part 58 to the HOME program. Accordingly, part 58 is being updated to clarify its applicability to the HOME program, and to broaden, where appropriate, current program-specific references to various activities, responsibilities and categorical exclusions so that they apply to activities and participants under the HOME program. Part 58 is also being amended to reflect specifically its applicability to homeless assistance programs under title IV of the Stewart B. McKinney Homeless Assistance Act, as amended. This amendment complies with section 443 of that Act, which provides for assumption of environmental review by recipients in accordance with regulations applicable under section 104(g) of the Housing and Community Development Act of 1974, as amended (*i.e.*, in accordance with part 58). The Department has consulted with the Council on Environmental Quality and the Environmental Protection Agency by providing them with advance review copies of this interim rule. When a final rule is issued, it will take into consideration the comments and recommendations of these agencies along with the other comments submitted on the interim rule.

Part 58 is also being amended to remove and relocate from § 58.5 certain statutory and regulatory provisions from the list of laws and authorities in § 58.5 for which recipients must assume environmental responsibilities in accordance with Section 288 of NAHA and similar statutory provisions. Three authorities including; (1) The Flood Disaster Protection Act (FDPA), (2) Coastal Barrier Resources Act (CBRA), and (3) the notice to purchasers of property in airport/airfield runway clear zones and clear zones required in 24 CFR part 51, would be retained, but relocated from § 58.5 to a new § 58.6. HUD has determined that, intrinsically, these three authorities are not like the other authorities listed in § 58.5 that trigger the environmental certification, public notice and release of funds procedures. FDPA pertains to mandatory purchase of flood insurance protection; CBRA pertains to the direct prohibition against use of any funds in designated coastal barriers; and the notice to purchasers of property in runway clear zones is a disclosure requirement. Accordingly, a new § 58.6 is being added to part 58 to provide for continued recipient responsibility for these requirements outside the statutory scheme in section 288 and similar provisions.

Part 58 is further amended to incorporate categorical exclusions from NEPA review and statements regarding the inapplicability of other environmental laws with respect to certain activities for which comparable provisions are already made in 24 CFR part 50. Part 50 applies to programs under which HUD itself is responsible for performing environmental reviews, and it would be anomalous to require a different standard of review for recipients where similar activities are carried out under programs covered by part 58. An additional categorical exclusion and statement regarding inapplicability of related laws is provided specifically for activities to assist homeownership of existing dwelling units, which is an important activity under the HOME program. This provision derives from the current categorical exclusion from NEPA review for most individual actions on one- to four-family properties in most cases under part 50, and from HUD's

determination that related laws and authorities requiring environmental reviews do not apply to such homeownership assistance. The provision in part 58 regarding limitations on actions pending environmental clearance is also being revised to more closely reflect (1) the already applicable statutory prohibition against premature commitment of HUD funds, and (2) the already applicable provision in regulations of the Council on Environmental Quality (CEQ) (40 CFR 1506.1) prohibiting premature undertaking of activities that have adverse environmental impact or limit the choice of reasonable alternatives. Finally, other clarifying and editorial revisions are made to part 58.

This rule, in response to four public comments and a recognition of more appropriate and realistic time frames, amends the definition of commit to a specific local project or commitment to extend the period between the signing of the agreement and the start of new construction or rehabilitation from six months to twelve months. In addition, at 92.205(a)(2) the Department is deleting the provision that requires a construction commitment prior to property acquisition or demolition. Public comment strongly indicated that obtaining financing without site control is extremely difficult. However, the Department expects the construction to commence within twelve months of commitment of the HOME funds for acquisition or demolition.

The definition of single room occupancy is also being revised to clarify the applicability of its requirements for sanitary or kitchen facilities. Currently, the definition provides that the unit may contain either, or both, food preparation or sanitary facilities. As revised, the definition specifies that the unit must contain either food preparation or sanitary facilities if the project consists of new construction, conversion of non-residential space, or reconstruction. For acquisition or rehabilitation of an existing residential structure, neither is required in the unit. However, the Department strongly encourages PJs to provide a higher level of amenities whenever possible, to contribute to the continued marketability of the standard housing stock in the future. The definition continues to exclude facilities for students. This change is made in response to public comment that installing plumbing when rehabilitating an existing residential structure is cost prohibitive. Nonetheless, the Department believes that for new construction, reconstruction and conversion, a higher level or amenities is appropriate and desirable.

An interim rule for HOME program requirements applicable to insular areas was published on December 11, 1992 (57 FR 58862). In the preamble to that rule, the Department stated it would continue to examine aspects of the rule in response to comments. HCDA of 1992 section 211 removed the requirement that insular areas receiving HOME funds prepare a housing strategy. Therefore, the requirement to submit an approved housing strategy certification is deleted in § 92.61(c)(5). Conforming changes are made to §§ 92.61(b)(2), 92.62, and 92.63.

Section 92.220(a)(3), which concerns the value of real property as a form of matching contribution, is being corrected to clarify that only the appraised value minus any debt burden, lien, or other encumbrance is recognized for match purposes.

Section 92.350, which addresses equal opportunity and fair housing issues, is revised to reflect the changes made to section 3 of the Housing and Urban Development Act of 1968 by section 915 of HCDA 1992. The section 3 statement of policy, as expressed in HCDA section 915, replaces all of the current text of § 92.350(a)(4).

The Department received comments concerning the status and requirements applicable to State housing finance agencies that are not part of the State government, but which the State would like to have administer all or a part of the State's HOME program. Under the statute and regulations, State housing finance agencies that are not a part of the State government are not the "State" and cannot be designated as the participating jurisdiction. However, the regulation permits the State to select the State housing finance agency as a subrecipient. One State housing finance agency commented that the written agreement required by § 92.504(b) presents obstacles to the use of State housing finance agencies due to the detailed requirements concerning the use of the HOME funds and the required budget. The Department agrees that the written agreement between a State and an instrumentality of the State that is a subrecipient need not contain the same detailed information as is required of other entities receiving HOME funds. Therefore, § 92.504 has been amended to simplify the written agreement for such subrecipients.

*C. Amendments Applicable to Subpart M, HOME Funds for Indian Tribes*

Conforming changes to subpart M of the HOME rule, which contains the requirements of the Indian HOME program, are also being made in this interim rule. A summary of the HCDA 1992 amendments that affected the Indian HOME program was included as appendix 2 in the NOFA for Indian applicants under the HOME program that was published on February 23, 1993 (58 FR 11102).

Section 204 of HCDA 1992 made the use of HOME funds for security deposits an eligible form of tenant-based rental assistance. A new paragraph (i) is being added to § 921.613 Tenant-based rental assistance that parallels the language of revised § 92.210 concerning security deposits. Conforming changes are made in the listing of eligible activities at § 92.611(a)(1) and eligible costs at § 92.612(e).

Conforming changes made necessary by HCDA 1992 section 205 that parallel those made to § 92.205(a)(1) (to specify HOME assisted housing must be permanent or transitional housing and includes housing for disabled homeless persons, and single-room occupancy housing) and § 92.253(c) (to permit the termination of tenancy in transitional housing after the period prescribed by the PJ or project owner) are being made to §§ 92.611(a)(1) and 92.622(c), respectively.

Conforming changes for HCDA 1992 section 208 made to the HOME regulation in the December 22, 1992 interim rule are being made here for subpart M. Under HCDA section 208, rental housing shall qualify as affordable if the rents are not greater than (i) the Fair Market Rent for comparable units or (ii) a rent that does not exceed 30 percent of the adjusted income of a family at 65 percent of median income for the area, *adjusted for the number of bedrooms in the unit.* This adjustment replaces the adjustment for smaller and larger families in § 92.614(a)(1)(ii). Section 208 also provides that tenants who occupy HOME-assisted housing, and who no longer qualify as low-income because of increases in their income shall pay as rent the lesser of 30 percent of the family's adjusted monthly income, as recertified annually, or *"the amount payable by the tenant under State or local law."*

[Note: Only italicized section is new.]

For rental housing with Low Income Housing Tax Credits and for units under local rent controls, when a tenant's income increases, the tenant's rent will not have to be adjusted to 30 percent of the family's income. Changes for these purposes are made in § 92.614(c). Finally, HCDA 1992 section 208 provides that rental housing must remain affordable except "upon foreclosure by a lender, (or upon other

transfer in lieu of foreclosure), if such action recognizes the legal rights of public agencies, nonprofits, or others to take actions that would not avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and is not for the purpose of avoiding low-income affordability restrictions." Section 92.614(a)(5) incorporates this change.

HCDA 1992 section 209 permits an Indian tribe grantee to meet the resale restrictions created in the original law, "or recapture its HOME investment, provided it uses the recaptured funds to assist other persons in accordance with the requirements of this subsection [in other words, to assist first-time homebuyers], except where there are not net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance." A conforming change is made to § 92.615(a)(4)(ii) for this purpose.

The definition of "first-time homebuyer" is amended by HCDA section 219, and as discussed above, the definition of "first-time homebuyer" in § 92.2 is amended accordingly. This provision has wider application beyond owners of manufactured housing and applies to individuals living in units not meeting applicable standards which can not be rehabilitated cost-effectively in the documented judgment of the Indian tribe. A new § 92.615(c) is added to the regulation for purposes of section 219 of HCDA 1992.

Section 92.610 is being amended to exclude the value of equity in the homeowner's principal residence, as required under part 913, when determining the income of an existing homeowner for an owner occupied rehabilitation program. The passbook value of the equity in a house will continue to be included when determining the income of an applicant for rental assistance. This change conforms to the change being made in § 92.203.

Several changes are being made to subpart M to conform with changes made in the December 22, 1992 interim rule. In response to comments, § 92.206(c)(5) was amended to make initial operating reserves for substantial rehabilitation projects a HOME-eligible soft cost, and a conforming change is made here to § 92.612(a)(4).

Section 92.211(a)(2) was amended to implement a HCDA 1992 amendment that replaces the use of the Section 8 waiting list as the selection criterion for families eligible to receive HOME-funded tenant-based rental assistance. This assistance is now provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937. Section 92.211(a)(2) was also amended to permit participating jurisdictions to provide HOME-funded tenant assistance to eligible families residing in housing acquired with HOME funds without requiring that the families meet the written tenant selection policies and criteria. The rule previously allowed this only in the case of housing to be rehabilitated with HOME funds. A conforming change for these purposes is being made to § 92.613(a).

Section 92.251 was amended to allow purchase of a property, but not occupancy, before health and safety violations are corrected, provided that certain procedures are followed. A conforming change is made here to § 92.622.

The December 22, 1992 interim rule added §§ 92.252(e) and 92.254(c) to explain the requirements that manufactured housing units must meet to qualify as affordable rental or homeownership housing under the HOME program. Conforming changes are made to subpart M by adding §§ 92.614(e) and 92.615(c).

The December 22, 1992 interim rule also clarified § 92.252(a)(2) by specifying that the requirement that a rental housing project must have not less than 20 percent of the units occupied by very low-income families in order to qualify as affordable housing applies only to projects consisting of three or more rental unit and to owners of multiple one or two unit projects with a total of three or more rental units. A conforming change is being made to § 92.614(a)(2).

As discussed above in relation to § 92.254, the references to the section 203(b) limits for purpose of qualifying as affordable housing under the HOME program are being deleted. Conforming changes are being made to § 92.615(a)(1)(i), (a)(1)(ii) and (b). The changes discussed with regard to § 92.254(a)(4)(i)(B), made to ensure that the housing will remain affordable, pursuant to deed restrictions, covenants running with the land, or other similar mechanisms to ensure affordability, to a reasonable range of low-income homebuyers (and that these affordability restrictions must terminate upon the occurrence of a termination event) are also being made to § 92.615(a)(4)(i)(B).

A number of conforming and clarifying corrections are implemented in this rule. Additional clarifying guidance as to the scope of subpart M is provided by adding a sentence to the end of § 92.600 to provide that, unless otherwise indicated, only subparts A and M of 24 CFR part 92 apply to grants to Indian tribes. A new § 92.616, which provides for a list of prohibited activities similar to § 92.214, is added. A technical correction is being made to § 92.642(b)(2), which erroneously refers to § 92.644. This reference is corrected to refer to § 92.640.

The Department specifically seeks comments, particularly from tribes, Indian housing authorities, and other Native American organizations, that evaluate the implementation of the HOME program for Indian tribes and make recommendations for its improvement.

## III. Findings and Certifications

### *Environmental Review*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

### *Impact on the Economy*

Although the HOME Program interim rule published December 16, 1991 was found to be a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981, and a regulatory impact analysis (RIA) was prepared, this amending interim rule does not constitute a "major rule." Analysis of this rule, which only makes limited adjustments to the rule for which a RIA was prepared, indicates that it would not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

### *Impact on Small Entities*

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certified that this rule does not have a significant economic impact on a substantial

number of small entities, because jurisdictions that are statutorily eligible to receive formula allocations are relatively larger cities, counties or States.

*Regulatory Agenda*

This rule was listed as item number 1393 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24398) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

*Federalism Impact*

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that this rule does not have federalism implications concerning the division of local, State, and federal responsibilities. While the HOME Program interim rule published December 16, 1991 and amended by this rule was determined to be a rule with federalism implications, and the Department submitted a Federalism Assessment concerning the interim rule to OMB, this rule only makes limited adjustments to the interim rule and does not significantly affect any of the factors considered in the Federalism Assessment for the interim rule.

*Impact on the Family*

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that this rule would not have significant impact on family formation, maintenance, and general well-being. Assistance provided under the rule can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the means to live independently in mainstream American society. The rule would not, however, affect the institution of the family, which is requisite to coverage by the Order. Even if the rule had the necessary family impact, it would not be subject to further review under the Order, since the provision of assistance under the rule is required by statute, and is not subject to agency discretion.

**List of Subjects**

*24 CFR Part 58*

Community development block grants, Environmental impact statements, Grant programs—housing and community development, Reporting and recordkeeping requirements.

*24 CFR Part 92*

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

Accordingly, the Department amend's parts 58 and 92 of title 24 of the Code of Federal Regulations as follows:

## PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR RECIPIENTS ASSUMING HUD RESPONSIBILITIES

1. The authority citation for part 58 continues to read as follows:

**Authority:** 42 U.S.C. 1437o(i)(1) and (2), 3535(d), 4332, and 5304(g).

2. Section 58.1 is revised to read as follows:

**§ 58.1 Purpose, scope and applicability.**

(a) *Purpose.* This part provides instructions and guidance to recipients of HUD assistance for conducting an environmental review for a particular project or activity and obtaining approval of a Request for Release of Funds, under statutes that authorize HUD to provide for assumption of environmental responsibilities by recipients.

(b) *Scope.* The environmental responsibilities of recipients of HUD assistance are described in this part pursuant to the National Environmental Policy Act of 1969 (NEPA); the NEPA regulations of the Council on Environmental Quality (40 CFR parts 1500 through 1508); Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by Executive Order 11991, May 24, 1977; and the related Federal authorities listed in § 58.5 of this part.

(c) *Applicability.* This part applies to activities and projects where specific statutory authority exists for recipients to assume environmental responsibilities. Programs subject to this part include:

(1) Community Development Block Grant programs authorized by title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));

(2) The Rental Rehabilitation program and Housing Development Grant program authorized by section 17 of the United States Housing Act of 1937, in accordance with section 17(i)(1) and 17(i)(2) (prior to the repeal of section 17 as of October 1, 1991) (42 U.S.C. 1437o(i)(1) and (2));

(3) The Emergency Shelter Grant program, Supportive Housing program (and its predecessors, the Supportive Housing Demonstration program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by title IV of the Stewart B. McKinney Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402); and

(4) The HOME Investment Partnerships Program authorized by title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838).

3. Section 58.2 is revised to read as follows:

**§ 58.2 Terms, abbreviations and definitions.**

(a) For the purposes of this part, the following definitions shall supplement the uniform terminology provided in 40 CFR part 1508:

(1) *Activity* means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

(2) *Certifying Officer* means the official that is authorized to execute the Request for Release of Funds and Certification and that has the legal capacity to carry out the responsibilities of § 58.13.

(3) *Project* means an activity, or a group of integrally related activities, designed by the grant recipient to accomplish, in whole or in part, a specific goal.

(4) *Recipient*—

(i) With respect to programs subject to this part other than the HOME program, *recipient* means:

(A) A State that does not distribute HUD assistance under the program to a unit of general local government;

(B) A Territory;

(C) A unit of general local government; or

(D) An Indian tribe.

(ii) With respect to the HOME program, *recipient* means a participating jurisdiction as defined in 24 CFR part 92.

(5) *Urban renewal project* means a project as defined in section 110(c) of the Housing Act of 1949, as amended, or a neighborhood development program as defined in section 131(b) of the Housing Act of 1949, as amended.

(b) The following abbreviations are used throughout this part:

HUD—Department of Housing and Urban Development
CDBG—Title I of the Housing and Community Development Act of 1974, as amended
NEPA—National Environment Policy Act of 1969, as amended
CEQ—Council on Environmental Quality
EA—Environmental Assessment
EIS—Environmental Impact Statement
FONSI—Finding of No Significant Impact
ERR—Environment Review Record
NOI/EIS—Notice of Intent to Prepare an EIS
ROD—Record of Decision
ROF—Release of Funds
RROF—Request for Release of Funds
NOI/RROF—Notice of Intent to Request Release of Funds
SOA—Statement of Activities
UDAG—Urban Development Action Grants
RRP—Rental Rehabilitation Program
HDG—Housing Development Grant
NAHA—Cranston-Gonzalez National Affordable Housing Act of 1990
HOME—HOME Investment Partnerships Program

4. Section 58.4 is revised to read as follows:

**§ 58.4 HUD legal authority.**

(a) *Authority for regulations.* These regulations are issued under the statutory provisions cited in §§ 58.1(c) and 58.6 and under section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

(b) *Assumption authority for recipients: General.* Recipients shall assume the responsibility for environmental review, decisionmaking, or action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Recipients, other than units of general local government that receive assistance from a State, assume these responsibilities by execution of either a grant agreement with HUD or a legally binding document such as a Request for Release of Funds (HUD Form 7015.15), certifying to the assumption of environmental responsibilities. When a State distributes funds to recipients, the State must provide for appropriate procedures by which these recipients will evidence their assumption of environmental responsibilities.

(c) *Particular responsibilities of the States.* (1) States that are recipients for purposes of directly undertaking a State project must assume the environmental review responsibilities for the State's activities and those of any participants that may be related to the project. The State must submit the certification and RROF to HUD, except that under the HOME program the State shall prepare a certification and RROF and shall itself determine whether to approve the RROF

(2) In accordance with § 58.18 of this part, State program agencies are authorized to exercise HUD's responsibilities with respect to approval action on a local government recipient's environmental certification and RROF for a HUD assisted project funded through the State, except for projects assisted by Section 17 Rental Rehabilitation assistance and Housing Development Grants. Approval by the State of a local recipient's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5 of this part.

(3) For section 17 Rental Rehabilitation projects and Housing Development Grants, the State program agency shall meet the responsibilities set forth in § 58.18 of this part. However, for section 17 projects, the State lacks authority to approve RROFs and therefore must forward to the responsible HUD Field Office the local recipient's certification and RROF, any objections to the release of funds submitted by another party, and the State's recommendation as to whether HUD should approve the certification and the RROF.

5. In § 58.5, the heading, the introductory paragraph, and paragraph (i) are revised, paragraph (b)(1) is removed, paragraphs (b)(2) and (b)(3) are redesignated as (b)(1) and (b)(2), and paragraph (c) is revised to read as follows:

**§ 58.5 Related Federal laws and authorities.**

In accordance with the provisions of law cited in § 58.1(c), the recipient must assume responsibilities for environmental review, decisionmaking and action that would apply to HUD under the following specified laws and authorities. The recipient must comply with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

* * * * *

(b) *Floodplain management and wetland protection.* (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 *et seq.*); particularly section 2(a).

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 *et seq.*); particularly sections 2 and 5.

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended; particularly sections 307 (c) and (d) (16 U.S.C. 1456 (c) and (d)).

* * * * *

(i) *HUD environmental standards.* Environmental Criteria and Standards (24 CFR part 51), other than the runway clear zone and clear zone notification requirement in 24 CFR 51.303(a)(3).

6. A new § 58.6 is added, to read as follows:

**§ 58.6 Other requirements.**

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by recipients under the laws cited in § 58.1(c), recipients must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(10) and (b). However, the recipient remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under § 58.34.

(a)(1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

(ii) Flood insurance is obtained as a condition of approval of the assistance.

(2) Recipients assisting acquisition and construction (including rehabilitation) located in an area identified by FEMA as having special flood hazards are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), Federal financial assistance may not be used for activities undertaken in the Coastal Barrier Resources System.

(c) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone as defined in 24 CFR part 51, the recipient shall advise the buyer that the property is in a Runway Clear Zone or

Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

7. In § 58.10, the first sentence is revised to read as follows:

**§ 58.10 Basic environmental responsibility.**

In accordance with the provisions of law cited in § 58.1(c), the recipient must assume the responsibility for carrying out all its projects under programs cited in § 58.1(c) in accordance with the procedural provisions of NEPA and the CEQ regulations (40 CFR parts 1500 through 1508), as well as the procedures set forth in this part. * * *

8. Section 58.13 is revised to read as follows:

**§ 58.13 Responsibilities of the certifying officer.**

Under the terms of the certification required by § 58.71 of this part, a recipient's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(c) of this part. The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA, those statutory provisions cited in § 58.1(c), and related sections in 40 CFR parts 1500 through 1508, and the related federal authorities listed in § 58.5 of this part. The Certifying Officer must also:

(a) Represent the recipient and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court. Reasonable defense costs, including the fees of attorneys and experts incurred in litigation relative to the recipient's compliance with this part, may be eligible administrative costs under some programs.

(b) Ensure that the recipient reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program; and

(c) Perform all the coordination functions required under this part and generally prescribed in 40 CFR parts 1500 through 1508 and the other provisions of law and authorities cited in § 58.5 of this part.

9. In § 58.14, the third sentence is revised to read as follows:

**§ 58.14 Interaction with State, Federal and non-Federal entities.**

* *The recipient must prepare its EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law.* * *

10. In § 58.15, paragraph (a) is revised to read as follows:

**§ 58.15 Responsibilities for environmental review for activities related to urban renewal closeouts.**

* * * * *

(a) Activities within an active urban renewal project are to be funded under a program listed in § 58.1(c).

* * * * *

11. The title of subpart C is revised to read as follows:

**Subpart C—General Policy: States Assuming HUD Responsibilities.**

12. Section 58.18 is revised to read as follows:

**§ 58.18 Responsibilities.**

(a) States that elect to administer the CDBG Small Cities program under section 106(d) of the Housing and Community Development Act of 1974, a homeless assistance program under title IV of the McKinney Act, or a HOME Program under NAHA shall ensure that the program complies with the provisions of NEPA and the related Federal laws and authorities in § 58.5 and § 58.6 of this part. The State must:

(1) Designate the State agency or agencies which will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart J of this part and which will:

(i) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(ii) Receive public notices, RROFs and certifications from recipients pursuant to §§ 58.70 and 58.71; accept objections from the public and from other agencies (§ 58.73); and perform other related responsibilities regarding releases of funds.

(2) Fulfill the State role in subpart J relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

(b) States administering section 17 programs shall assume the responsibilities set forth in this subpart C for overseeing the State recipient's performance and compliance with NEPA and related Federal authorities as set forth in this part, including receiving RROFs and environmental certifications for particular projects from State recipients and objections from government agencies and the public in accordance with the procedures contained in Subpart J. The State shall forward to the responsible HUD Field Office the environmental certification, the RROF and any objections received, and shall recommend whether to approve or disapprove the certification and RROF.

13. In § 58.22, the first three sentences are revised to read as follows:

**§ 58.22 Limitations on activities pending clearance.**

A recipient may not commit HUD assistance funds under a program listed in § 58.1(c) on an activity or project until HUD or the State has approved the recipient's RROF and related certification. In addition, except for payment for exempt activities and other activities that would not have an adverse environmental impact or limit the choice of reasonable alternatives, a recipient may not expend any funds before the approval of the RROF. If an activity is exempt under § 58.34, no RROF is required and a recipient may undertake the activity immediately after the award of the assistance. * * *

* * * * *

14. Section 58.23 is revised to read as follows:

**§ 58.23 Financial assistance for environmental review.**

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

15. Section 58.31 is revised to read as follows:

**§ 58.31 Initiation of environmental review.**

The environmental review process should begin as soon as a recipient determines the projected use of the HUD assistance and how the activities will be combined into projects for environmental review purposes.

16. In § 58.32, the third sentence of paragraph (a) is revised to read as follows:

**§ 58.32 Project aggregation.**

(a) * * * This applies even if some of the activities are to be funded by programs other than those listed in § 58.1(c) or carried out by someone else.

* * * * *

17. Section 58.35 is amended by revising the first sentence in paragraph (a)(1) introductory text, revising paragraph (a)(2), revising paragraph (a)(4) introductory text, adding new paragraphs (a)(7) and (a)(8), revising the first sentence in paragraph (b), revising paragraph (c), and adding a new paragraph (d), to read as follows:

**§ 58.35 Categorically excluded activities.**

(a) * * *

(1) The acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, including these activities carried out as part of an economic development project in conjunction with the special economic development activities eligible under 24 CFR 570.203(a). * * *

* * * * *

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly and handicapped persons.

* * * * *

(4) Acquisition and/or rehabilitation of buildings and improvements (except renovation of closed school buildings), when the following conditions are met:

* * * * *

(7) An individual action on a one-to-four family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.

(8) Acquisition of an existing structure, provided that the property to be acquired is in place and will be retained in the same use.

(b) *Environmental requirements other than NEPA.* Even though a project is categorically excluded from NEPA requirements, a recipient must still comply with the requirements of the other related laws and authorities cited at § 58.5 (except in the case of activities listed in paragraph (c) of this section) and § 58.6 * * *

(c) *Categorically excluded activities not subject to § 58.5 of this part.* The Department has determined that the activities listed in this section would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. Since these activities are also categorically excluded from a NEPA review, the recipient does not have to publish a FONSI and a NOI/RROF or submit a certification and a RROF to HUD (or the State) except in the circumstances described in paragraph (d) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (d) applies. However, the recipient must document in writing in its ERR its determination that each activity meets the conditions specified for inclusion in this category of activity. The recipient also remains responsible for carrying out any applicable requirements under § 58.6. These activities include the following, when they do not have a physical impact on a structure or property:

(1) Information services;

(2) Resource identification and planning to establish and coordinate strategies, including feasibility studies, environmental studies and testing;

(3) Tenant-based rental assistance;

(4) Supportive services including, but not limited to, health care, housing services (such as housing counseling), permanent housing placement, inspections and tenant selection, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(5) Operating costs including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs;

(6) Administrative expenses; and

(7) Activities to assist homeownership of existing dwelling units, including closing costs and downpayment assistance to homebuyers, interest buydowns, and similar activities that result only in the transfer of title to a property.

(d) *Circumstances requiring NEPA review.* If a recipient determines that an activity or project identified in paragraph (a) or (c) of this section, because of specific circumstances and conditions at the location of the activity or project, may have a significant environmental effect, it shall comply with the NEPA requirements of this part.

18. In § 58.52, the second sentence is revised to read as follows:

**§ 58.52 Adoption of other agencies' EISs.**

* * * If the recipient adopts an EIS prepared by another recipient for a project subject to this part or by a Federal agency, the procedure in 40 CFR 1506.3 shall be followed. * * *

19. In § 58.66, the second sentence is revised to read as follows:

**§ 58.66 Coordination Under Federal laws and authority.**

* * * Pursuant to 40 CFR 1502.25, the environmental review documents for a project that is subject to this part will be used to document the recipient's compliance with the requirements of the related laws and authorities that apply to the project. * * *

20. Section 58.71 is revised to read as follows:

**§ 58.71 Request for release of funds and certification.**

The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable). This request shall be executed by the recipient's Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(c). The RROF and certification must be in a form specified by HUD.

21. In § 58.77, paragraph (a), and the last sentence in paragraph (b) are revised to read as follows:

**§ 58.77 Effect of approval of certification.**

(a) *Responsibilities of HUD and States.* HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited in § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in § 58.1(c).

(b) *Public and agency redress.* * * * Remedies for noncompliance are set forth in program regulations.

* * * * *

## PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

22. In part 92, the authority citation continues to read as follows:

**Authority:** 42 U.S.C. 3535(d) and 12701–12839.

23. In § 92.2, the definitions of *commit to a specific local project* or *commitment paragraph (1)(c), first-time homebuyer, housing, single room occupancy,* and *tenant-based rental assistance* are revised, and the newly defined terms *operating expenses* and *transitional housing* are added in alphabetical order, to read as follows:

**§ 92.2 Definitions.**

* * * * *

*Commit to a specific local project* or *commitment* means:

(1) * * *

(i) If the project is for rehabilitation or new construction, a written legally binding agreement between the participating jurisdiction and the project owner under which the participating jurisdiction (or other entity receiving HOME funds directly from HUD, state recipient, or subrecipient) agrees to provide HOME assistance to the owner for an identifiable project as defined in this part that can reasonably be expected to start construction within twelve months of the agreement and in

which the owner agrees to start construction within that period.

* * * * *

*First-time homebuyer* means an individual or an individual and his or her spouse who have not owned a home during the 3-year period before the purchase of a home with HOME assistance, except that—

(1) Any individual who is a displaced homemaker (as defined in this section) may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(2) Any individual who is a single parent (as defined in this section) may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(3) An individual may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during the 3-year period before the purchase of a home with HOME assistance, a dwelling unit whose structure is—

(i) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(ii) Not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

* * * * *

*Housing* includes manufactured housing and manufactured housing lots. Housing does not include emergency shelters.

* * * * *

*Operating expenses* means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials and supplies.

* * * * *

*Single room occupancy (SRO)* housing means housing consisting of single room dwelling units that is the primary residence of its occupant or occupants. The unit must contain either food preparation or sanitary facilities (and may contain both) if the project consists of new construction, conversion of non-residential space, or reconstruction. For acquisition or rehabilitation of an existing residual structure, neither food preparation or sanitary facilities is required to be in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. SRO does not include facilities for students.

* * * * *

*Tenant-based rental assistance* is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. Tenant-based rental assistance under this part also includes security deposits for rental of dwelling units.

*Transitional housing* means housing that—

(1) Is designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and

(2) Has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the participating jurisdiction or project owner before occupancy.

* * * * *

24. In § 92.50, paragraph (f) is added to read as follows:

**§ 92.50 Formula allocation.**

* * * * *

(f) For the purpose of determining the formula allocation in fiscal years in which Congress appropriates less than $1.5 billion of HOME funds, $335,000 is substituted for $500,000 each time it appears in this section, and $167,500 is substituted for $250,000 each time it appears in this section.

**§ 92.51 [Removed]**

25. Section 92.51 is removed and reserved.

26. Section 92.52 is revised to read as follows:

**§ 92.52 Publishing formula allocation.**

Not later than 20 days after funds become available to HUD, HUD will allocate HOME funds and will then promptly publish a **Federal Register** notice listing all jurisdictions receiving a formula allocation and the amount of each jurisdiction's formula allocation.

27. In § 92.61, paragraphs (b)(2), (b)(4), (b)(5), (c)(2) and (c)(5) are revised to read as follows:

**92.61 Program description and housing strategy.**

* * * * *

(b) * * *

(2) The estimated use of HOME funds and a description of projects and eligible activities, including number of units to be assisted, estimated costs, and tenure type (rental or owner occupied) and, for tenant assistance, households assisted;

* * * * *

(4) If the insular area intends to use HOME funds for first-time homebuyers, the guidelines for resale or recapture as required in § 92.254(a)(4);

(5) If the insular area intends to use HOME funds for tenant-based rental assistance, a description of how the program will be administered consisted with the minimum guidelines described in §§ 92.210 and/or 92.211.

* * * * *

(c) * * *

(2) If the insular area intends to provide tenant-based rental assistance, the certification required by § 92.210 or § 92.211.

* * * * *

(5) A certification that the insular area will use HOME funds in compliance with all requirements of this part;

* * * * *

28. In § 92.62, paragraphs (a) and (b) are revised to read as follows:

**§ 92.62 Review of program description and certifications.**

(a) *Review of program description.* The responsible HUD Field Office will review an insular area's program description and will approve the description unless the insular area has failed to submit information sufficient to allow HUD to make the necessary determinations required by § 92.61 (b)(4), (b)(6), and (b)(7), if applicable, or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs. If the insular area has not submitted information on § 92.61 (b)(4), (b)(6), and (b)(7), if applicable, or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, the insular area may be required to furnish such further information or assurances as HUD may consider necessary to find the program description and certifications satisfactory. The HUD Field Office shall work with the insular area to achieve a complete and satisfactory program description.

(b) *Review period.* The HUD Field Office will notify the insular area if determinations cannot be made under

§ 92.61 (b)(4), (b)(6), or (b)(7) with the supporting information submitted, or if the proposed projects or activities are beyond currently demonstrated capability, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information or to revise the proposed projects or activities in its program description.

* * * * *

29. Section 92.63 is revised to read as follows:

**§ 92.63 Amendments to program description.**

An insular area must submit to HUD for approval any substantial change in its HUD-approved program description that it makes during the fiscal year and must document any other changes in its file. A substantial change involves a change in the guidelines for resale (§ 92.61(b)(4)), other forms of investment (§ 92.61(b)(6)), minority and women business outreach program (§ 92.61(b)(7)), or a change in tenure type of the project or activities, or a funding increase to a project or activity of $100,000 or 50% (whichever is greater). The HUD Field Office will notify the insular area if its program description, as amended, does not permit determinations to be made under § 92.61 (b)(4), (b)(6), or (b)(7), or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to revise the proposed projects or activities in its program description.

30. In § 92.101, paragraph (c) is revised to read as follows:

**§ 92.101 Consortia.**

* * * * *

(c) The consortium's qualification as a unit of general local government continues for a period of three successive Federal fiscal years, or until HUD revokes its designation as a participating jurisdiction, or until an urban county member fails to requalify under the CDBG program as an urban county for a fiscal year included in the consortium's qualification period, whichever is shorter. However, if a member urban county's three year CDBG qualification cycle is not the same as the consortium, the consortium may elect a shorter qualification period than three years to get in sync with the urban county. During the period of qualification, additional units of general local government may join the consortium, but no included unit of general local government may withdraw from the consortium.

31. In § 92.102, paragraph (b)(2) is revised, and paragraph (c) is added to read as follows:

**§ 92.102 Participation threshold amount.**

* * * * *

(b) * * *

(2) The state has authorized HUD to transfer to the unit of general local government a portion of the state's allocation or the state, the unit of general local government, or both, has made available its own resources such that the sum of the amounts transferred or made available are equal to or greater than the difference between the unit of general local government's formula allocation and $750,000. A state, subject to the distribution of assistance requirements in § 92.201, may authorize such a transfer even if the state is not designated a participating jurisdiction. If the state is not designated a participating jurisdiction or does not receive an allocation, it may only make transfers to units of general local government in the amount necessary for the respective units of general local government to meet the $750,000 participation threshold.

(c) In fiscal years in which Congress appropriates less than $1.5 billion for this part, $500,000 is substituted for $750,000 each time it appears in this section.

32. In § 92.103, paragraph (b) introductory text is revised to read as follows:

**§ 92.103 Notification of intent to participate.**

* * * * *

(b) A unit of general local government that has a formula allocation of less than $750,000, or less than $500,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part, must submit, with its notice, one or more of the following, as appropriate, as evidence that it has met the threshold allocation requirements in § 92.102(b):

* * * * *

33. In § 92.107, paragraph (b) is revised to read as follows:

**§ 92.107 Revocation of designation as a participating jurisdiction.**

* * * * *

(b) The jurisdiction's formula allocation, plus funds provided under § 91.102(b), falls below $750,000 (or below $500,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part) for three consecutive years, below $625,000 (or below $410,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part) for two consecutive years, or the jurisdiction does not receive a formula allocation in any one year.

* * * * *

34. In § 92.150, paragraphs (b)(5) and (6) are revised, paragraphs (c)(2) and (3) are removed, paragraphs (c)(4) through (9) are redesignated as paragraphs (c)(2) through (7), and redesignated (c)(2) is revised to read as follows:

**§ 92.150 Submission of program description and certifications.**

* * * * *

(b) * * *

(5) If the participating jurisdiction intends to use HOME funds for first-time homebuyers, the guidelines for resale or recapture must be described as required in § 92.254(a)(4);

(6) If the participating jurisdiction intends to use HOME funds for tenant-based rental assistance, a description of how the program will be administered consistent with the minimum guidelines described in § 92.211, or with the requirements of § 92.210 if the participating jurisdiction intends to use HOME funds for tenant-based rental assistance solely for security deposits.

* * * * *

(c) * * *

(2) If the participating jurisdiction intends to provide tenant-based rental assistance, the certification required by § 92.211, or, if the participating jurisdiction intends to provide tenant-based rental assistance solely in the form of security deposits, the certification required by § 92.210;

* * * * *

35. Section 92.152 is revised to read as follows:

**§ 92.152 Amendments to program description.**

In general, a participating jurisdiction is not required to submit to HUD amendments to its program description that it makes during the fiscal year. The participating jurisdiction must document amendments in its file, and if the amendments affect future allocations, must include these amendments in the program description for the following fiscal year. However, a participating jurisdiction must submit any amendments to the following for HUD approval: guidelines for resale or recapture (see § 92.150(b)(5)); other forms of investment (see § 92.150(b)(7); and minority and women business outreach program (§ 92.150(b)(8)).

36. Section 92.203 is revised to read as follows:

**§ 92.203 Income determinations.**

Whenever a participating jurisdiction makes a determination under this part based on family income or adjusted family income, it must use the definitions of annual income, adjusted income, monthly income, and monthly adjusted income, as those terms are defined in part 813 of this title, except when determining the income of a homeowner for an owner-occupied rehabilitation project, the equity in the homeowner's principal residence is excluded from "Net Family Assets."

37. In § 92.205, paragraphs (a)(1) and (2) are revised to read as follows:

**§ 92.205 Eligible activities: general.**

(a) *Eligible activities.* (1) HOME funds may be used by a participating jurisdiction to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to first-time homebuyers), new construction, reconstruction, or moderate or substantial rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. The housing must be permanent or transitional housing, and includes permanent housing for disabled homeless persons, and single-room occupancy housing. The specific eligible costs for these activities are set forth in § 92.206.

(2) Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing.

* * * * *

38. In § 92.206, paragraphs (e) and (f) are revised and paragraph (g) is added to read as follows:

**§ 92.206 Eligible costs.**

* * * * *

(e) *Costs related to tenant-based rental assistance.* Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family.

(f) *Administrative and planning costs.* A participating jurisdiction may expend for its HOME administrative and planning costs an amount of HOME funds that is not more than ten percent of the fiscal year HOME basic formula allocation plus any funds received in accordance with § 92.102(b) to meet or exceed participation threshold requirements that fiscal year. A State that transfers any HOME funds in accordance with § 92.102(b) must exclude these funds in calculating the amount it may expend for administrative and planning costs. A participating jurisdiction may also use up to ten percent of any return of the HOME investment, as defined in § 92.503, calculated at the time of deposit in its local HOME account, for administrative and planning costs.

(g) *CHDO operating expenses.* Up to 5 percent of a participating jurisdiction's fiscal year HOME allocation may be used for the operating expenses of community housing development organizations (CHDOs). These funds may not be used to pay operating costs incurred by a CHDO acting as a subrecipient or contractor under the HOME Program. The requirements and limitations on the receipt of these funds by CHDOs are set forth in § 92.301(e) and (f).

**§ 92.208 [Removed]**

39. Section 92.208 is removed and reserved.

**§ 92.209 [Removed]**

40. Section 92.209 is removed and reserved.

41. Section 92.210 is revised to read as follows:

**§ 92.210 Tenant-based rental assistance: security deposits.**

(a) A participating jurisdiction may use HOME funds provided for tenant-based rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the participating jurisdiction provides any other tenant-based rental assistance under § 92.211.

(b) The relevant state or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except that the amount of HOME funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit.

(c) Only the prospective tenant may apply for HOME security deposit assistance, although the participating jurisdiction may pay the funds directly to the tenant or to the landlord.

(d) The lease between a tenant and an owner of rental housing for which HOME security deposit assistance is provided must comply with the requirements of § 92.253 (a) and (b).

(e) HOME funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan, the provisions at § 92.503(b) on repayment of HOME investment apply.

(f) The provisions at § 92.211 (a), (b), (d), (e) and (g), applicable to tenant-based rental assistance, are applicable to HOME security deposit assistance.

42. In § 92.211, paragraph (b) is revised to read as follows:

**§ 92.211 Tenant-based rental assistance.**

* * * * *

(b) *Program operation.* A tenant-based rental assistance program must be operated consistently with the requirements of this section and § 92.210, if applicable. The participating jurisdiction may operate the program itself, or may contract with a PHA or other entity with the capacity to operate a rental assistance program. The tenant-based rental assistance may be provided through an assistance contract to an owner that leases a unit to an assisted family or directly to the family.

* * * * *

43. In § 92.218, paragraph (a) is revised, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added, to read as follows:

**§ 92.218 Amount of matching contribution.**

(a) Each participating jurisdiction must make contributions to affordable housing assisted with HOME funds, throughout a fiscal year. The contributions must total not less than:

(1) Thirty percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund Treasury account in that fiscal year for new construction projects; and

(2) Twenty-five percent of the total funds drawn from the jurisdiction's HOME investment Trust Fund Treasury account in that fiscal year for tenant-based rental assistance, housing rehabilitation projects, and acquisition projects of standard housing that does not constitute new construction.

* * * * *

(c) HOME funds used for administrative and planning costs (pursuant to § 92.206(f)), operating expenses (pursuant to § 92.206(g)) and capacity building (pursuant to § 92.300(b)) of community housing development organizations are not required to be matched.

* * * * *

44. In § 92.220, paragraph (a)(3) is revised, and a new paragraph (a)(6) is added to read as follows:

**§ 92.220 Form of matching contribution.**

(a) * * *

(3) The value, before the HOME assistance is provided and minus any debt burden, lien, or other encumbrance, of land or other real property, not acquired with federal resources, as appraised in conformance with established and generally recognized appraisal practice and procedures in common use by professional appraisers. Opinions of value must be based on the best available data properly analyzed and interpreted. The appraisal of land and structures must be performed by an independent, certified appraiser.

* * * * *

(6) The reasonable value of any site-preparation and construction materials, not acquired with federal resources, and any donated or voluntary labor (see § 92.354(b)) in connection with the site-preparation for, or construction or rehabilitation of, affordable housing.

(i) The value of site-preparation and construction materials is to be determined in accordance with the participating jurisdiction's cost estimate procedures.

(ii) A single rate will be applicable for determining the value of donated or voluntary labor. The rate will be published annually in the notice of funding availability (NOFA) for the HOME program.

* * * * *

45. Section 92.221 is revised to read as follows:

**§ 92.221 Match credit.**

(a) Contributions are credited on a fiscal year basis at the time the contribution is made, as follows:

(1) A cash contribution is credited when the funds are expended.

(2) The grant equivalent of a below-market interest rate loan is credited at the time of the loan closing.

(3) The value of state or local taxes, fees, or other charges that are normally and customarily imposed but are waived, forgone, or deferred is credited at the time the state or local government officially waives, foregoes, or defers the taxes, fees, or other charges and notifies the project owner.

(4) The value of land or other real property is credited at the time ownership of the property is transferred.

(5) The cost of investment in infrastructure directly required for affordable housing assisted with HOME funds is credited at the time funds are expended for the infrastructure or at the time the HOME funds are committed to the affordable housing if the infrastructure was completed before the commitment of HOME funds.

(6) Donated material is credited as match at the time it is used for affordable housing; donated or voluntary labor is credited at the time the work is performed.

(b) *Excess match.* Contributions made in a fiscal year that exceed the participating jurisdiction's match liability for the fiscal year in which they were made will be carried over and applied to future fiscal years match liability.

46. Section 92.222 is revised to read as follows:

**§ 92.222 Reduction of matching contribution requirement.**

(a) *Reduction for fiscal distress*—(1) *Distress criteria for local government participating jurisdictions.* As determined and published annually by HUD, if a local government participating jurisdiction satisfies both of the distress factors in paragraphs (a)(1) (i) and (ii) of this section, it is in severe fiscal distress and its match requirement will be reduced 100% for the period specified in paragraph (a)(3) of this section. If a local government participating jurisdiction satisfies either distress factor in paragraphs (a)(1) (i) or (ii) of this section, it is in fiscal distress and its match requirement will be reduced by 50 percent, for the period specified in paragraph (a)(4) of this section.

(i) *Poverty rate.* The average poverty rate in the participating jurisdiction was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(ii) *Per capita income.* The average per capita income in the participating jurisdiction was less than 75 percent of the average national per capita income, during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(2) [Reserved.]

(3) *Period of match reduction for severe fiscal distress.* A 100% match reduction is effective for the fiscal year in which the severe fiscal distress determination is published and for the following fiscal year.

(4) *Period of match reduction for fiscal distress.* A 50% match reduction is effective for the fiscal year in which the fiscal distress determination is published and for the following fiscal year, except that if a severe fiscal distress determination is published in that following fiscal year, the participating jurisdiction starts a new two-year match reduction period in accordance with the provisions of paragraph (a)(3) of this section.

(b) *Reduction of match for participating jurisdictions in disaster areas.* If a participating jurisdiction is located in an area in which a declaration of major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is made, HUD may reduce the matching requirement specified in § 92.218 by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year for a local participating jurisdiction, and for a State participating jurisdiction, by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year with respect to any HOME funds expended in an area to which the declaration of a major disaster applies. [Participating jurisdictions for which a declaration of major disaster was made in FY 1992 are permitted to request a match reduction for FY 1993 and FY 1994.] To request a reduction, a participating jurisdiction must submit to the local HUD Field Office a copy of the disaster declaration.

47. In § 92.252, the text of paragraph (a)(5) is revised (the table remains unchanged) to read as follows:

**§ 92.252 Qualification as affordable housing and income targeting: rental housing.**

(a) * * *

(5) Will remain affordable, pursuant to deed restrictions, covenants running with the land, or other mechanisms approved by HUD that will ensure that the property will remain affordable without regard to the term of any mortgage or the transfer of ownership, for not less than the appropriate period, beginning after project completion, as specified in the following table, without regard to the term of the mortgage or to transfer of ownership, except that, upon foreclosure by a lender or other transfer in lieu of foreclosure, the affordability period shall be terminated if the foreclosure or other transfer recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid the termination of low-income affordability. However, the affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure or other transfer, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property, the affordability period shall be revived according to its original terms. In addition, when HOME funds are used in connection with

multifamily housing in which acquisition, new construction, or rehabilitation is financed with a mortgage insured by HUD under chapter II of this title, the minimum period of affordability is the term of the HUD-insured mortgage. * * *

* * * * *

48. In § 92.253, paragraph (c) is revised to read as follows:

**§ 92.253 Tenant and participant protections.**

* * * * *

(c) *Termination of tenancy.* An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable federal, state, or local law; for completion of the transitional housing tenancy period; or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

49. In § 92.254, paragraphs (a)(1) (i) and (ii), (a)(4), (b) introductory text and (b)(1) are revised to read as follows:

**§ 92.254 Qualification as affordable housing: homeownership.**

(a) * * *

(1)(i) Has an initial puchase price that does not exceed 95% of the median purchase price for the type of single family housing (1- to 4-family residence, condominium unit, cooperative unit, combination manufactured home and lot, or manufactured home lot) for the jurisdiction as determined by HUD, and which may be appealed in accordance with 24 CFR 203.18(b); and

(ii) Has an estimated appraised value at acquisition, if standard, or after any repair needed to meet property standards in § 92.251, that does not exceed the limit described in paragraph (a)(1)(i) of this section.

* * * * *

(4) Is subject, for a period of 20 years for newly constructed housing or otherwise for 15 years, to resale restrictions or recapture provisions that are established by the participating jurisdiction and determined by HUD to be appropriate to either:

(i) Make the housing available for subsequent purchase only to a low income family that will use the property as its principal residence; and

(A) Provide the owner with a fair return on investment, including any improvements, and

(B) Ensure that the housing will remain affordable, pursuant to deed restrictions, covenants running with the land, or other similar mechanisms to ensure affordability, to a reasonable range of low-income homebuyers. The affordability restrictions must terminate upon occurrence of any of the following termination events: Foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property; or

(ii) Recapture the full HOME investment out of the net proceeds, except as provided in paragraph (a)(4)(ii)(B) of this section.

(A) Net proceeds means the sales price minus loan repayment and closing costs.

(B) If the net proceeds are not sufficient to recapture the full HOME investment plus enable the homeowner to recover the amount of the homeowner's downpayment, principal payments, and any capital improvement investment, the participating jurisdiction's recapture provisions may allow the HOME investment amount that must be recaptured to be reduced. The HOME investment amount may be reduced prorata based on the time the homeowner has owned and occupied the unit measured against the required affordability period; except that the participating jurisdiction's recapture provisions may not allow the homeowner to recover more than the amount of homeowner's downpayment, principal payments, and any capital improvement investment.

(C) The HOME investment that is subject to recapture is the HOME assistance that enabled the first-time homebuyer to buy the dwelling unit. The recaptured funds must be used to assist other first-time homebuyers.

(b) *Rehabilitation not involving purchase.* Housing that is currently owned by a family qualifies as affordable housing only if—

(1) The value of the property, after rehabilitation, does not exceed 95% of the median purchase price for the type of single family housing (1- to 4-family residence, condominium unit, combination manufactured home and lot, or manufactured home lot) for the jurisdiction as determined by HUD, and which may be appealed in accordance with 24 CFR 203.18(b); and

* * * * *

50. Section 92.300 is revised to read as follows:

**§ 92.300 Set-aside for community housing development organizations (CHDOs).**

(a) For a period of 24 months after the allocation (including, for a state, funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, an allocation transferred from a state under § 92.102(b)) is made available to a participating jurisdiction, the participating jurisdiction must reserve not less than 15 percent of these funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. The funds must be provided to a community housing development organization and the funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization. If a community housing development organization's involvement in a project is as an owner it must have control of the project, as evidenced by legal title or a valid contract of sale. If it owns the project in partnership, it or its wholly owned for-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective management control.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable CHDOs, up to 20 percent of the minimum CHDO setaside of 15 percent specified in paragraph (a) of this section, above, (but not more than $150,000 during the 24 month period) may be expended to develop the capacity of CHDOs in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under § 92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

(e) If funds for operating expenses are provided under § 92.206(g) to a community housing development

organization that is not also receiving funds under paragraph (a) of this section for housing to be developed, sponsored or owned by the community housing development organization, the participating jurisdiction must enter into a written agreement with the community housing development organization that provides that the community housing development organization is expected to receive funds under paragraph (a) of this section within 24 months of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) *Limitation.* A community housing development organization may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or $50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This includes organization support and housing education provided under § 92.302(c)(1), (c)(2), and (c)(6), as well as funds for operating expenses provided under § 92.206(g) and administrative funds provided under § 92.206(f) (if the community housing development organization is a subrecipient or contractor of the participating jurisdiction).

51. In § 92.302, paragraphs (a)(2), (b)(1)(iv), (d), (e), and (f) are revised, and paragraphs (a)(3), (b)(1)(v), (c)(6) and (c)(7) are added, to read as follows:

**§ 92.302 Housing education and organizational support.**

(a) * * *

(2) To promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this part; and

(3) To achieve the purposes under paragraphs (a)(1) and (2) of this section by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

(b) * * *

(1) * * *

(iv) Has described the uses to which such assistance will be put and the intended beneficiaries of the assistance;

(v) In the case of activities under paragraph (c)(7) of this section, is a community based organization as defined in section 4 of the Job Training Partnership Act or a public housing agency which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training for construction or other nontraditional occupations (in which women constitute 25 percent or less of the total number of workers in the occupation); or

* * * * *

(c) * * *

(6) *Community Land Trusts (CLTs).* HOME funds may be made available to CLTs for organizational support, technical assistance, education and training, and continuing support; and to community groups for the establishment of CLTs. A community land trust is a community housing development organization that:

(i) Is not sponsored by a for-profit organization;

(ii) Is established, and undertakes activities to:

(A) Acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(B) Transfer ownership of any structural improvements located on such leased parcels to the lessees; and

(C) Retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

(iii) Has a corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization;

(iv) Whose board of directors includes a majority of members who are elected by the corporate membership and is composed of equal numbers of lessees, corporate members who are not lessees, and any other category of persons described in the bylaws of the organization; and

(v) Is not required to have a demonstrated capacity for carrying out HOME activities or a history of serving the local community within which HOME-assisted housing is to be located.

(7) *Facilitating women in homebuilding professions.* Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities. This might include facilitating access by women to, and providing, apprenticeship and other training programs regarding non-traditional skills, recruiting women to participate in such programs, providing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses. Up to ten percent of the funds made available for this activity may be used to provide materials and tools for training such women.

(d) *Limitations.* Contracts under this section with any one contractor for a fiscal year may not—

(1) Exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) Provide more than 20 percent of the operating budget (which may not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) *Single-state contractors.* Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year must be made available for eligible contractors that have worked primarily in one state. HUD shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a HUD regional office.

(f) *Notice of funding.* HUD will publish a notice in the **Federal Register** announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

52. In § 92.350, paragraph (a)(4) is revised to read as follows:

**§ 92.350 Equal opportunity and fair housing.**

(a) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) the purpose of which is to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low-income persons, particularly those who are recipients of government assistance for housing.

* * * * *

53. In § 92.400, paragraphs (a)(4) and (a)(5) are revised, and paragraph (a)(6) is added, to read as follows:

**§ 92.400 Coordinated federal support for housing strategies.**

(a) * * *

(4) Improve the ability of states and units of general local government,

community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) Facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance, and demonstration projects; and

(6) Facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of the HOME program.

* * * * *

54. In § 92.500, the first sentence of paragraph (a) and paragraph (d)(2) are revised to read as follows:

**§ 92.500 The HOME Investment Trust Fund.**

(a) *General.* A HOME Investment Trust Fund consists of the accounts described in this section solely for investment in eligible activities within the participating jurisdiction's boundaries, or within the boundaries of contiguous local jurisdictions in joint projects which serve residents from both jurisdictions, in accordance with the provisions of this part. * * *

* * * * *

(d) * * *

(2) Any funds in the United States Treasury account that are not committed within 24 months after the last day of the month in which HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnership Agreement (HUD will make the notification on the date HUD executes the agreement);

* * * * *

55. In § 92.504, paragraph (c) introductory text is revised, paragraph (d) is redesignated as paragraph (e), and a new paragraph (d) is added, to read as follows:

**§ 92.504 Participating jurisdiction responsibilities; written agreements; monitoring.**

* * * * *

(c) *Provisions in written agreement.* At a minimum, the written agreement (except for a written agreement under paragraph (d) of this section between a State and a State housing finance agency, or other State instrumentality, that is a subrecipient of the State) must include provisions concerning the following items:

* * * * *

(d) *Agreement between a State and a State housing finance agency, or other instrumentality of the State.* The written agreement between a State and a State housing finance agency, or other instrumentality of the State, which is a subrecipient of the State must include provisions concerning the following items:

(1) The total amount to be administered, i.e., the entire State allocation, a percentage of the allocation, or a dollar amount, and whether the amount covers repayment income;

(2) A statement that the subrecipient is subject to the same requirements as are applicable to the State in 24 CFR part 92;

(3) A listing of the reports and other information that the subrecipient must provide to the State;

(4) A statement that the agreement remains in effect during the period that the subrecipient has control over HOME funds;

(5) The conditions that constitute a breach of the agreement, and the remedies for a breach, including a statement that suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement, and that the agreement may be terminated for convenience in accordance with 24 CFR 85.44; and

(6) A statement that, upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME funds and any accounts receivable attributable to the use of HOME funds on hand at the time of expiration.

* * * * *

56. In § 92.508, paragraph (a)(1)(ii) is revised, paragraphs (a)(2)(iii) and (a)(2)(iv) are removed, paragraphs (a)(2)(v) through (a)(2)(vii) are redesignated as paragraphs (a)(2)(iii) through (a)(2)(v) respectively, and new paragraphs (a)(4) (iv) and (v) are added, to read as follows:

**§ 92.508 Recordkeeping.**

(a) * * *

(1) * * *

(ii) Records for a unit of general local government receiving a formula allocation of less than $750,000 (or less than $500,000 in fiscal years in which Congress appropriates less than $1.5 billion for this part) that demonstrate that funds have been made available (either by the state or the unit of general local government, or both) equal to or greater than the difference between its formula allocation and $750,000 (or less than $500,000 in fiscal years in which Congress appropriates less than $1.5 billion) for this part as required by § 92.102.

* * * * *

(2) * * *

(iii) Records supporting the participating jurisdiction's certification under §§ 92.210 and 92.211 (tenant-based rental assistance, including security deposits; the waiting list; determinations of rent reasonableness; calculations of HOME subsidy for each tenant assisted).

(iv) Records for income targeting required by § 92.216 and § 92.217.

(v) Records, including individual project records and a running log, demonstrating compliance with the matching requirements in § 92.218 through § 92.221 including the type and amount of contributions by project.

* * * * *

(4) * * *

(iv) Records regarding the use of community housing development organization setaside funds to develop the capacity of community housing development organizations pursuant to § 92.300(b) if the jurisdiction could not identify a sufficient number of capable community housing development organizations.

(v) Records of the written agreement the participating jurisdiction must enter into under § 92.300(e) with the community housing development organization if funds for operating expenses are provided under § 92.206(g) to the community housing development organization that is not also receiving funds under § 92.300(a).

* * * * *

57. Section 92.600 is revised to read as follows:

**§ 92.600 General.**

For each fiscal year, HUD will provide funds to Indian tribes, totaling one percent (or such other percentage or amount as authorized by Congress) of the amount appropriated for the HOME program to expand the supply of affordable housing. The funds will be awarded competitively by HUD Field Offices that have responsibility for the HOME Indian program and will be made available each fiscal year pursuant to a notice of funding availability (NOFA) published in the **Federal Register**, in accordance with the requirements of subpart M of this part. Except as otherwise stated in this part, only subparts A and M apply to grants to Indian tribes.

58. Section 92.610 is revised to read as follows:

**§ 92.610 Income determinations.**

Whenever an Indian tribe makes a determination under this part based on

family income or adjusted family income, it must use the definitions of annual income, adjusted income, monthly income, and monthly adjusted income, as those terms are defined in part 913 of this title, except when determining the income of a homeowner for an owner-occupied rehabilitation project, the equity in the homeowner's principal residence is excluded from "Net Family Assets."

59. In § 92.611, paragraph (a)(1) is revised to read as follows:

**§ 92.611 Eligible activities.**

(a) *Eligible activities.* (1) HOME funds may be used by an Indian tribe to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to first-time homebuyers), new construction, reconstruction, or moderate or substantial rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. The housing must be permanent or transitional housing, and includes permanent housing for disabled homeless persons, and single-room occupancy housing. The specific eligible costs for these activities are set forth in § 92.612.

* * * * *

60. In § 92.612, paragraphs (a)(4) and (e) are revised to read as follows:

**§ 92.612 Eligible costs.**

* * * * *

(a) * * *

(4) For new construction or substantial rehabilitation, the cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay operating expenses, reserve for replacement payments, and debt service. Any HOME funds placed in an operating deficit reserve that remain unexpended when the reserve terminates must be returned to the Indian tribe's local HOME account.

* * * * *

(e) *Costs related to tenant-based rental assistance.* Eligible costs are the rental assistance and security deposit payments made to provide tenant-based rental assistance for a family.

* * * * *

61. In § 92.613, paragraph (a) is revised, and a new paragraph (i) is added, to read as follows:

**§ 92.613 Tenant-based rental assistance.**

(a) *General.* An Indian tribe may use HOME funds for tenant-based rental assistance only if the Indian tribe selects families in accordance with written tenant selection policies and criteria that are consistent with the purpose of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937. The Indian tribe may select eligible families currently residing in units that are designated for rehabilitation or acquisition under the tribe's HOME program without requiring that the family meet the written tenant selection policies and criteria. Families so selected may use the tenant-based assistance in the rehabilitated or acquired unit or in other qualified housing.

* * * * *

(i) *Security deposits.* (1) An Indian tribe may use HOME funds provided for tenant-based rental assistance to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units whether or not the Indian tribe provides any other tenant-based rental assistance under this section.

(2) The relevant tribal, state or local definition of "security deposit" in the jurisdiction where the unit is located is applicable for the purposes of this part, except that the amount of HOME funds that may be provided for a security deposit may not exceed the equivalent of two month's rent for the unit.

(3) Only the prospective tenant may apply for HOME security deposit assistance, although the Indian tribe may pay the funds directly to the tenant or to the landlord.

(4) The lease between a tenant and an owner of rental housing for which HOME security deposit assistance is provided must comply with the requirements of § 92.622 (a) and (b).

(5) HOME funds for security deposits may be provided as a grant or as a loan. If they are provided as a loan, the provisions at § 92.643(b) or repayment of HOME investment apply.

(6) The provisions of paragraphs (a), (b), (d), (e) and (g) of this section are applicable to HOME security deposit assistance.

62. In § 92.614, paragraph (a)(1)(ii), (a)(2) introductory text, the text of (a)(5) (the table remains unchanged), and (c) are revised, and a new paragraph (e) is added, to read as follows:

**§ 92.614 Qualification as affordable housing and income targeting: rental housing.**

(a) * * *

(1) * * *

(ii) A rent that does not exceed 30 percent of the adjusted income of a family whose gross income equals 65 percent of the median income for the area, as determined by HUD, with adjustment for number of bedrooms in the unit, except that HUD may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of HUD's fundings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. In determining the maximum monthly rent that may be charged for a unit that is subject to this limitation, the owner or Indian tribe must subtract a monthly allowance for any utilities and services (excluding telephone) to be paid by the tenant. HUD will provide average occupancy per unit and adjusted income assumptions to be used in calculating the maximum rent allowed under this paragraph (a)(1)(ii) of this section;

(2) Has, in the case of projects with three or more rental units, or in the case of an owner of multiple one or two unit projects with a total of three or more rental units, not less than 20 percent of the rental units—

* * * * *

(5) Will remain affordable, pursuant to binding commitments satisfactory to HUD that will ensure that the property will remain affordable without regard to the term of any mortgage or the transfer of ownership, for not less than the appropriate period, beginning after project completion, as specified in the following table, except that upon foreclosure by a lender or other transfer in lieu of foreclosure, the affordability period shall be suspended if the foreclosure by a lender or other transfer in lieu of foreclosure recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability. However, if at any time following transfer by foreclosure or transfer in lieu of foreclosure, but still during the term of the affordability period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or

property, the affordability period shall be revived according to its original terms. * * *

* * * * *

(c) *Increases in tenant income.* Rental housing qualifies as affordable housing despite a temporary noncompliance with paragraph (a)(2) or (a)(3) of this section, if the noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected. Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under tribal, State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this part for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986.

* * * * *

(e) *Manufactured housing.* Purchase and/or rehabilitation of a manufactured housing unit qualifies as affordable housing only if, at the time of project completion, the unit—

(1) Is situated on a permanent foundation;

(2) Is connected to permanent utility hook-ups;

(3) Is located on land that is held in a fee-simple title, land-trust, or long-term ground lease with a term at least equal to that of the appropriate affordability period;

(4) Meets the construction standards established under 24 CFR 3280;

(5) Meets all requirements of this section.

63. In § 92.615, paragraphs (a)(1) (i) and (ii), (a)(4), (b) introductory text and (b)(1) are revised, and a new paragraph (c) is added, to read as follows:

**§ 92.615 Qualification as affordable housing: homeownership.**

(a) * * *

(1)(i) Has an initial purchase price that does not exceed 95% of the median purchase price for the type of single family housing (1- to 4-family residence, condominium unit, cooperative unit, combination manufactured home and lot, or manufactured home lot) for the area as determined by HUD, and which may be appealed in accordance with 24 CFR 203.18(b); and

(ii) Has an estimated appraised value at acquisition, if standard, or after any repair needed to meet property standards in § 92.621, that does not exceed the limit described in paragraph (a)(1)(i) of this section.

* * * * *

(4) Is subject, for a period of 20 years for newly constructed housing or otherwise for 15 years, to resale restrictions or recapture provisions that are established by the Indian tribe and determined by HUD to be appropriate to either—

(i) Make the housing available for subsequent purchase only to a low income family that will use the property as its principal residence; and

(A) Provide the owner with a fair return on investment, including any improvements, and

(B) Ensure that the housing will remain affordable, pursuant to deed restrictions, covenants running with the land, or other similar mechanisms to ensure affordability, to a reasonable range of low-income homebuyers. The affordability restrictions must terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The Indian tribe may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event reacquires title to the property; or

(ii) Recapture the full HOME investment out of the net proceeds, except as provided in paragraph (a)(4)(ii)(B) of this section.

(A) Net proceeds means the sales price minus loan repayment and closing costs.

(B) If the net proceeds are not sufficient to recapture the full HOME investment plus enable the homeowner to recover the amount of the homeowner's downpayment, principal payments, and any capital improvement investment, the Indian tribe's recapture provisions may allow the HOME investment amount that must be recaptured to be reduced. The HOME investment amount may be reduced pro rata based on the time the homeowner has owned and occupied the unit measured against the required affordability period; except that the Indian tribe's recapture provisions may not allow the homeowner to recover more than the amount of the homeowner's downpayment, principal payments, and any capital improvement investment.

(C) The HOME investment that is subject to recapture is the HOME assistance that enabled the first-time homebuyer to buy the dwelling unit. The recaptured funds must be used to assist other first-time homebuyers.

(b) *Rehabilitation not involving purchase.* Housing that is currently owned by a family qualifies as affordable housing only if—

(1) The value of the property, after rehabilitation, does not exceed 95% of the median purchase price for the type of single family housing (1- to 4-family residence, condominium unit, combination manufactured home and lot, or manufactured home lot) for the area as determined by HUD, and which may be appealed in accordance with 24 CFR 203.18(b); and

* * * * *

(c) *Manufactured housing.* Purchase and/or rehabilitation of a manufactured housing unit qualifies as affordable housing only if, at the time of project completion, the unit—

(1) Is situated on a permanent foundation (except when assisting existing unit owners who rent the lot on which their unit sits);

(2) Is connected to permanent utility hook-ups;

(3) Is located on land that is held in a fee-simple title, land-trust, or long-term ground lease with a term at least equal to that of the appropriate affordability period;

(4) Meets the construction standards established under 24 CFR 3280 if produced after June 15, 1976. If the unit was produced prior to June 15, 1976, it must comply with applicable tribal, State or local codes;

(5) Meets all of the requirements of paragraphs (a) and (b) of this section, as applicable. In cases where the owner of a manufactured housing unit does not hold fee-simple title to the land on which the unit is located, the owner may be assisted to purchase the land under paragraph (b) of this section.

64. A new § 92.616 is added to read as follows:

**§ 92.616 Prohibited activities.**

(a) HOME funds may not be used to—

(1) Provide a project reserve account for replacements, a project reserve account for unanticipated increases in operating costs, or operating subsidies;

(2) Provide nonfederal matching contributions required under any other federal program; or

(3) Provide assistance (other than tenant-based rental assistance or assistance to a first-time homebuyer to acquire housing previously assisted with HOME funds) to a project previously assisted with HOME funds during the period of affordability established by the Indian tribe under

§ 92.614 or § 92.615. However, additional HOME funds may be committed to a project up to one year after project completion (see § 92.642), but the amount of HOME funds in the project may not exceed the maximum per-unit subsidy amount established under § 92.620.

(4) Pay impact fees.

(b) Indian tribes may not charge monitoring, servicing and origination fees in HOME-assisted projects. However, tribes may charge nominal application fees (although these fees are not an eligible HOME cost) to project owners to discourage frivolous applications.

65. Section 92.620 is revised to read as follows:

**§ 92.620 Maximum per-unit subsidy amount.**

The amount of HOME funds that an Indian tribe may invest on a per-unit basis in affordable housing may not exceed the total development cost standard for the area, as issued by HUD under 24 CFR 905.213. These total development cost standards are available from HUD Indian Field Offices.

66. Section 92.621 is revised to read as follows:

**§ 92.621 Property standards.**

(a) Housing that is assisted with HOME funds, at a minimum, must meet the housing quality standards in § 882.109 of this title. In addition, housing that is newly constructed or substantially rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances. The Indian tribe must have written standards for rehabilitation. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials. Substantially rehabilitated housing must meet the cost-effective energy conservation and effectiveness standards in 24 CFR part 39.

(b) The following requirements apply to housing for homeownership that is to be rehabilitated after transfer of the ownership interest:

(1) Before the transfer of the homeownership interest, the Indian tribe must:

(i) Inspect the housing for any defects that pose a danger to health; and

(ii) Notify the prospective purchaser of the work needed to cure the defects and the time by which defects must be cured and applicable property standards met.

(2) The housing must be free from all noted health and safety defects before occupancy and not later than 6 months after the transfer.

(3) The housing must meet the applicable property standards (at a minimum, the housing quality standards in § 882.109 of this title) not later than 2 years after transfer of the ownership interest.

67. In § 92.642, paragraph (b)(1) is revised to read as follows:

**§ 92.642 Cash and Management Information System; disbursement of HOME funds.**

* * * * *

(b) * * *

(1) After HUD completes any environmental review required by part 50 of this title and the Indian tribe executes HOME Investment Partnership Agreement and submits the appropriate banking and security documents, the Indian tribe may identify (set up) specific investments in the C/MI System. Investments that require the set-up of projects in the C/MI System are the acquisition, new construction, or moderate or substantial rehabilitation of real property, and investments of HOME funds to provide tenant-based rental assistance. Within 12 calendar days of project set-up, the Indian tribe is required to submit a Project Set-Up Report to HUD for each project set up in the C/MI System. Until an acceptable Project Set-Up Report is received and entered in the C/MI System, HOME funds for the project are not considered committed (as defined in § 92.2), and, therefore, are subject to recapture and reallocation to the extent authorized by § 92.640.

* * * * *

Dated: March 26, 1993.

**Henry G. Cisneros,**

*Secretary.*

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Part III

# Department of Health and Human Services

## Social Security Administration

**Supplemental Security Income Program for the Aged, Blind, and Disabled; Outreach Demonstration Program; Announcement of Fiscal Year 1993 Availability of Cooperative Agreement Funds and Request for Applications; Notice**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

### Supplemental Security Income (SSI) Program for the Aged, Blind, and Disabled; Outreach Demonstration Program; Announcement of Fiscal Year (FY) 1993 Availability of Cooperative Agreement Funds and Request for Applications

**AGENCY:** Social Security Administration (SSA), HHS.

**ACTION:** Announcement of the availability of FY 1993 funds and a request for applications under the SSI Outreach Demonstration Program.

**SUMMARY:** The Principal Deputy Commissioner of Social Security announces the opening of the SSI Outreach Demonstration Program for FY 1993. Applications will be accepted for cooperative agreements which increase outreach efforts to needy aged, blind, and disabled individuals who are potentially eligible for the SSI program. Section 1110 of the Social Security Act (the Act) authorizes the Secretary of Health and Human Services to establish projects that assist in promoting the objectives or facilitate the administration of the SSI program. The goal of these outreach demonstration projects will be to demonstrate effective, efficient, ongoing and transferable approaches for identifying and assisting potentially eligible individuals in filing for SSI benefits.

**DATES:** The closing date for receipt of cooperative agreement applications under this announcement is August 23, 1993.

**FOR FURTHER INFORMATION CONTACT:** SSA, Office of Supplemental Security Income, Division of Program Management and Analysis, SSI Outreach Branch, 3–R–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235. The fax number is (410) 966–1337. The telephone number is (410) 965–9798. The SSI Outreach Branch is available to provide you with general program information, the location of a servicing SSA field office, and to schedule attendance at a Technical Assistance Workshop (see Section I.G. for the schedule).

**SUPPLEMENTARY INFORMATION:**

#### General

For the purpose of our SSI Outreach Demonstration Program, we define outreach efforts to mean identifying potentially eligible individuals, helping them understand the benefits of participating in the SSI program, and assisting them in the application process. Assistance in the SSI application process may include, depending upon the project model, providing translation services or transportation, assisting in the completion of the SSI application forms, obtaining nonmedical and medical evidence, providing or arranging for any necessary medical examinations and assisting in finding representative payees.

This announcement consists of three sections:

- Section I provides background information, discusses the purpose of the SSI Outreach Demonstration Program and briefly describes the application process.
- Section II describes the programmatic priorities under which the SSA is requesting applications for funding.
- Section III describes in detail the application process.

We encourage applicants to become knowledgeable about SSA's operations as well as the eligibility rules of the SSI program, and the Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) programs. Pamphlets and other public information materials may be obtained from any local Social Security field office (see Section I.D. on how to obtain this information).

*Section I*

A. The SSI Program

SSI is a Federal program administered by SSA. The program is financed from general revenue funds of the U.S. Treasury and provides monthly benefit payments to aged, blind, and disabled people who have limited resources and income. In 1993, the Federal benefit rate for an individual is $434 per month and $652 per month for a couple. In addition, many States supplement the Federal benefit; the supplementary benefit amounts and the categories of persons eligible for these benefits vary from State to State. In most States, eligibility for SSI means eligibility for Medicaid; the extent of the Medicaid coverage varies by State. SSI recipients may also be eligible to receive Food Stamps in all States but California, where the State's supplementary payments are considered to include the value of Food Stamps.

To be eligible for SSI benefits, a person must be age 65 or older or disabled or blind, have limited resources and income, and meet certain other requirements. An adult (age 18 or over) is considered disabled if a physical or mental impairment or combination of impairments prevents the person from doing any substantial gainful work and is expected to last for at least 12 months or result in death. A child (under age 18) is considered disabled if he or she suffers from a physical or mental impairment of comparable severity to that which would make an adult disabled. SSA works cooperatively with the States, which are responsible for making disability and blindness determinations through their Disability Determination Services (DDS). SSA takes a detailed medical history from the applicant during the initial interview and sends that information to the DDS. The DDS then secures medical records and, if needed, arranges an additional medical examination. Based upon this evidence, a disability or blindness determination is then made.

In addition to age, disability, or blindness, an individual or couple must meet resource, income, and residency requirements. In 1993, the resource limits are $2,000 for an individual and $3,000 for a couple. If a disabled or blind child lives with a parent, some of the parent's income and resources may be counted as the child's. However, not everything that a person owns is counted as a resource.

An individual or couple may have earned or unearned income and still be eligible for the SSI program. A certain amount of income is disregarded in determining eligibility and computing the SSI benefit amount. People who live in a State that supplements the Federal payment may have higher amounts of income and still may qualify for State supplementary benefits.

Except for some children of military personnel, to be eligible for SSI a person must reside in the U.S. or the Northern Mariana Islands and be a U.S. citizen, an alien lawfully admitted for permanent residence, or an alien permanently residing in the U.S. under "color of law" (PRUCOL). PRUCOL is defined in the Code of Federal Regulations at title 20, part 416, § 416.1618.

Approximately 5.6 million persons received a Federal SSI benefit and/or a federally administered State supplement in December 1992. Of these, 1.5 million are aged recipients whose eligibility is based on being age 65 or over, and 4.1 million are blind or disabled recipients. Of the 4.1 million blind or disabled recipients, approximately 610,000 are now age 65 or over, and 620,000 are under age 18 (disabled children).

B. Qualified Medicare Beneficiary (QMB) and Specified Low Income Medicare Beneficiary (SLMB) Programs

Applicants need to be familiar with the QMB program and the eligibility process. Since the eligibility rules for QMB are similar to those for SSI, but have higher income and resource limits, in certain cases it may be appropriate to refer individuals for QMB eligibility determinations when SSI eligibility is precluded.

QMBs are Medicare beneficiaries who have income at or below the Federal poverty level and countable resources of $4,000 ($6,000 per couple) or less. The QMB program is administered by the States under the oversight of the Health Care Financing Administration. In most States, the QMB program became effective in January 1989.

If an individual qualifies as a QMB, the State will pay Medicare premiums, deductibles and coinsurance. Beginning in January 1993, for SLMBs, the State will pay the Medicare Part B premium amounts but not the coinsurance and deductibles. SLMBs are individuals who meet the QMB eligibility requirements except for income in excess of the QMB limit but less than 110 percent of the Federal poverty level. Recent studies suggest that many individuals who might qualify are not aware of these benefits. For additional information, see the fact sheet on QMBs and SLMBs in the application kit.

C. Purpose of the SSI Outreach Demonstration Program

SSA will award a number of SSI outreach demonstration projects. The goal of these projects will be to demonstrate effective, efficient, ongoing, and transferable approaches for identifying potentially eligible needy aged, blind, and disabled individuals and assisting these individuals in the application process. By effective, we mean methods that result in significant increases in SSI awards to underserved populations. By efficient, we mean those methods that find and assist the largest number of potentially eligible individuals, minimizing the burden of application for them while conserving both public and private resources. By ongoing, we mean methods that can continue after the cooperative agreement and grant funding from SSA end. By transferable, we mean that the methods are not dependent on the special conditions existing in one locale but can be used by other organizations in other places. These projects will expand upon the ideas being tested in the cooperative agreements previously funded, will test new methods, and will target additional underserved populations.

The SSI Outreach Demonstration Program was first announced in April 1990. Following an independent review process, 33 cooperative agreements in 44 sites were approved for the development of models of SSI outreach. The projects used a wide range of methodologies and concentrated on several target populations: Urban and rural elderly, the disabled in general, people with AIDS, the homeless, and minority and ethnic communities. Many of these projects have completed their outreach activities and are now being evaluated.

The second SSI Outreach Demonstration Program was announced in September 1991. Following an independent review process, 49 cooperative agreements in 52 sites were approved in August 1992 for the development of models of SSI outreach. The projects use a wide range of methodologies and concentrate on underserved target populations: African Americans, Native Americans, other minority/ethnic groups such as Hispanics and Asians, disabled children, severely mentally ill adults, and homeless adults. These projects are still actively engaged in outreach activities, and have not entered the evaluation phase.

D. Cooperative Agreements

Legislative authority for the Outreach Demonstration Program is in section 1110 of the Act, which provides, in part, for projects that assist in promoting the objectives or facilitate the administration of the SSI program. The regulatory requirements that govern the administration of all Department of Health and Human Services cooperative agreements are in the Code of Federal Regulations at title 45, parts 74 and 92. Applicants are urged to review the requirements in the applicable regulations.

SSA may suspend or terminate any cooperative agreement in whole or in part at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the cooperative agreement. SSA will promptly notify the awardee in writing of the determination and the reasons for the suspension or termination together with the effective date.

A cooperative agreement anticipates substantial involvement between SSA and the applicant during the performance of the project. All awards made under this program will be made in the form of cooperative agreements. This involvement will include collaboration or participation by SSA in the management of the activity as determined at the time of the award. For example, SSA will be involved in decisions involving strategy, hiring of personnel, deployment of resources, selection of contractors, release of public information materials, etc. The Social Security field office will provide SSI program training and ongoing technical assistance to those organizations awarded cooperative agreements in order to establish effective referral procedures. Since the outreach process requires linkage with Social Security field offices and, in some approaches, the DDS, grantees will need to develop detailed procedures for working with these offices. To this end, SSA strongly encourages all applicants to contact their local Social Security field office to obtain additional information on the SSI program and on local outreach efforts. However, letters of commitment should not be requested from Social Security field offices or State DDSs. For the location of your local Social Security field office, please contact the SSI Outreach Branch by fax at (410) 966–1337 (see Section III, Part E—"FAX Inquiry Form"), or by telephone at (410) 965–9798. Do not use that FAX Inquiry Form or this telephone number to request application kits. Instructions for requesting application kits are contained in Section III.D. (Availability of Forms).

E. Number, Size, and Duration of Projects

Approximately $5.45 million is available for the awarding of cooperative agreements under this announcement. SSA expects to fund up to 40 demonstration projects that cost between $50,000 and $350,000 with budget periods of 3 to 17 months. However, SSA may fund some projects at higher or lower amounts. Also, applicants may submit applications for multiyear funding not to exceed 36 months in duration under the following priority areas only:

002 Aging Network Collaborations and Intake Modifications
003 One-Stop Service
005 Outreach Worker
006 Discharge Planning Technical Assistance

F. Fiscal Year 1993 Cooperative Agreement Application Process

The cooperative agreement application process for FY 1993 consists of a one-stage, full application. The program narrative (Part III of SSA–96–BK) is limited to 20 double-spaced pages (excluding resumes, forms, etc.) and will be reviewed by independent

reviewers against the evaluation criteria established for review of applications (see Section III). Applications will also be reviewed against others in the same priority area; for example, all applications focusing on "targeted mailings" will be competitively reviewed against each other.

In making the funding award decisions, SSA will pay particular attention to applications seeking to eliminate multiple barriers to eligibility and targeting areas of the U.S. where the number of individuals with incomes at or below the Federal poverty level is high.

Each project will work with one or more local Social Security field offices and/or DDSs to carry out the approved methodology. Local Social Security field offices process the applications for benefits resulting from outreach efforts. State DDSs make the disability and blindness determinations for SSI claims. Therefore, geographic dispersion will be a factor in the selection process to minimize the administrative burden to any one Social Security field office or State DDS

G. Technical Assistance Workshops for Prospective Applicants

SSA will hold workshops to provide guidance and technical assistance to prospective applicants. Please send your request to attend a specific workshop to the SSI Outreach Branch by fax at (410) 966–1337 (see Section III, Part E), or call the SSI Outreach Branch at (410) 965–9798, at least 7 days prior to the workshop for further information.

| Date | Location |
|---|---|
| Tuesday, July 20 ..... | Chicago, IL. |
| Wednesday, July 21 .. | Atlanta, GA. |
| Thursday, July 29 ..... | San Francisco, CA. |
| Thursday, July 15 ..... | Denver, CO. |
| Wednesday, July 21 .. | Dallas, TX. |
| Thursday, July 29 ..... | New York, NY. |

*Section II*

A. *Overview.* The SSI Outreach Demonstration Program will help SSA demonstrate the feasibility of special approaches and services to identify and assist needy individuals in filing for SSI benefits. SSA is most interested in approaches that will result in significant numbers of potentially eligible individuals being awarded SSI benefits. In the cooperative agreement application, the project methodology should describe how referrals to social services or other benefit programs (e.g., QMBs and SLMBs) will be made when they are appropriate. Further, effective outreach includes not only identifying potentially eligible individuals; it also means facilitating the process of applying for benefits and ensuring that benefits continue through, for example, the provision of representative payee services.

This section of the program announcement lists the priority outreach approaches to be tested to address the barriers to SSI eligibility.

B. *Barriers to Filing for Benefits.* Barriers exist that prevent potentially eligible individuals and couples from filing for SSI benefits. Some of the barriers are (not in priority order):

—Lack of correct information about the SSI program within the target population and outside organizations that provide services to these persons,
—Inability to handle one's own financial affairs, which may require another individual to assist in making application and, when an applicant is eligible, to receive the benefits as a representative payee,
—Difficulty with reading and/or spelling the English language,
—Limited exposure to traditional communications media,
—Disabilities which limit mobility and connection with social services organizations,
—Reluctance to accept/admit disability as a permanent condition,
—Fear/stigma associated with disability, such as AIDS, cancer, mental illness, mental retardation, and substance abuse,
—Homelessness often coupled with mental illness or drug addiction/alcoholism,
—Perceived welfare stigma of receiving SSI benefits,
—Distrust or fear of government bureaucracy,
—Concern that eligibility will preclude work or future work attempts,
—Lack of transportation and/or access to a telephone,
—Lack of understanding about how to contact Social Security field offices,
—Lack of current connection with social service organizations, and
—Homebound status due to age or infirmity.

C. *Priority outreach areas.* SSA believes that a significant number of people are potentially eligible for SSI benefits but, for the reasons cited in B. and others, have not become eligible for them. These potentially eligible individuals fall into all SSI eligibility groups; i.e., aged, blind, or disabled adults and children, in both urban and rural areas.

This announcement identifies six outreach priority areas to be tested. These areas build upon experience gained in prior cooperative agreements. They appear to be the most promising in terms of success in overcoming the barriers listed above, potential numbers of new awards, and improved service to hard-to-access populations through an efficient use of resources. However, these areas need to be tested further to determine specifically their effectiveness in reaching a wide range of populations and their efficiency as to both public and private resources.

001 Targeted Mailings
002 Aging Network Collaborations and Intake Modifications
003 One-Stop Service
004 Strike Teams
005 Outreach Worker
006 Discharge Planning Technical Assistance

In addition to these 6 priority areas, SSA will consider innovative proposals that may encompass other methodologies designed to address specific barriers to eligibility. These should be submitted in a seventh category "other."

Applications utilizing the 6 priority areas should be filed under priority areas 001 through 006. File an application under priority area 007 "other" only when the outreach effort is not one of those described in areas 001 through 006. If you are proposing more than one area, such as targeted mailings and aging network intake modifications, you must file a separate application for each priority area. Do not file an application that covers more than one priority area.

SSA is interested in applications from a wide range of entities, including: Medical providers; social service providers; State or local governments; Native American tribal governments; academic institutions; or advocacy groups and legal aid societies which provide services to hard-to-access populations.

Any proposal that includes activities by another organization must include a letter of commitment from that other organization, a description of the nature of the past relationship with that organization and the length of time that relationship has existed.

Please note that the scope of this grant announcement is limited to services at the initial claims level. Through this announcement SSA seeks to improve the administrative process so that, to the extent possible, complete, well-documented claims are received at the earliest possible point. Therefore, SSA is not funding activities in support of appeals of adverse decisions.

Following is a description of each priority area:

001: *Targeted Mailings*—SSA is interested in applications from the aging

network or other community-based agencies to provide assistance to individuals potentially eligible for SSI in responding to a letter sent by SSA to title II (Social Security retirement and disability) beneficiaries with low benefit amounts living in high poverty areas.

Following the award of cooperative agreements from this announcement, SSA will send letters to elderly and disabled title II beneficiaries with low benefit amounts who are potentially eligible for SSI and who live in high poverty areas within the service area of the grantee. (Although the grantee will produce the letter on its stationery, SSA must send the letter, rather than providing mailing information to the grantee, in order to protect the privacy of the beneficiary.) The letter will be standard, based on input from a variety of sources, including grantees. It will inform beneficiaries of the SSI program and refer them to the grantee for assistance. The grantee will: provide initial eligibility screening; contact SSA to protect the individual's filing date for SSI benefits; complete an application for SSI through a home visit or by telephone; assist SSA with any follow-up mailings, if applicable; provide transportation and translation services for the individual, as needed; and assist the applicant in securing supporting documentation, as needed.

In order for SSA to reach the neediest among title II beneficiaries in the most efficient manner, the applicant's service area must include areas of high poverty, defined for purposes of this announcement as areas at least as large as a ZIP code area in which more than 15 percent of the residents have incomes at or below the poverty level. Since SSA's intent is for the applicant's service area to include a very large number of title II beneficiaries with low benefit amounts, an applicant's service area should be a metropolitan area with a population of one million or more. Applicants whose organizations serve smaller populations may need to form coalitions with surrounding service providers to serve a larger population to be considered under this priority area. For example, applicants serving more rural areas or States which do not contain major metropolitan areas might need to form a Statewide coalition or even a coalition of several Statewide organizations in order to be considered.

The grant period for targeted mailing projects will be 9 months, including a short start-up phase followed by active outreach and assistance. We anticipate that these projects will begin in early 1994 in order to stagger the mailings over the spring and summer of 1994; this time frame will allow the Social Security field offices involved to provide appropriate levels of support to the grantees. Applicants should plan for the use of volunteers, whenever possible, to provide initial screening to those individuals who respond to the letter. The project budget should provide for a full-time project director as well as at least one full-time outreach worker to complete SSA's applications. Applicants serving very large urban areas with high concentrations of persons living in poverty may need to budget for an additional outreach worker. Applicants proposing to serve large rural areas may need to consider employing several part-time employees located in different parts of the service area to add up to one full-time equivalent position. Project budgets should also include amounts to cover the costs of production and postage for the letters.

SSA expects to award projects not to exceed 9 months in duration with a funding range of $75,000–$100,000.

002: *Aging Network Collaborations and Intake Modifications*—SSA is interested in applications from the aging network, and other organizations and providers of social services for the elderly, to target the elderly, particularly the isolated and/or frail elderly, on a municipal, county, or statewide basis. These projects will continue SSA's interest in finding potentially eligible individuals through organizations that provide a range of services to the elderly.

The grantee will collaborate with other aging service organizations within a municipality, county, or State and develop and test standard SSI screening practices in this network, which may include the development and testing of automated SSI screening. This screening will target the aged, but may include disabled/blind adults and children who are part of the client base. The grantee will screen existing client rolls and new intakes, modify intake procedures to screen routinely for SSI, and conduct training on the SSI program throughout the network. To conduct successful outreach in this priority area, the client database must provide a sufficient number of potential SSI applicants to support the project staff and justify the project budget, and contain sufficient income and resources information to permit effective screening for SSI eligibility—without having to interview those on the client rolls.

Although not a requirement in this priority area, SSA is interested in grantees who are able to take a complete SSI application package that will permit SSA to process claims quickly and accurately, and provide high-quality service to hard-to-serve populations in a cost-effective manner. Taking a complete SSI application includes completing the form SSA–8000 BK, the form on which all detailed information about the nonmedical factors of SSI eligibility are covered.

The grantee must agree to continue to use these procedures at the conclusion of the cooperative agreement if the procedures are successful. In addition, the grantee should make recommendations to SSA at the conclusion of the project as to how this effort could be replicated in other areas.

Applicants may submit applications for multiyear funding not to exceed 36 months in duration. The applications should include a budget for the first budget period only (not to exceed 12 months). If the application is approved, a grant will be awarded for the initial 12-month budget period. Funding will be subsequently provided for two additional 12-month budget periods dependent upon satisfactory performance of the initial or second 12-month budget period, continued relevance of the project to the goals and objectives of the SSI Outreach Demonstration Program and the availability of funds.

SSA expects to award projects with a funding range of $150,000–$200,000 for the initial 12-month budget period.

003: *One-Stop Service*—SSA is interested in applications from a variety of medical providers, such as: hospitals; outpatient centers; community mental health centers; tertiary care medical institutions; and Health Care for the Homeless providers. SSA will also consider proposals from other entities, such as school districts and disability advocacy organizations, which collaborate with medical providers.

The target populations for this model are disabled/blind adults and children. These projects will combine SSA's interest in finding potential eligibles with organizations that consider the full range of needs of the individual, including the eventual entry or return of the individual to a productive and economically self-sufficient lifestyle.

A. There are certain functions that all grantees in this category must perform. The grantees are expected to do all of the following:

- Screen new clients and existing client databases to identify potential eligibles. (To conduct successful outreach in this priority area, the client base must provide a sufficient number of potential SSI applicants to support the project staff and justify the project budget, and contain sufficient income and resources information to permit effective screening for SSI eligibility—

without having to interview those on the client rolls.);

• Complete the SSI application including the SSA–3368 BK "Disability Report" or SSA–3820 BK "Disability Report" (the forms on which SSA records an adult's or child's detailed medical history);

• Provide existing medical evidence in its records (with appropriate authorization by the client);

• Perform any necessary medical examinations, or establish a collaborative relationship with an organization that will perform any necessary medical examinations. (How effective an organization is in this priority area may be related to the range of medical specialties of the physicians and other medical professionals who will do the examinations.);

• Maintain contact with the client throughout the initial application process, and work closely with the servicing Social Security office and the DDS to obtain all required evidence. (SSA and DDS personnel will have to make all determinations.); and

• Perform other functions that are routinely within the capability of the organization, considering its resources, facilities, existing links to other agencies, geography, etc. These functions include translation services, referrals for housing assistance, linkage to the Food Stamp and Medicaid programs, and linkage to other Federal, State, and community-based programs.

B. There are certain additional functions that SSA will expect a grantee to perform, depending on the grantee's target population:

• If the grantee's target population includes persons who require representative payee services, the grantee must either agree to assume the responsibilities of a representative payee, or commit to finding persons or organizations who can serve as representative payee; or

• If the grantee's target population includes disabled adults, or disabled children who are ready for transition to a work environment, the grantee must have or develop a linkage with a program in which the person can receive the benefits of the SSI work incentives provisions. The grantee must provide work training or work opportunities, or arrange for the person to enroll in another agency's program.

For more information about representative payee responsibilities and the work incentives provisions, please refer to the resource material contained in the application kit.

The grantee must agree to continue to use these procedures for SSI outreach at the conclusion of the cooperative agreement if they prove successful. In addition, the grantee should make recommendations to SSA at the conclusion of the project as to how this effort could be replicated in other areas.

Applicants may submit applications for multiyear funding not to exceed 36 months in duration. The applications should include a budget for the first budget period only (not to exceed 12 months). If the application is approved, a grant will be awarded for the initial 12-month budget period. Funding will be subsequently provided for two additional 12-month budget periods dependent upon satisfactory performance of the initial or second 12-month budget period, continued relevance of the project to the goals and objectives of the SSI Outreach Demonstration Program and the availability of funds.

SSA expects to award projects with a funding range of $150,000–$350,000 for the initial 12-month budget period.

004: *Strike Teams*—SSA is interested in cooperative agreement applications from organizations such as State and local governments, tribal governments, Alaska Native Corporations, medical providers, and community-based social service providers to test the use of a "strike team" approach. Such teams will include all parties to the disability claims process collaborating within a limited time frame to take applications; collect medical evidence; perform medical examinations, as needed; and make determinations on eligibility. The grantee should focus on reaching out to individuals who would be filing for SSI on the basis of disability; however, applications filed on the basis of age could be processed in addition to disability claims through strike team initiatives.

The "strike team" approach provides a mechanism to focus on "pockets" of elderly and disabled people underserved by SSI. Many of these "pockets" of people are either geographically or socially isolated through language and/or cultural barriers.

The grantee will be responsible for organizing all members of the strike team. Because SSA and DDS personnel must make all determinations, the grantee will be responsible for coordinating its efforts with those of these personnel as part of the team. However, SSA and the DDSs will work with the grantee on the details of these arrangements after grant awards have been made. Applicants should not solicit cooperation from local SSA or DDS components as a part of the application process.

Because the grantee will be responsible for identifying and screening potential eligibles, completing SSA's application forms, collecting existing medical evidence, and performing medical examinations to document the existence and severity of the claimant's impairments, applicants must demonstrate the capability of their organizations to perform each of these aspects. If each aspect of the process cannot be accomplished within the applicant organization, the alternative is an application from one agency that proposes to collaborate with other agencies and organizations which are able, in combination, to perform all aspects of the process. Such applications must document a well-defined relationship between the applicant and collaborating organization(s) and include letters of commitment from each collaborating organization that specifically set forth the aspects of the process to be accomplished by each.

There are other functions that would be valuable for outreach in this priority area: Translation services; provision of transportation; working with the DDS; serving as a representative payee or having another organization serve as a representative payee; and assisting individuals in using the SSI work incentives provision.

The physicians and other medical professionals will be required to perform examinations to document the signs, symptoms, and medical findings associated with the client's impairments. SSA will arrange for the DDSs to provide training on the documentation requirements for these examinations at the beginning of the project. (The application kit contains the "Listing of Impairments" contained in appendix 1 to subpart P of the Code of Federal Regulations, title 20, part 404 to acquaint the applicant with the types of signs, symptoms, and findings that the examinations should elicit.)

This model proposes to deliver SSA services to underserved populations by means of intensive claims activity over brief periods of time, e.g., a one-week period. The grant periods for these projects will therefore be short, from 3 to 6 months. The actual length will depend on the size of the population to be served. Applicants expecting to serve large numbers of individuals may propose a series of initiatives spread over the course of the budget period. The grantee will be responsible for locating potentially eligible individuals and arranging for them to be present at the time of claims interviews and medical examinations. This will necessitate having a relationship with

the underserved population or working through community leadership to identify claimants and ensure their participation.

The application must show that the organization can provide high-quality, expedited service at a reasonable cost. For a description of how a strike-team worked in the State of Arizona, please refer to the application kit. In addition, the grantee should make recommendations to SSA at the conclusion of the project as to how this effort could be replicated in other areas.

SSA has begun to test this approach in rural areas, but is also interested in applications from grantees who would test this approach in urban sites. To avoid adding to the burden of already heavily-impacted metropolitan field offices and DDSs, SSA may assign the workload produced by this outreach initiative to other Social Security field offices and DDSs; this, however, should not influence the design of the project.

SSA expects to award projects not to exceed 6 months in duration with a funding range of $50,000–$100,000.

005: *Outreach Worker*—SSA is interested in applications from community-based social service providers, advocates, State and local government agencies, and employers of workers under title V of the Older Americans Act to do peer outreach activities.

SSA seeks projects that target ethnic or linguistic minority groups. These projects must employ culturally sensitive approaches to overcoming such barriers as English and/or native language illiteracy, social isolation, and fear or distrust of government institutions.

In this model, the outreach worker(s) will use his/her organization's existing databases and enrollment information as the primary source for identifying potential SSI applicants. To be effective, the grantee will need to have a client base that has been shown to have potential SSI eligibles. The outreach worker(s) may be a volunteer, title V worker, or worker paid with grant money, and will be stationed part of the time in the local Social Security field office.

The outreach worker(s) will perform a variety of duties to assist the grantee's clients through the application process, such as eligibility screening, translation, provision of transportation to the Social Security field office or consultative medical examination, working with the DDS to obtain medical evidence, establishing linkages with social service providers, and (where appropriate) arranging for representative payee services. If a client is unable to come into the local Social Security field office, the worker(s) will assist the grantee's clients to complete the SSI application forms (SSA–8000 BK, SSA–3368 BK, or SSA–3820 BK).

The grantee must agree to continue to use these procedures for SSI outreach at the conclusion of the cooperative agreement if they prove successful. In addition, the grantee should make recommendations to SSA at the conclusion of the project as to how this effort could be replicated in other areas.

Applicants may submit applications for multiyear funding not to exceed 36 months in duration. The applications should include a budget for the first budget period only (not to exceed 12 months). If the application is approved, a grant will be awarded for the initial 12-month budget period. Funding will be subsequently provided for two additional 12-month budget periods dependent upon satisfactory performance of the initial or second 12-month budget period, continued relevance of the project to the goals and objectives of the SSI Outreach Demonstration Program and the availability of funds.

SSA expects to award projects with a funding range of $150,000–$200,000 for the initial 12-month budget period.

006: *Discharge Planning Technical Assistance*—SSA is interested in proposals that enhance SSI outreach in the discharge process in government institutions that serve significant numbers of persons potentially eligible for SSI throughout a State or a major metropolitan area. Private institutions that serve potential SSI recipients may also be included. The objective of such projects is to significantly enhance procedures that allow recipients to maintain SSI eligibility or to receive expedited payments upon release. The procedures are intended to prevent homelessness.

The grantee will provide technical assistance to institutions, so that they can identify potentially eligible persons, assist in completing the applications and related forms, provide medical and non-medical evidence from the institutions' records, and communicate effectively with the proper Social Security field offices and DDSs.

The grantee will develop a protocol to be used by institutions that adapts SSA's procedures for handling notices of admissions and developing prerelease agreements. The protocol will be implemented by the target institutions. The grantee will monitor implementation, evaluate the implementation, modify the protocol as necessary, and assist institutions in overcoming problems with implementation. A final protocol will be established for ongoing use by institutions and SSA. Applicants should clearly describe how the technical assistance to be provided will improve upon any procedures already in place in the area to be served. Applicants must include letters of commitment from the managing agencies (e.g., the Department of Mental Health, Department of Corrections, Board of Directors of a private institution) for all institutions that will participate, agreeing to the time line specified by the applicant and to training and other staff resource requirements of the proposal. Institutions must also agree to the data collection requirements specified in section II.D.

A valuable part of outreach in this priority area would be for the grantee, where appropriate, to arrange for representative payees.

The grantee must agree to continue to use these procedures for SSI outreach at the conclusion of the cooperative agreement if they prove successful. In addition, the grantee should make recommendations to SSA at the conclusion of the project as to how this effort could be replicated in other areas.

Applicants interested in this approach should refer to the relevant procedures as stated in SSA's Program Operations Manual System contained in the application kit.

Applicants may submit applications for multiyear funding not to exceed 36 months in duration. The applications should include a budget for the first budget period only (not to exceed 12 months). If the application is approved, a grant will be awarded for the initial 12-month budget period. Funding will be subsequently provided for two additional 12-month budget periods dependent upon satisfactory performance of the initial or second 12-month budget period, continued relevance of the project to the goals and objectives of the SSI Outreach Demonstration Program and the availability of funds.

SSA expects to award projects with a funding range of $50,000–$100,000 for the initial 12-month budget period.

007: *Other*—SSA will entertain grant applications that offer other promising approaches to outreach. The funding will depend on the nature of the proposal but may not exceed 17 months in duration. All applications filed under this priority area should include "hands-on" outreach, i.e., screening and application taking or assistance in the application process (obtaining medical evidence, providing translation or transportation, arranging for representative payee services, etc.).

However, SSA is not interested in applications that:

- Propose the production of pamphlets, but do not include "hands-on" outreach; or
- Propose to conduct training or general public information initiatives that are not followed by hands-on outreach; or
- Propose to screen and refer potential SSI eligibles to SSA, but do not include more in-depth assistance in the application process—such as the completion of the application forms and the SSA–3368 BK or SSA–3820 BK, or assistance in obtaining existing medical evidence.
- Duplicate prior and current SSI Outreach Demonstration Program projects. (The application kit includes a description of these projects.)
- Duplicate prior and current SSA field office projects. (Contact your local Social Security field office for this information.)

D. *Content of proposals.* All funded projects must use the SSA evaluation protocol, which is included in the application kit. The SSA protocol is the minimum amount of required project information. Projects are responsible for screening for SSI eligibility, collecting data according to the guidelines provided and producing a final evaluation report which analyzes the successes and/or failures of the methodology used to identify potentially eligible individuals and assist them in obtaining benefits.

The data collection requirement includes providing to SSA ongoing data on the number of contacts of potentially eligible individuals by project personnel, and the number of individuals referred to Social Security field offices. All projects must agree to use SSA-designed consent forms (consent forms permit SSA to provide person-specific benefit status information to project personnel) and intake forms. Samples of both forms are in the application kit.

SSA will provide feedback to each approved project on a regular basis of the number of applications received through project efforts, and, of those applications, the number of individuals awarded benefits. SSA will not provide feedback on eligibility for other program benefits which result from project referrals since such records are maintained by the States or other organizations, e.g., QMB and SLMB referrals.

If the proposal includes a collaborative agreement with another organization, information must be provided in the application showing how collaborative activities could continue once the cooperative agreement terminates. In addition, the information should show, if applicable, how these activities could be permanently integrated with local Social Security field office activities.

If the proposal is filed under category 007—"Other"—the application must clearly state which barriers to filing for benefits will be reduced or eliminated through the demonstration project.

*Section III*

A. Eligible Applicants

For all of the priority outreach approaches, any State or local government, public or private organization, nonprofit or for-profit organization, or agency, hospital, or educational institution may apply for a cooperative agreement under this announcement. Applications will not be accepted from applicants which do not meet the above eligibility criteria at the time of submission of applications.

Individuals are not eligible to apply. For-profit organizations may apply with the understanding that no cooperative agreement funds may be paid as profit to any cooperative agreement recipient. Profit is considered as any amount in excess of the allowable costs of the grant recipient. A for-profit organization is a corporation or other legal entity which is organized or operated for the profit or benefit of its shareholders or other owners and must be distinguishable or legally separable from that of an individual acting on his/her own behalf.

B. Reimbursement of Costs

Federal cooperative agreement funds may be requested for reimbursement of allowable costs incurred by awardees in conducting the demonstrations. These funds, however, are not intended to cover costs that are reimbursable under an existing public or private program. Also, for-profit organizations may not use funds to purchase equipment under the cooperative agreement. Equipment means tangible, nonexpendable personal property having a useful life of more than one (1) year and an acquisition cost of $300 or more per unit.

Medical examinations, testing, and associated reports may be reimbursable under Federal cooperative agreements, especially when such examinations can be performed very early in the SSI application process and when reports can be specifically directed at types of information needed to adjudicate claims for disability. We are particularly interested in reports/examinations which can be built into a provider's already existing intake and medical records processes. In formulating budgets for cooperative agreements involving medical examinations and reporting, applicants should calculate the incremental cost of including information required by SSA in existing procedures and include only these incremental costs in the budget submission. If there should be a need later on in the SSI application process to purchase a consultative examination (e.g., if information obtained earlier is not sufficient), consultative examinations will be funded using normal DDS procedures.

C. Grantee Share of the Project Cost

Recipients of a cooperative agreement are required to contribute towards the cost of each project. Generally, 5 percent of the total cost is considered acceptable. Recipients' contributions may be cash or in-kind (property or services) or third party cash or in-kind contributions. SSA will not provide total funding for any project.

D. Availability of Forms

An application kit containing all instructions and forms needed to apply for a cooperative agreement under this announcement may be obtained by writing or telephoning the Grants Management Staff; Division of Contract and Grant Operations, OAG, DCFAM; Social Security Administration; 1–E–4 Gwynn Oak Building; 1710 Gwynn Oak Avenue; Baltimore, Maryland 21207. The fax number is (410) 966–1261. You may also telephone (410) 965–9500, 965–9501, 965–9502, 965–9503, or 965–9262.

When requesting an application kit, please refer to project announcement number SSA-OSSI–93–1 and the date of this announcement to ensure receipt of the proper kit. Also, provide your name, organization, address, and telephone number including area code.

*Resource material.* The following resource materials are available in the application kit for use in preparing an application:

- All necessary forms and instructions;
- The SSI Outreach Demonstration Program evaluation protocol (including project intake form and project consent form);
- Description of past and current outreach demonstration projects;
- A list of existing public information materials;
- "Understanding SSI," a seminar package prepared for training outside organizations and agencies about SSI. This publication includes an overview of the SSI program and the organization of SSA, and special sections on the

work incentives provision, representative payee responsibilities, and other provisions;

• QMB/SLMB fact sheet ("Help for Low Income Medicare Beneficiaries");

• Forms SSA–8000, SSA–8001, SSA–3368 BK, and SSA–3820 BK;

• The "Listing of Impairments" contained in appendix 1 to subpart P of the Code of Federal Regulations, title 20, part 404. (This is relevant to Priority Areas 003, 004, 005.);

• Description of how a strike team worked in Arizona. (This is relevant to Priority Area 004.);

• Program Operations Manual System sections relating to institutions. (This is relevant to Priority Area 006.):

Part 4: DI, Chapter 235, Subchapter 30, 23530.001–.005;

Part 5: SI, Chapter 005, Subchapter 20, A00520.106 and 00520.300–.330.

• "A Guide to SSI for Groups and Organizations," a pamphlet summarizing the SSI program;

• "A Desktop Guide to SSI Eligibility Requirements;"

• "Social Security Administration Organization Structure" fact sheet; and

• "Working While Disabled," a work incentives pamphlet.

E. FAX Inquiry Form (Do not use to request application kits for cooperative agreements.)

SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD

| Addressee | From |
|---|---|
| OSSI, DPMA<br>SSI Outreach Branch | Name: |
| 3–R–1 Operations Bldg. | Address: |
| Tel. No. (410) 965–9798 | Tel. No. ( ) |
| Facsimile Telephone No. (410) 966–1337 | Facsimile Telephone No. ( ) |
| | Total No. of Pages: Cover + |
| | Date: |

SUBJECT: SSA–OSSI–93–1—FY 1993 SSI Outreach Project

Please: (check all that apply)

[ ] Tell me which Social Security field office services zip code(s)_____, which is the area(s) I propose to target for outreach.

[ ] I want to reserve [ ] seats at the Technical Assistance Workshop in

[ ] Atlanta
[ ] Chicago
[ ] Dallas
[ ] Denver
[ ] New York City
[ ] San Francisco
[ ] Other

F. Application Submission

All applications requesting Federal funds for cooperative agreement projects must be submitted on the standard forms provided in the application kit. The application shall be executed by an individual authorized to act for the applicant organization and to assume for the applicant organization the obligations imposed by the terms and conditions of the cooperative agreement award.

An original and a minimum of two signed copies of the application material must be submitted to the address indicated. Submittal of six additional copies is optional but will expedite processing; there is no penalty for not submitting the additional copies.

G. Application Consideration

Applications are initially screened for relevance to this announcement. If judged irrelevant, the applications are returned to the applicants.

Applications that are complete and conform to the requirements of this announcement will be reviewed competitively against the evaluation criteria specified in section III, part I, of this announcement and evaluated by Federal and non-Federal personnel. The results of this review and evaluation will assist SSA in considering competing applications. Although the results of this review are a primary factor considered in making the decisions about applications, review scores are not the only factor used.

All cooperative agreement proposals must describe a priority outreach approach, state the barriers that will be reduced or eliminated, and provide demographic information to support their numerical goals. Geographic dispersion of grants is required to

expand the program throughout the nation as well as to equalize the resulting workload on Social Security field offices, and will be considered in the final selection. Further, SSA is not interested in certain kinds of proposals—see the descriptions at the end of the discussion above regarding Priority Area 007.

All projects must use the SSA evaluation protocol, which is included in the application kit. The SSA protocol is the minimum amount of required project information. Projects are responsible for screening for SSI eligibility, collecting data according to the guidelines provided and producing a final evaluation report which analyzes the successes and/or failures of the methodology used to identify potentially eligible individuals and assist them in obtaining benefits.

The data collection requirement includes providing to SSA ongoing data on the number of contacts of potentially eligible individuals by project personnel, and the number of individuals referred to Social Security field offices. All projects must agree to use SSA-designed consent forms (consent forms permit SSA to provide person-specific benefit status information to project personnel) and intake forms. Samples of both forms are in the application kit.

Information must be provided showing how collaborative activities will continue once the cooperative agreement terminates. In addition, the information should show, if applicable, how these activities can be permanently integrated with local Social Security field office activities.

H. Application Approval

Cooperative agreement awards will be issued within the constraints of available Federal funds. The official award document is the "Notice of Cooperative Agreement Award." It will provide the amount of funds awarded, the purpose of the award, the budget period for which the funding is given, the total project period for which support is contemplated, the amount of grantee financial participation, and any special terms and conditions of the cooperative agreement. All projects must be operational within 60 days from the date of the issuance of the cooperative agreement award.

I. Criteria for Screening and Review of Applications

All applications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete and conforming applications will then be evaluated.

1. Application Screening Requirements: For an application to be in conformance, it must meet all of the following requirements:

a. Priority Area: The applicant must indicate on the application (item 11; face page) the priority area in which it is filing.

b. Number of Copies: The applicant must submit an original signed application and two signed copies. Six additional copies are optional but will expedite processing.

c. Length: The program narrative portion of the application (Part III of the SSA–96–BK) MAY NOT EXCEED 20 DOUBLE SPACED PAGES (OR 10 SINGLE SPACED PAGES) on one side of the paper only, using standard size (8½" × 11") paper. Attachments that support the program narrative count within the 20-page limit.

2. *Application Evaluation Criteria:* Applications which pass the screening will be independently reviewed by at least three (3) individuals, who will score the applications based on the evaluation criteria.

The evaluation of each application has two parts:

- *Part I is tailored to the specific elements of each priority area.*
- *Part II will be used for every application.*

The total score for each application is the sum of the scores for Part I and Part II.

Following are the "Part I" criteria for priority areas 001 through 007:

**Priority Area 001: Targeted Mailings**

**Part I**

*Criteria and Points (Maximum 75)*

Target Population—

a. High Poverty—Is the applicant's service area at least as large as a ZIP code area in which more than 15 percent of the residents have incomes at or below the poverty level? and

b. Sufficient Number of Title II Beneficiaries—Does the applicant's service area have a population of 1 million or more, or is the applicant proposing a coalition that would cover such an area? 25 points.

Screening—

a. Does the applicant propose to do initial screening for SSI eligibility? 10 points.

b. Are its plans clearly defined, are volunteers used whenever possible, and does it appear these plans will be effective? 0–10 points.

SSI Applications—

a. Does the applicant propose to have at least one full-time worker to take the full SSI application (the SSA–8000 or SSA–8001)? 15 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

Other Services—

a. Does the applicant propose to offer services such as translation, transportation, securing documentation, or other followup services related to SSI eligibility? and

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

**Priority Area 002: Aging Network Collaborations and Intake Modifications**

**Part I**

*Criteria and Points (Maximum 75)*

Collaborative Efforts—

a. Does the applicant propose to collaborate with other agencies serving older persons throughout a municipality or geographic area or State? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

Screening—

a. Does the applicant or collaborator(s) have an existing client database (either automated or paper) from which to do initial screening for SSI eligibility? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective:

- Does the database provide a sufficient number of potential SSI applicants to support the project staff?
- Does the database contain sufficient income and resources information to permit effective screening for SSI eligibility—without having to interview those on the client rolls? 0–10 points.

Technical Assistance/Training—

a. Does the applicant propose to provide technical assistance/training throughout the network? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Intake Procedures—

a. Does the applicant explain how modification to current intake procedures will be made to screen routinely for SSI, and does it propose to institutionalize these modifications? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

SSI Applications—

a. Does the applicant propose to take the full SSI application, including (when appropriate) the SSA–3368 BK? and

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Automation of Screening—

If proposed, does the applicant have the ability to automate SSI screening procedures? 0–5 points.

Project Replication—

a. Does the applicant explain adequately how the project activities will be continued

at the project site, and what additional sources of funding will be sought to continue the project once Federal funding ceases at the conclusion of the cooperative agreement?

b. Does the proposal explain adequately how the project activities could be replicated in other areas by similar organizations once the project has been terminated? 0–5 points.

### Priority Area 003: One-Stop Service

**Part I**

*Criteria and Points (Maximum 75)*

Screening—

a. Does the applicant or coalition have an existing client database (either automated or paper) from which to do initial screening for SSI eligibility? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective:

• Does the database provide a sufficient number of potential SSI applicants to support the project staff?

• Does the database contain sufficient income and resources information to permit effective screening for SSI eligibility—without having to interview those on the client rolls? 0–10 points.

SSI Applications—

a. Does the applicant propose to take the full SSI application (the SSA–8000 or SSA–8001), including the SSA–3368 BK or SSA–3820 BK? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Medical Evidence—

a. Does the applicant propose to provide existing medical evidence from its records? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Medical Examinations—

a. Does the applicant propose to conduct medical examinations and/or arrange for them to be conducted by another organization? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? For example, if it proposes to conduct the examinations, does the application set forth the range of medical specialties of the physicians and other medical professionals who will do the examinations? 0–5 points.

Other Functions—

a. Does the applicant propose to do any or all of the following: translate; work with the DDS to obtain medical evidence; serve as a representative payee or have another organization perform this function; assist individuals in using the SSI work incentives provision, make all other appropriate social service referrals? and

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Project replication—

a. Does the applicant explain adequately how the project activities will be continued in the project site, and what additional sources of funding will be sought to continue the project once Federal funding ceases at the conclusion of the cooperative agreement? and

b. Does the proposal explain adequately how the project activities could be replicated in other areas by similar organizations once the project has been terminated? 0–5 points.

### Priority Area 004: Strike Teams

**Part I**

*Criteria and Points (Maximum 75)*

Target Population—

Does the applicant describe a target population of persons likely to be eligible for SSI and that is isolated geographically or socially? Does the applicant have linkages in this population? 10 points.

SSI Applications—

a. Does the applicant propose to take the full SSI application (the SSA–8000 or SSA–8001), including the SSA–3368 BK and SSA–3820 BK? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Medical Evidence—

a. Does the applicant propose to provide existing medical evidence from its records? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Medical Examinations—

a. Does the applicant propose to arrange for medical examinations to be conducted? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? For example, if it proposes to conduct the examinations, does the application set forth the range of medical specialties of the physicians and other medical professionals who will do the examinations? 0–5 points.

Collaborative Efforts—

a. Does the applicant propose to coordinate the organization of a "strike team" or enter into a collaborative arrangement with other organizations/agencies to form a strike team of all parties to the disability claims process? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Other Functions—

a. Does the applicant propose to do any or all of the following: translate; provide transportation; serve as a representative payee or have another organization perform this function; assist individuals in using the SSI work incentives provision? and

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Project replication—

Does the proposal explain adequately how the project activities could be replicated in other areas by similar organizations once the project has been terminated? 0–5 points.

### Priority Area 005: Outreach Worker

**Part I**

*Criteria and Points (Maximum 75)*

Target Population—

a. Is the target population an ethnic or linguistic minority group? 15 points.

b. Are the applicant's plans clearly defined, and does it appear these plans will be effective? Does the applicant have a record (over 2 years) of providing services to that group (other than purely social activities)? 0–10 points.

Screening—

a. Does the applicant have an existing client database (automated or paper) from which to do initial screening for SSI eligibility, and/or will it establish linkages with social service organizations that have such a database? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

SSI Application—

a. Does the applicant propose to take the full SSI application (the SSA–8000 or SSA–8001), including the SSA–3368 BK and SSA–3820 BK? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Other Functions—

a. Does the applicant plan to translate, and/or provide transportation, and/or provide medical evidence in its records if it is a medical provider, and/or provide for representative payee services? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

Project Replication—

a. Does the applicant explain adequately how the project activities will be continued in the project site, and what additional sources of funding will be sought to continue the project once Federal funding ceases at the conclusion of the cooperative agreement?

b. Does the proposal explain adequately how the project activities could be replicated in other areas by similar organizations once the project has been terminated? 0–5 points.

### Priority Area 006: Discharge Planning Technical Assistance

**Part I**

*Criteria and Points (Maximum 75)*

Target Population—

a. Does the applicant propose to work with institutions that serve a significant number of persons—i.e., the larger institutions in a geographic area or State? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

Technical Assistance/Training—

a. Does the applicant propose to provide technical assistance/training to the institutions on the SSI prerelease provision and the continuation of benefits provision? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

Protocol—

a. Does the applicant propose to develop a protocol to be used by institutions for handling notices of admissions and developing prerelease agreements? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Monitoring—

a. Does the applicant propose to monitor and evaluate implementation of the protocol, modify the protocol as necessary, and assist the institutions in implementation? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Representative Payee—

a. Does the applicant plan to develop representative payee services? and

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Project Replication—

a. Does the applicant explain adequately how the project activities will be continued in the institutions, and what additional sources of funding will be sought to continue the project once Federal funding ceases at the conclusion of the cooperative agreement?

b. Does the proposal explain adequately how the project activities could be replicated in other areas once the project has been terminated? 0–5 points.

**Priority Area 007: Other**

**Part I**

*Criteria and Points (Maximum 75)*

Outreach Approach—Is it significantly different from outreach efforts described in Priority Areas 001 through 006 (or any combination of them)? Does it address specific barriers to SSI eligibility? 15 points.

Screening—

a. Does the applicant have an existing client database (automated or paper) from which to do initial screening for SSI eligibility, and/or will it establish linkages with social service organizations that have such a database? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

SSI Application—

a. Does the applicant propose to take the full SSI application (the SSA–8000 or SSA–8001), including the SSA–3368 BK and SSA–3820 BK? 10 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–10 points.

Medical Evidence—

a. Does the applicant propose to provide existing medical evidence from its records? 5 points.

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Other Functions—

a. Does the applicant plan to translate, and/or provide transportation, and/or work with the DDS, and/or provide for representative payee services? and

b. Are its plans clearly defined, and does it appear these plans will be effective? 0–5 points.

Project Replication—

a. Does the applicant explain adequately how the project activities will be continued in the project site, and what additional sources of funding will be sought to continue the project once Federal funding ceases at the conclusion of the cooperative agreement?

b. Does the proposal explain adequately how the project activities could be replicated in other areas by similar organizations once the project has been terminated? 0–5 points.

Following are the "Part II" criteria, which are used to evaluate all applications:

**Part II: General**

**Criteria and Points (Maximum 25)**

Applicant's Capability—

a. Does the applicant have the capability and organizational structure to perform the functions stated in the priority area in which it is applying?

b. Does the applicant demonstrate knowledge and experience with the SSI program and related programs (including the QMB and SLMB programs) for older persons and/or disabled adults or children?

c. If the applicant will enlist the services of another organization to perform functions in the priority area (whether for payment as a contractor, or for nonpayment in a collaborative arrangement):

- Does the application justify the other organization's role—is it clear why a contractor is needed?
- Are the other organization's skills and experience appropriate for the work to be performed in the priority area?
- Does the application include a letter of commitment from the other organization, a description of the nature of the past relationship with that organization, and the length of time the relationship has existed?

*Letters of commitment should not be requested from Social Security field offices or State Disability Determination Services.* 0–5 points.

Personnel—

a. Does the application adequately describe the functions and role of the staff?

b. Does the application include position descriptions or resumes describing qualifications that are appropriate for the work to be performed in the priority area?

c. If the applicant proposes to use volunteers, are they to be used appropriately, with supervision, training, and support from project staff?

d. Does the applicant propose for there to be a full-time on-site manager responsible for overall project management?

e. Does the applicant, if it intends to serve linguistic minorities, provide adequate bilingual staff? 0–5 points.

Budget—

Does the applicant adequately explain the budget and is sufficient justification given in support of the project? Does the applicant appropriately budget for all elements in the project design? 0–5 points.

Expected Outcomes—

a. Does the applicant estimate the number of contacts it plans to make with potential eligibles, and how many inquiries and SSI applications will come to the applicant organization? Does it estimate the number of benefit awards that will result from the project? (SSA is not interested in percentage increases over prior SSI application rates without concomitant increases in awards.) and

b. Are these estimates credible? 0–5 points.

Evaluation—

Does the project management plan incorporate the SSA evaluation protocol? Will additional project-specific data be gathered? If so:

- Are the criteria for evaluation linked to the objectives of the project?
- Are the evaluation measures and instruments appropriate, practical, and complete? Are the measures statistically sound?
- Does the proposal explain in detail how the additional data will be gathered? 0–5 points.

## J. Closing Date for Receipt of Applications

The closing date for submittal of applications under this announcement is August 23, 1993. Applications must be mailed or hand-delivered to: Grants Management Staff, Division of Contract and Grant Operations, OAG, DCFAM, Social Security Administration, Attention: SSA OSSI–93–1, Priority Area: _____, 1–E–4 Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, MD 21207.

Hand-delivered applications are accepted during the hours of 8 a.m. to 5 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

1. Received on or before the deadline date at the above address; or

2. Mailed through the U.S. Postal Service or sent by commercial carrier on or before the deadline date and received in time to be considered during the competitive review and evaluation process. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier as evidence of timely mailing. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the above criteria are considered late applications. SSA will notify each late applicant that its application will not be considered.

**Note:** Facsimile copies will not be accepted.

*Paperwork Reduction Act*

This notice contains reporting requirements in "The Application

Process" section. However, the information is collected using Form SSA–96–BK, Federal Assistance, which has Office of Management and Budget clearance number 0960–0184.

*Executive Order 12372—Intergovernmental Review of Federal Programs*

This program is not covered by the requirements of Executive Order 12372 relating to the Federal policy for consulting with State and local elected officials on proposed Federal financial assistance.

(Catalog of Federal Domestic Assistance: Program No. 93.812, Social Security—Research and Demonstration.)

Approved: June 14, 1993.

**Louis D. Enoff,**

*Principal Deputy Commissioner of Social Security.*

[FR Doc. 93–14711 Filed 6–22–93; 8:45 am]

BILLING CODE 4190–29–P

federal register

Wednesday
June 23, 1993

Part IV

# Department of Education

## Educational Media Research, Production, Distribution, and Training Program; Notice

## DEPARTMENT OF EDUCATION

### Educational Media Research, Production, Distribution, and Training Program; Proposed Funding Priorities

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed funding priorities for fiscal year 1994.

**SUMMARY:** The Secretary proposes priorities for fiscal year 1994 under the Educational Media Research, Production, Distribution, and Training Program. The Secretary takes this action to focus Federal financial assistance on those areas of greatest need. These priorities are intended to ensure the continued availability of closed-captioned television sports programming, expand on the number of video-described projects, include research on video description and research on captioning technology as a language development tool, continue the video captioning process, and explore the future direction of captioned media programs.

**DATES:** Comments must be received on or before July 23, 1993.

**ADDRESSES:** All comments concerning these proposed priorities should be addressed to Joseph Clair, U.S. Department of Education, 400 Maryland Avenue SW., room 4620, Switzer Building, Washington, DC 20202–2644.

**FOR FURTHER INFORMATION CONTACT:** Joseph Clair. Telephone: (202) 205–9503. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169; or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** This notice contains seven proposed priorities under the Educational Media Research, Production, Distribution, and Training Program authorized under Part F of the Individuals with Disabilities Education Act (IDEA). The purposes of the program are to promote the general welfare of deaf and hard of hearing individuals and individuals with visual impairments, and to promote the educational advancement of individuals with disabilities.

One priority proposed in this notice would provide cooperative agreements to ensure the continued availability of closed-captioned sports programming. In addition, other proposed priorities would expand on the types of video-described projects to include (1) broadcast and cable video description, (2) described home videos, and (3) research on video description. The proposed priorities would also provide (1) research on captioning technology as a language development tool and (2) a symposium to explore the future directions of captioned media programs.

An additional proposed priority in this notice would provide for a cooperative agreement to assist in the provision of video captioning services such as obtaining, screening, evaluating, and captioning educational videos and related media.

This program supports the National Education Goals by assisting those with disabilities in meeting Goal 1, school readiness, and Goal 5, adult literacy.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by comments received in response to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the content of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priorities does not solicit applications. A notice inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

### Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under these competitions only those applications that meet these absolute priorities:

*Proposed Absolute Priority 1—Closed-Captioned Sports Programs*

Background

This proposed priority would support cooperative agreements to continue and expand closed-captioning of major national sports programs shown on national commercial broadcast or cable television networks. Captioning provides a visual representation of the audio portion of the programming and enables persons who are deaf or hard of hearing to participate in the shared educational, social, and cultural experiences of national sporting events.

Priority

To be considered for funding under this proposed priority, a project must—

(1) For selecting programs to be captioned, include criteria that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, social, and cultural experiences of individuals with hearing impairments;

(2) Determine the total number of hours and the projected cost per hour for each program to be captioned;

(3) For each proposed program to be captioned, identify the source of private or other public support and the projected dollar amount of that support;

(4) Identify the methods of captioning to be used for each hour—indicating whether captioning is provided in real-time or offline—and the projected cost per hour for each method used;

(5) Provide and maintain back-up systems that would ensure successful, timely captioning service;

(6) Demonstrate the willingness of major national commercial broadcast or cable networks to permit captioning of their programs; and

(7) Implement procedures for monitoring the extent to which full and accurate captioning is provided and use this information to make refinements in captioning operations.

*Proposed Absolute Priority 2—Broadcast and Cable Video Description*

Background

This proposed priority would support one cooperative agreement for the video description of television programming shown on national commercial or public broadcast networks or cable networks, as well as syndicated programs, in order to make television programming more accessible to persons with visual impairments. The intent of this proposed priority is to provide continued and expanded access to described television programming in order to enhance shared educational, social, and cultural experiences for persons who are visually impaired.

Currently, there are two types of described broadcast television available to persons with visual impairments: (1) WGBH's descriptive video services (DVS), which offers described video as part of its PBS programming, using the Second Audio Program (SAP) and (2) Narrative Television Network (NTN), which produces and airs described videos via the Nostalgia Channel cable service and affiliated stations. Commercial networks and local stations are unwilling to broadcast DVS (using the SAP) at this time, due to the required equipment modification and extensive equipment operations.

Alternative approaches must be explored.

Priority

To be considered for funding under this proposed priority, a project must—

(1) For selecting programs to be video described, include criteria that take into account the preference of consumers for particular programs, the diversity of programming available, and the contribution of programs to the general educational, social, and cultural experiences of individuals with visual impairments;

(2) Determine the total number of hours and the projected cost per hour for each program to be described;

(3) For each program to be described, identify the source of private or other public support and the projected dollar amount of that support;

(4) Identify the methods to be used in the provision of described video;

(5) Demonstrate the willingness of major national commercial or public broadcast networks or cable networks, as well as providers of syndicated programming, to permit video description of their programs; and

(6) Implement procedures for monitoring the extent to which an accurate description is provided and use this information to make refinements in the video description operations.

*Proposed Absolute Priority 3—Described Home Video*

Background

This proposed priority would support one cooperative agreement for describing and making available described home videos in order to enhance shared social, educational, and cultural experiences for persons who are visually impaired.

Priority

To be considered for funding under this proposed priority, a project must—

(1) For selecting videos to be described, include criteria that take into account the preference of consumers for particular titles or subjects, the diversity of video titles available, and the contribution of the videos to the general social, educational, and cultural experience of individuals with visual impairments;

(2) Determine the total number of videos and the projected cost per original video to be described;

(3) For each proposed video to be described and made available, identify the source of private or other public support and the projected dollar amount of that support;

(4) Show evidence that copyright holders would permit video description and distribution of their videos;

(5) Identify strategies for making described home videos available to persons with visual impairments, including any public awareness activities used to inform persons with visual impairments about described home videos; and

(6) Evaluate the effectiveness of the methods and technologies used in providing this service, barriers encountered, and impact on intended populations.

*Proposed Absolute Priority 4—Research on Video Description*

Background

This proposed priority would support research projects on video description services for persons who are visually impaired. Issues to be explored by projects funded under this priority would include, but not be limited to, the incidence of visual impairment within the general population; demographics of the target population; the extent of consumer interest in video description services; the degree of awareness of the availability of video description services; the percentage of visually impaired individuals with stereo televisions; and the feasibility of alternative methods of distribution, including cablecast open descriptions, broadcast descriptions inserted within the vertical blanking interval, simulcast descriptions, and the Second Audio Programming channel (SAP).

Research resulting from these projects would make major contributions to the body of knowledge regarding video description, would produce findings regarding the impact and relative effectiveness of various distribution methods, and may provide alternative technologies for broadcast distribution.

Priority

To be considered for funding under this proposed priority, a project must—

(1) Address all of the issues identified in the background to this proposed priority, and may also address any related issues;

(2) Identify specific strategies that would be used in the investigation;

(3) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the strategies to be studied, the research design, and target population;

(4) Collect, analyze, and report (a) a variety of descriptive and demographic data, including information regarding the potential target population, settings, and the service providers; and (b) outcome data on the effects of different distribution methods on the provision of video description services;

(5) Conduct the research using methodological procedures that would (a) produce unambiguous findings regarding the effects of the identified issues and alternative approaches; and (b) permit use of the findings in policy analyses; and

(6) Design the research activities in a manner that would lead to improved video-described services for individuals with visual impairments.

*Proposed Absolute Priority 5—Research on Captioning As a Language Development Tool*

Background

This proposed priority would support research projects on the effectiveness of captioning as a language development tool for enhancing the reading and literacy skills of individuals who are deaf or hard of hearing, as well as the reading and literacy skills of individuals with other disabilities. Issues to be explored by projects funded under the proposed priority could include, but are not limited to (1) captioning standards currently being developed or studied; (2) captioning features as effective educational tools; and (3) the use of captions with other media and multi-media technologies such as interactive videodiscs and CD-ROMs.

Priority

To be considered for funding under this proposed priority, a project must—

(1) Address any of the issues identified in the background to this proposed priority or closely related issues;

(2) Identify specific technological approaches that would be investigated;

(3) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the strategies to be studied, the research design, and target population;

(4) Collect, analyze and report (a) characteristics and outcomes data, including the settings, the service providers, and the individuals targeted by the project (e.g., age, disability, level of functioning, membership in a special population, if appropriate); and (b) multiple, functional outcome data on the individuals who are the focus of the technological approaches;

(5) Conduct the research in a variety of settings, such as residential or integrated schools or colleges, or in community settings, as appropriate;

(6) Conduct the research using methodological procedures that would

(a) produce unambiguous findings regarding the effects of the approaches and interaction effects between particular approaches and particular groups of individuals or particular settings; and (b) permit use of the findings in policy analyses; and

(7) Design the research activities in a manner that would lead to improved services for individuals with hearing impairments or with other disabilities, as may apply.

*Proposed Absolute Priority 6—Symposium on Exploring New Strategies for Providing Captioned Media Services*

Background

This proposed priority would support one cooperative agreement for a three-day symposium to determine the best strategy or strategies for expanding the availability of captioned media, including captioned videos and closed-captioned television programs, to deaf and hard of hearing individuals in various educational and non-educational settings.

The Captioned Films Loan Service for the Deaf Program (CFD) was created in 1958 by Public Law 85–905 with the original purpose of giving people who are deaf access to motion pictures and enhancing the cultural, educational, and general welfare of that population. At that time most students who are deaf were educated at residential schools. Therefore, when CFD expanded to include the distribution of captioned educational films to students who are deaf, film depositories were established on, though not limited to, some of those campuses.

The depository system has changed little since that time, although deaf and hard of hearing students are now educated primarily in more integrated and local settings. The Secretary is particularly interested in seeking more effective means of providing educational media services to this population while continuing to serve students in residential settings.

During the 1970's closed-captioned television was included among CFD's projects. In 1972 a contract was awarded to develop and test Line 21 concepts and, eventually, prototype decoders. Closed-captioned television, which was entirely supported with Federal funds, officially began in 1980, and the first real-time closed-captioned broadcast took place in October 1982. The number of captioning hours of prime time television started with 16 hours in 1981. Currently all prime time programming, all Saturday morning children's programs, and many daytime and late night programs are closed captioned.

Closed-captioned television is an example of cooperative efforts between the public and private sectors. Department of Education funding provides approximately 40 percent of the current captioning available. The networks currently provide approximately 30 percent, and corporate advertisers, foundations, and contributions account for the remaining 30 percent. Meanwhile, there has been a significant increase in the number of programs being captioned. Further, the Television Decoder Circuitry Act of 1990 mandates that, after July 1993, all television sets with screens 13 inches and larger manufactured in the United States or imported for use in the United States must have built-in circuitry designed to display closed captioning. This Act, along with the increase in the number of available captioned programs, the increase in the number of private funding sources, and the expanded array of television programming options combine to make it necessary to consider the most effective ways to ensure full access to expanded captioned programs in the future.

Thus, the proposed symposium would aim to explore strategies that the Department may consider making captioned videos available to a wider number of deaf and hard of hearing individuals, especially those attending local or mainstreamed schools, and strategies for expanding captioned television programming in light of future technology that will increase the number of available channels to 500.

Priority

To be considered for funding under this proposed priority, the project must—

(1) Conduct pre-symposium activities, including reviewing reports and recommendations that resulted from previous evaluation studies of the Captioned Films Program, closed-captioned television, and related materials;

(2) Conduct a symposium that offers at least six work sessions, led by professionals or experts in areas including, but not limited to (a) educational media and technology, (b) television captioning technology, (c) special education administration, covering both mainstream and residential programs, (d) media distribution, (e) consumer advocacy, and (f) film and television post-production services;

(3) Make arrangements for participants to discuss and respond to issues and strategies that would be raised at the symposium—particularly strategies for improving services for deaf and hard of hearing consumers;

(4) Conduct post-symposium activities, including refining formally presented papers, reflecting group discussions and concerns expressed at the symposium, as well as potential strategies and directions for improved services i.e., for better delivery of captioned videos and expanding the availability of closed-captioned television programming; and

(5) Publish a proceedings document and distribute this document to symposium participants and relevant clearinghouses and organizations.

*Proposed Absolute Priority 7—Educational Video Selection and Captioning*

Background

This proposed priority would support one cooperative agreement that would screen, evaluate, close caption, and make available educational videos, including classics and special interest titles, for use by students and other individuals who are deaf or hard of hearing, parents of deaf and hard of hearing individuals, and other individuals directly involved in activities promoting the advancement of deaf and hard of hearing individuals in the United States. This activity includes the preparation of caption scripts. This proposed priority would ensure that students and other individuals with hearing impairments may benefit from the same educational videos used to enrich the educational experiences of students and other individuals without hearing impairments.

Priority

To be considered for funding under this proposed priority, the project must—

(1) Develop strategies and procedures to be used in determining curricular needs of deaf and hard of hearing students in all types of school settings for captioned videos;

(2) Develop and implement an on-going evaluation program for incorporating the reaction and suggestions of users into the selection and captioning process;

(3) Establish liaison with and obtain videos from film and video distributors for viewing and evaluation. Select from among submitted video titles those that closely match the curricular needs identified under paragraph (1) of this proposed priority, taking into account the videos most commonly used in school districts across the Nation for all students;

(4) Develop and implement criteria and procedures for screening and evaluating selected titles;

(5) Make arrangements with respective producers and distributors to have selected videos close-captioned and made available through general distribution mechanisms (such as video sales catalogues), as well as through the captioned film and video loan service authorized under Part F of IDEA and 34 CFR part 330 (by purchasing up to 100 copies of each captioned title);

(6) Conduct caption script writing sessions for selected titles. These caption scripts would take into account the age and reading levels of the likely target audience;

(7) Identify, select, and, if necessary, provide training to video evaluators and caption script writers;

(8) Develop and implement quality control guidelines and procedures for checking videocassettes after they are captioned; and

(9) Prepare and make available to potential consumers information about the availability of captioned videos, including information about the captioned film and video loan service, regulations governing the use of captioned films and videos in the collection, procedures for applying for these services, and descriptions of the videos available.

*Intergovernmental Review*

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Invitation to Comment:**

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in room 4620, Switzer Building, 330 C Street SW., Washington, DC between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

*Applicable Program Regulations:* 34 CFR parts 330, 331, and 332.

**Program Authority:** 20 U.S.C. 1451, 1452.

(Catalogue of Federal Domestic Assistance Number: 84.026, Educational Media Research, Production, Distribution, and Training Program)

Dated: April 30, 1993.

**Richard W. Riley,**

*Secretary of Education.*

[FR Doc. 93–14803 Filed 6–22–93; 8:45 am]

BILLING CODE 4000–01–U

federal register

Wednesday
June 23, 1993

Part V

# Department of Education

## Services for Children With Deaf-Blindness Program; Notice

## DEPARTMENT OF EDUCATION

### Services for Children With Deaf-Blindness Program; Proposed Funding Priorities

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed funding priority for fiscal years 1994 and 1995.

**SUMMARY:** The Secretary proposes a priority for fiscal years 1994 and 1995 under the Services for Children with Deaf-Blindness Program. The Secretary takes this action to focus Federal financial assistance on an identified national need. This proposed priority is intended to provide Federal support for research validation and implementation activities to enhance services to infants, toddlers, children, and youth who are deaf-blind.

**DATES:** Comments must be received on or before July 23, 1993.

**ADDRESSES:** All comments concerning this proposed priority should be addressed to Joseph Clair, U.S. Department of Education, 400 Maryland Avenue SW., room 4622, Switzer Building, Washington, D.C. 20202–2644.

**FOR FURTHER INFORMATION CONTACT:** Joseph Clair. Telephone: (202) 205–9503. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

**SUPPLEMENTARY INFORMATION:** This notice contains one proposed priority in the Services for Children with Deaf-Blindness Program. The purpose of the program is to assist States in assuring the provision of early intervention, special education, and related services to infants, toddlers, children, and youth with deaf-blindness; and to support research, development, replication, preservice and inservice training, parental involvement activities, and other activities to improve services to children with deaf-blindness.

This proposed priority responds to the need to improve educational practice by supporting research validation and implementation projects that fill the gap between knowledge and practice for infants, toddlers, children, and youth who are deaf-blind. Projects would build capacity to effectively provide (1) educational services to these children in school and community settings alongside their peers without disabilities, or (2) early intervention services to these children in home and community settings.

Through the provision of improved services and better trained service providers, this proposed priority supports National Education Goals 1 and 5 by assisting infants, toddlers, children, and youth who are deaf-blind to enter school ready to learn, and when they become adults, to compete in a global economy.

The Secretary will announce the final priority in a notice in the Federal Register. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. Further, priorities proposed for FY 1995 could be affected by enactment of legislation reauthorizing this program. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priority does not solicit applications. A notice inviting applications under this program will be published in the Federal Register concurrent with or following publication of the notice of final priority.

#### Proposed Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this program only applications that meet this absolute priority:

*Proposed Absolute Priority—Research Validation and Implementation Projects for Children Who Are Deaf-Blind*

Background

Educational researchers and practitioners have long acknowledged the time lag between the discovery of new knowledge and the implementation of that knowledge in applied settings. In addition, new research findings, including those related to hearing impairment, visual impairment, and other disabilities have not been rapidly or systematically applied to children who are deaf-blind.

Factors that impede the implementation of research findings are numerous and include the following: (1) Failure to describe research findings in a manner or form that practitioners can easily understand and use; (2) inadequate or insufficient field tests of research findings to determine the effectiveness of the new practices with children who are deaf-blind; (3) failure to examine how contextual factors affect the implementation of the new practice with children who are deaf-blind (e.g., small, diverse population of children; implementation costs; personnel training requirements; school and community attitudes toward the practice); and (4) insufficient attention to demonstrating new practices in schools that welcome visitors from other local educational agencies and, thereby, promote the dissemination and use of research findings.

This proposed priority, therefore, would support projects that validate relevant research findings by translating those findings into procedures usable by personnel serving children who are deaf-blind, implementing new educational procedures in typical classroom settings, implementing new early intervention procedures in home and community settings, and evaluating the effectiveness of the new procedures in meeting the early intervention and educational needs of children who are deaf-blind.

The Secretary anticipates supporting a variety of projects that address different early intervention and educational needs of children who are deaf-blind. Relevant areas of investigation may include findings that could improve techniques to enhance cognitive development, physical development, communication skills (e.g., use of augmentative devices and assistive technology), social skills (including social interaction and friendship formation skills), independent living skills (including self-determination, mobility and other community living skills), and use of recreation or leisure time, as well as more traditional skill areas including academic achievement and transition and employment skills.

The Secretary also anticipates that projects would, if appropriate for the planned activities, form a consortium with one or more research institutions at other locations. This type of approach may be necessary to (1) validate the new approaches with multiple children and in multiple settings or (2) replicate initial evaluation findings.

Proposed Priority

To be considered for funding under this proposed priority, a research validation and implementation project must—

(1) Address one or more of the relevant areas of investigation identified in the background section of this proposed priority or a closely related issue;

(2) Identify specific research findings—and the interventions or strategies based on those findings—that would be implemented and evaluated;

(3) Translate research findings into demonstrable practice that provides the informational bridge necessary to (a)

move research into practice, and (b) reduce the time lag between research and implementing practice for children who are deaf-blind;

(4) Design the project activities in a manner that would lead to improved services for children who are deaf-blind and their families;

(5) Conduct the project activities in typical school and community settings;

(6) Carry out the project activities within a conceptual framework that provides a basis for the research findings selected, the interventions or strategies to be implemented and evaluated, the evaluation design, and the target population;

(7) Conduct the evaluation activities using methodological procedures that would produce unambiguous findings (a) regarding the effects of the interventions or strategies and interaction effects between particular approaches and particular groups of children or particular contexts; and (b) for use in national, State, and local policy analysis contexts; and

(8) Produce a variety of descriptive and outcome data, including (a) information regarding the settings, the service providers, the children, and, if applicable, their families, targeted by the project (e.g., age, disabilities, skill and ability levels, and membership in a special population, if appropriate); and (b) multiple, performance outcome data regarding the children and families who are the focus of the interventions or strategies.

*Intergovernmental Review*

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period in room 4092, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

**Applicable Program Regulations**

34 CFR part 307.

**Program Authority:** 20 U.S.C. 1422.

(Catalog of Federal Domestic Assistance Number: Services for Children with Deaf-Blindness 84.025)

Dated: April 30, 1993.

**Richard W. Riley,**

*Secretary of Education.*

[FR Doc. 93–14804 Filed 6–22–93; 8:45 am]

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federal register

Wednesday
June 23, 1993

Part VI

# Department of Education

## Early Education Program for Children With Disabilities; Notice

## DEPARTMENT OF EDUCATION

### Early Education Program for Children With Disabilities; Proposed Funding Priorities

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed funding priorities for Fiscal Years 1994 and 1995.

**SUMMARY:** The Secretary proposes priorities for fiscal years 1994 and 1995 under the Early Education Program for Children with Disabilities. The Secretary takes this action to focus Federal financial assistance on an identified national need for improving early intervention and special education services for young children with disabilities and their families. These proposed priorities would build the capacity of individuals and agencies to effect change with this population of children and families.

**DATES:** Comments must be received on or before July 23, 1993.

**ADDRESSES:** All comments concerning these proposed priorities should be addressed to Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202–2644.

**FOR FURTHER INFORMATION CONTACT:** Joseph Clair. Telephone: (202) 205–9503. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

**SUPPLEMENTARY INFORMATION:** This notice contains four proposed funding priorities intended to advance the purpose of the Early Education Program for Children with Disabilities. The purpose of the program is to support projects designed to (a) address the special needs of children with disabilities, birth through age eight, and their families; and (b) to assist State and local entities in expanding and improving programs and services for these children and their families. These proposed priorities would support projects for demonstration, outreach, training, and a research institute.

The proposed priorities would support National Education Goal 1 by assisting young children with disabilities to enter school ready to learn through the provision of improved services and better trained service providers.

The Secretary will announce the final priorities in a notice in the Federal Register. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. Further, priorities proposed for FY 1995 could be affected by enactment of legislation reauthorizing this program. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these proposed priorities, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priorities does not solicit applications. A notice inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

#### Proposed Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet any one of the following proposed priorities. The Secretary proposes to fund under this program only applications that meet these absolute proposed priorities:

*Proposed Absolute Priority 1—Model Demonstration Projects for Young Children With Disabilities*

Background

This proposed priority would support projects that develop, implement, evaluate, and disseminate new or improved approaches for serving young children with disabilities (infants, toddlers, and children ages birth through eight) and their families. Projects supported under this proposed priority are expected to be major contributors of models or components of models for service providers and for outreach projects under the program.

The Secretary anticipates funding projects for a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. Projects supported for an initial three-year period may be eligible for an additional two years of funding to field test the viability of their models at other site locations. In determining whether to continue funding for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit, are to be performed during a project's third year and may be included in that year's annual evaluation required under 34 CFR 75.590. The three-plus-two-year funding period is expected to determine whether models yielding positive results at an original site can be successfully replicated at other locations.

Proposed Priority

A model demonstration project considered for funding under this proposed priority must—

(a) Address a specific service problem or issue;

(b) Address specific components or strategies and the rationale—based on theory, research, or evaluation—for those components or strategies;

(c) Delineate a specific population of children—i.e., by age, disability, diagnosis, level of functioning, and membership in a special population, if appropriate—and their families;

(d) Produce detailed procedures and materials that would enable others to replicate the model as implemented at the original site;

(e) As appropriate, develop and evaluate the model in integrated, age-appropriate settings that facilitate the interaction between project participants and their peers without disabilities, including models developed for use in homes or in hospitals settings (such as neonatal intensive care units); and

(f) Evaluate the model at the original model development site and—if approved for funding beyond the initial three years of the project period—at other sites to determine whether the model can be adopted by other sites and yield similar positive results. In its evaluation, a project must use multiple outcome measures to determine the effectiveness of the model and its component strategies, including measures of multiple, functional child and family outcomes, other indices of the effects of the model, and cost data associated with implementing the model.

In determining whether to continue a project for the fourth and fifth years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The degree to which the model developed by the project is, or would be by the end of year three, designed soundly and replicable by other agencies, and provides state-of-the-art interventions for the target population.

(b) The extent to which dissemination of the model would meet a significant or unique service need in other geographic locations.

(c) The degree to which the project has initially produced compelling, quantifiable evidence of the effectiveness of the model as implemented at the original development site.

(d) Availability of funding for the model from sources other than the Early Education Program for Children with Disabilities to support the operation of the model at the original development site during years four and five.

(e) The extent to which the project has documented the commitment of other agencies not affiliated with the original grant to adopt its model and participate in evaluation of the model during years four and five of the project period.

(f) The extent to which the project has sound plans for aiding in replication and for evaluating its model at replication sites during years four and five of the project period.

A project that applies for funding for the fourth and fifth years must set aside in its budget for the third year funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the third year. These funds are estimated to be approximately $4,000.

Competitive Priority

Within this proposed absolute priority 1, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to applications that meet this competitive priority in a particularly effective way. These points would be in addition to any points the applications earn under the selection criteria for the program:

Projects that would develop, implement, evaluate, and disseminate models that (1) incorporate the appropriate use of assistive technology to enhance services to young children with disabilities; or (2) address the unique needs of young children with low incidence disabilities, such as deaf-blindness.

*Proposed Absolute Priority 2—Outreach Projects for Young Children With Disabilities*

Background

This proposed priority would support projects that build the capacity of educational and other agencies to adopt and implement proven models—including inservice training models—or components of those models based on specific needs. At this time States are striving to provide improved services to young children with disabilities (infants, toddlers, and children ages birth through eight) and their families. Thus, State agencies and local service agencies need information about and assistance in accessing the range of available, successful practices, curricula, and products.

The models or components of models selected for outreach need not have been developed through this program. Projects may disseminate and help replicate multiple models or components of models that were not developed by the applicant. To enhance the visibility of the model or model components and to increase the impact of outreach activities, projects are encouraged to select sites in multiple States.

For projects planning to conduct outreach activities in multiple States, the plan of operation should only include plans concerning specific sites and activities for the initial year. During the first year of outreach funding, the contractor for the early childhood technical assistance development system funded under section 623(c) of the Individuals with Disabilities Education Act (IDEA) would contact States regarding outreach projects funded under this priority. The contractor would assist States and projects in matching needs with projects' resources. Outreach projects would use the information provided by States to propose plans for years two and three of the project period. These proposed plans would be finalized during negotiation of grant awards for years two and three of the project period.

Proposed Priority

An outreach project considered for funding under this proposed priority must—

(a) Disseminate information about and assist in replicating a proven model or models—or proven components of models—that provide or improve services for young children with disabilities and their families;

(b) Coordinate its dissemination and replication activities with the lead agency for part H of the IDEA for early intervention services or the State educational agency for special education, as well as with relevant technical assistance, information, and personnel development networks within the State;

(c) Include approaches relevant to programming in natural or least restrictive environments; effective involvement of families in the design, implementation, and evaluation of project activities; and interagency coordination if multiple agencies are involved in the provision of services;

(d) Ensure that the model or components of models are consistent with part B and part H of IDEA, are state-of-the-art, match the needs of the proposed sites, and have recent unambiguous evaluation information supporting their effectiveness;

(e) Employ activities that include, but need not be limited to, public awareness, product development and dissemination, site development, training, and technical assistance;

(f) Describe the effects of model components (e.g., expected costs, needed personnel, staff training, equipment) on potential users, sequence of model implementation activities, and criteria for selecting cooperating sites; and

(g) Evaluate the outreach activities to determine their effectiveness. The evaluation must include measures of types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of children and families served at the site where models were adopted or adapted, child and family progress, and changes in the model made by sites.

Competitive Priority

Within this proposed absolute priority 2, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to applications that meet this competitive priority in a particularly effective way. These points would be in addition to any points applications earn under the selection criteria for the program:

Projects that would build the capacity of educational and other agencies to adopt and implement proven models or components of models that (1) address the needs of groups of infants, toddlers, or young children with disabilities and their families from cultural, linguistic, or racial minority groups; or (2) address the unique needs of young children with low incidence disabilities, such as deaf-blindness.

*Proposed Absolute Priority 3—Early Childhood Model Inservice Training Projects*

Background

This proposed priority would support capacity building projects that develop, demonstrate, evaluate, and disseminate inservice training models and accompanying materials. The purpose of these models is to prepare professionals and paraprofessionals to provide, coordinate, or enhance early intervention, special education, and related services. These services would target infants, toddlers, and preschool-aged children with disabilities, birth

through eight years of age, and their families including children with disabilities who may be from cultural, linguistic, or racial minority groups.

Proposed Priority

A model inservice training project considered for funding under this proposed priority must—

(a) Identify the target population to be trained, including their roles and responsibilities, and the national needs addressed by the model;

(b) Delineate a conceptual framework upon which the training model is to be based, including the changes in personnel roles and responsibilities and the skills needed to implement the new roles or responsibilities;

(c) Identify the content of training and the format for delivery of training and other activities of the model;

(d) Develop and demonstrate an inservice training model for professionals, paraprofessionals, or both, who are currently providing services to infants, toddlers, and preschool-aged children with disabilities and their families, or to those individuals who through retraining could provide those services;

(e) Include within the model an array of follow-up and support activities that ensure that personnel participating in the training acquire the skills being taught and use that knowledge in meeting the service needs of young children with disabilities and their families;

(f) Coordinate with the State agencies responsible for the Comprehensive System of Personnel Development (CSPD) under part H or part B of IDEA, and arrange for credit to be granted to trainees by appropriate agencies, organizations, or institutions of higher education; and

(g) Evaluate the inservice training model through direct assessment of participants' skills following the training and, after a period of time, include some direct observation measures of trainees in the service setting using standardized observational rating techniques.

Competitive Priority

Within this proposed absolute priority 3, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to applications that meet this competitive priority in a particularly effective way. These points would be in addition to any points applications earn under the selection criteria for the program:

Projects that would develop, demonstrate, evaluate, and disseminate models that; (1) Incorporate collaborative, multi-disciplinary, team training approaches to personnel development; or (2) focus on paraprofessionals and address their unique training needs.

*Proposed Absolute Priority 4—Early Childhood Research Institute on Integration*

Background

This proposed priority would support an Early Childhood Research Institute to (1) identify administrative, attitudinal and programmatic barriers to integrating young children with disabilities three through five years of age in preschool, day care, and other programs; (2) develop and test strategies that would overcome those barriers; (3) identify and test approaches to service delivery that would maximize the combined effects of special education and related services, individualized planning and instruction, developmentally appropriate practice, and organized interactions between children with disabilities and peers without disabilities in integrated settings; and (4) conduct preliminary studies to identify strategies that would facilitate the participation of young children with disabilities and their families in the broader array of services and events available in the community, including social and recreational activities accessed by all families with young children.

To address these issues, the Institute would conduct a program of research consisting of studies carried out at the service delivery level (preschool, day care and other service settings), at the community level, and at the systems level. The Secretary requires the Institute to coordinate its research activities with other relevant efforts sponsored by the Office of Special Education Programs, including State-wide Systems Change Projects and research institutes supported under the Program for Children and Youth with Severe Disabilities (part C of the Individuals with Disabilities Education Act).

The Secretary anticipates funding one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Institute for the fourth and fifth years of the project period, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the project, are to be performed during the last half of the Institute's second year and may be included in that year's annual evaluation required under 34 CFR 75.590.

Proposed Priority

The Early Childhood Research Institute considered for funding under this proposed priority must—

(a) Conduct a program of research that addresses the issues identified above;

(b) Identify specific interventions or strategies that would be investigated;

(c) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the interventions or strategies that would be studied, the research methods and instrumentation that would be used, and the specific target populations and settings that would be studied;

(d) Collect, analyze, and report a variety of descriptive and outcome data, including: (1) Specific information on the settings, the service providers, the children and families targeted by the project (e.g., age, disability, level of functioning and membership in a special population, if appropriate), and (2) multiple, functional outcome data for the children and families who are the focus of the interventions or strategies;

(e) Conduct the research in typical, integrated school and community settings;

(f) Conduct the research using methodological procedures that would produce unambiguous findings regarding the effects of the interventions or strategies, as well as any findings on interaction effects between particular strategies and particular characteristics of participants or settings. These findings would be rendered through appropriate sample selection and adequate sample size to permit use of the findings in policy analyses;

(g) Design the research activities in a manner that would lead to improved services for children with disabilities and their families, including those who are members of cultural, linguistic, or racial minority groups;

(h) Develop and field test a variety of products that can be used for training and technical assistance activities with policymakers, administrators, community leaders, parents, and service providers that would facilitate the integration of young children with disabilities and young children without disabilities;

(i) Coordinate research activities with other relevant efforts sponsored by the Office of Special Education Programs, including State-wide Systems Change Projects and research institutes supported under the Program for Children and Youth with Severe Disabilities (part C of IDEA); and

(j) Provide research training and experience for at least 10 graduate students annually.

In determining whether to continue the Institute for the fourth and fifth years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute.

(b) The degree to which the Institute's research designs and methodological procedures demonstrate the potential for producing significant new knowledge and products.

In applying for funding for years four and five, the Institute must set aside in its budget for the second year, funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the second year. These funds are estimated to be approximately $4,000.

**Intergovernmental Review**

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period in room 4092, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

*Applicable Program Regulations:* 34 CFR part 309.

**Program Authority:** 20 U.S.C. 1423.

(Catalog of Federal Domestic Assistance Number: Early Education Program for Children with Disabilities 84.024)

Dated: April 19, 1993.

**Richard W. Riley,**

*Secretary of Education.*

[FR Doc. 93–14805 Filed 6–23–93; 8:45 am]

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federal register

Wednesday
June 23, 1993

Part VII

# Department of Education

## Secondary Education and Transitional Services for Youth With Disabilities Program; Notice Inviting Applications

## DEPARTMENT OF EDUCATION

### Secondary Education and Transitional Services for Youth With Disabilities Program; Proposed Funding Priorities

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed funding priorities for Fiscal Years 1994 and 1995.

**SUMMARY:** The Secretary proposes priorities for fiscal years 1994 and 1995 under the Secondary Education and Transitional Services for Youth with Disabilities Program. The Secretary takes this action to focus Federal financial assistance on identified national needs. These proposed priorities are intended to increase student involvement in transition planning, to develop alternative programs for youth who have dropped out of school or are at risk of dropping out, and to replicate exemplary models or components of models in multi-district sites. The proposed priorities would also assist State and local entities in complying with the transition requirements of part B of the Individuals with Disabilities Education Act (IDEA).

**DATES:** Comments must be received on or before July 30 1993.

**ADDRESSES:** All comments concerning these proposed priorities should be addressed to Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202–2644.

**FOR FURTHER INFORMATION CONTACT:** Joseph Clair. Telephone: (202) 205–9503. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

**SUPPLEMENTARY INFORMATION:** The purpose of this program is (1) to assist youth with disabilities in the transition from secondary school to postsecondary environments, such as competitive or supported employment, and (2) to ensure that secondary special education and transitional services result in competitive or supported employment for youth with disabilities. The proposed priorities in this notice would provide support for demonstration, outreach, and research projects.

The proposed priorities would support the National Education Goals 2 and 5 by assisting students with disabilities in developing competitive workplace skills through improved services and better trained service providers.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. Further, priorities proposed for FY 1995 could be affected by enactment of legislation reauthorizing this program. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priorities does not solicit applications. A notice inviting applications under this program will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

*Priorities*

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under this program only applications that meet these absolute priorities:

*Proposed Absolute Priority 1 Research Projects on Student Involvement in Transition Planning*

Background

This proposed priority would support research projects on the active participation of students with disabilities in the transition planning process. These projects would (1) identify factors that facilitate student involvement, and (2) develop material for national dissemination on effective interventions and strategies for increasing student involvement.

The Secretary is proposing this priority because the recent part B regulations published at 57 FR 44794 (September 29, 1992) implementing the Individuals with Disabilities Education Act (IDEA) amendments pertaining to transition require that all students, beginning no later than age 16 and at a younger age, if determined appropriate be invited to attend the individualized education program (IEP) meeting at which a transition plan is to be developed (34 CFR 300.344(c)). Section 602(a)(19) of IDEA further requires that transition services be based on the individual student's needs, taking into account the student's preferences and interests (See 34 CFR 300.18(b)(1)). Projects supported under this priority would develop interventions and strategies to help students identify their preferences and interests.

Material developed through two different efforts may be useful in developing interventions and strategies to increase student involvement. Since the original part B regulations were published in 1977, information and training material has been developed to maximize the participation of parents, teachers, and building supervisors, as well as related services personnel, in the IEP meeting. A second source of relevant information is being generated by projects funded to identify and teach skills necessary for self-determination, including decision-making, goal setting, and the ability to express preferences and make choices.

Proposed Priority

A research project on student involvement in transition planning must—

(1) Identify the factors and barriers associated with the participation of students with disabilities in the transition process;

(2) Identify specific interventions and strategies that are likely to lead to the increased participation of all students with disabilities. Interventions and strategies must consider alternative methods for eliciting student involvement, taking into account the severity level of a disability and the individual student's ability to communicate including use of augmentative communication devices;

(3) Carry out the research using a conceptual framework and research design that is based on previous research or theory and that provides a basis for the interventions and strategies to be studied. The research design must include difficult-to-serve groups. This framework must build upon existing materials developed (a) for other participants in the transition planning or IEP process, and (b) for teaching the skills necessary for self-determination relative to the IEP process;

(4) Conduct the research in a range of typical school settings;

(5) Conduct the research using methodological procedures that would produce unambiguous findings (a) regarding the effects of all interventions and strategies, as well as any findings on interaction effects between particular approaches and particular characteristics of students or settings; and (b) for use in national, State, and local implementation and policy making;

(6) Produce and analyze a variety of descriptive and outcome data, including information regarding (a) student participation in the development of IEP content (goals, objectives, activities, and

services); and (b) satisfaction of students with their transition plan;

(7) Prepare draft implementation guides containing all the proposed interventions and strategies for increasing student involvement in the transition planning or IEP process or, if appropriate, both;

(8) Implement a plan to field test the draft implementation guides in a range of school districts; and

(9) Prepare and disseminate findings, including final implementation guides, as well as information about the student participation materials, to school districts through the State educational agencies and to other organizations.

*Proposed Absolute Priority 2 Model Demonstration Projects to Identify and Develop Alternatives for Youth With Disabilities Who Have Dropped Out of School or Are at Risk of Dropping Out of School*

Background

This proposed priority would support model demonstration projects that develop, implement, evaluate, and disseminate new or improved components or strategies to identify, recruit, train, and place youth with disabilities who have dropped out of school or are at risk of dropping out of school.

Proposed Priority

A model demonstration project must—

(1) Build upon specific components or strategies based on theory, research, or evaluation. These components or strategies must include procedures to identify youth who are at risk of dropping out of school and to recruit youth with disabilities who have already dropped out of school;

(2) Include alternatives for engaging students in programs that provide functional literacy skills and employment training and for serving students who refuse to return to their previous school;

(3) Develop working relationships with the private sector, especially employers, rehabilitation personnel, and local Private Industry Councils authorized by the Job Training Partnership Act;

(4) Target services to specific students (i.e., by age, disability, level of functioning, and membership in a special population, if appropriate);

(5) Produce detailed procedures and materials that would enable others to successfully replicate the model as implemented in the original site; and

(6) Evaluate the model at the original model development site and, when implemented at other sites, at those sites to determine whether the model can be adopted by other sites and yield similar results. The project must determine the effectiveness of the model and its component or strategies, including multiple, functional student outcomes measures, other indices of the effects of the model, and cost data associated with implementing the model.

Invitational Priority

Within proposed absolute priority 2 the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that would serve minority youth (e.g., black, Hispanic, American Indian or Alaskan Native, Asian or Pacific Islander) or youth from urban areas with recognized high dropout rates.

*Proposed Absolute Priority 3 Outreach Projects for Services for Youth with Disabilities*

Background

This proposed priority would support projects that assist in the adoption of proven models, components of models, or other exemplary practices designed to improve secondary education and transition services for youth with disabilities in areas such as continuing education, self-determination, vocational education and training, supported competitive employment, leisure and recreation, and independent living.

Section 602(a)(20)(D) of the Individuals with Disabilities Education Act (IDEA) requires that a statement of needed transition services be included in the individualized education program for each student beginning no later than age 16 and that the services be updated on an annual basis. Currently, States are striving to provide improved transitional services to students with disabilities. Thus, State agencies and local service agencies need information and assistance in accessing the range of available, successful practices, curricula, and products.

The models, components of models, or exemplary practices selected for outreach need not have been developed through this program. Projects may disseminate and help replicate multiple models, components of models, or exemplary practices that were not developed by the applicant. To enhance the impact of outreach activities, projects are encouraged to select sites in multiple States.

Proposed Priority

An outreach project for services must—

(1) Disseminate information about and assist in replicating proven models, components of models, or exemplary practices that provide or improve transition services for students with disabilities based on the specific needs of the sites selected for outreach;

(2) Develop written plans for implementation;

(3) Coordinate its dissemination and replication activities with relevant State and local educational agencies, consumer organizations, administrative entities established in the service delivery area under the Job Training Partnership Act, and, if appropriate, projects funded under the State Systems for Transition Services for Youth with Disabilities Program, as well as with technical assistance, information, and personnel development networks within the State;

(4) Include (a) services in community-based settings; (b) effective involvement of students and adults with disabilities in the design, implementation, and evaluation of project activities; (c) coordination with schools, vocational rehabilitation agencies, adult service providers, and potential employers, if appropriate; and (d) assistance in identifying funding for assistive devices and services;

(5) Ensure that the model, components of models, or exemplary practices are consistent with part B of the IDEA, are state-of-the-art, and have recent, unambiguous evaluation information supporting their effectiveness;

(6) Employ activities that include, but need not be limited to, public awareness, product development and dissemination, site development, training, and technical assistance;

(7) Describe the effects of model components (e.g., expected costs, needed personnel, staff training, equipment) on potential users, the sequence of implementation activities, and the criteria for selecting cooperating sites; and

(8) Evaluate the outreach activities to determine their effectiveness. The evaluation designs must include but need not be limited to measures of types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, number of youth and families served at the site where models were adopted or adapted, youth and family

progress information, and changes in the model made by sites.

**Intergovernmental Review**

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Invitation To Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period in room 4092, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

*Applicable Program Regulations*

34 CFR part 326.

**Program Authority:** 20 U.S.C. 1425.

(Catalog of Federal Domestic Assistance Number: Secondary Education and Transitional Services for Youth with Disabilities Program 84.158)

Dated: April 30, 1993.

**Richard W. Riley,**

*Secretary of Education.*

[FR Doc. 93–14806 Filed 6–22–93; 8:45 am]

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Wednesday
June 23, 1993

Part VIII

# Department of Education

## Program for Children With Severe Disabilities; Notice

## DEPARTMENT OF EDUCATION

### Program for Children With Severe Disabilities

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed funding priorities for fiscal years 1994 and 1995.

**SUMMARY:** The Secretary proposes funding priorities for fiscal years 1994 and 1995 under the Program for Children with Severe Disabilities. The Secretary takes this action to focus Federal financial assistance on an identified national need for the development and implementation of effective practices to enhance services to infants, toddlers, children, and youth with severe disabilities, including deaf-blindness. These proposed priorities would build the capacity of individuals and agencies to effect change with this population of children and their families.

**DATES:** Comments must be received on or before July 23, 1993.

**ADDRESSES:** All comments concerning these proposed priorities should be addressed to Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, SW., room 4622, Switzer Building, Washington, DC 20202–2644.

**FOR FURTHER INFORMATION CONTACT:** Joseph Clair. Telephone: (202) 205–9503. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

**SUPPLEMENTARY INFORMATION:** This notice contains five proposed funding priorities intended to advance the purpose of the Program for Children with Severe Disabilities. The purpose of the program is to provide Federal financial assistance for demonstration or development, research, training, and dissemination activities for children with severe disabilities, including deaf-blindness. These proposed priorities would support projects for system change, outreach, training, research, and a research implementation institute.

Through the provision of improved services and better trained service providers, these proposed priorities support National Education Goals 1 and 5 by assisting infants, toddlers, children, and youth with severe disabilities to begin school ready to learn, and, when they become adults, to compete in a global economy.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined based on responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. Further, priorities proposed for FY 1995 could be affected by enactment of legislation reauthorizing this program. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priorities does *not* solicit applications. A notice inviting applications under this program will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

### Proposed Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet any one of the following priorities. The Secretary proposes to fund under this program only applications that meet these absolute priorities:

*Proposed Absolute Priority 1—Research Projects for Educating Children with Severe Disabilities in Inclusive Settings*

Background

This proposed priority would support projects that would conduct research to identify new or improved strategies that address the educational and related service needs of children and youth with severe disabilities in inclusive general education settings and, if appropriate, related activities in the community (e.g., employment training settings, and school and community recreation activities).

The field of severe disabilities has moved dramatically toward inclusive educational models within the past five years. Innovative strategies that promote inclusion in academic and social contexts have generated high interest among parents, professionals, employers, and individuals with severe disabilities. Despite the fact that the field has learned a great deal about how to produce positive outcomes for individuals with severe disabilities, many critical issues need to be further addressed. Although a number of strategies have been developed to enable full inclusion of children with disabilities in preschool programs and elementary schools, more research is needed to identify strategies for inclusive practices at the middle school and secondary school levels.

Additional research is needed to (1) determine the relative effectiveness of existing strategies, (2) identify more specifically the supports and conditions that must be present, (3) validate procedures that would ensure adequate student progress in inclusive settings, (4) refine procedures that promote positive and effective social interactions among same-aged peers, (5) determine what peer-mediated strategies promote the active and effective involvement of classmates in inclusive educational programs, (6) identify principles that can be effectively applied in modifying curricula, classroom activities, and instructional materials to ensure meaningful student participation and meet multiple instructional needs, (7) determine optimal use of personnel resources, and determine how use of personnel changes over time, and (8) identify strategies that promote inclusion in out-of-school settings and activities, including employment training settings and community recreational activities.

Priority

To be considered for funding under this proposed priority, a research project must—

(1) Address one or more of the issues identified in the background section of this proposed priority;

(2) Identify specific interventions or strategies that would be investigated;

(3) Design the research activities in a manner that would lead to improved services for students with severe disabilities and, if appropriate, their families;

(4) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the interventions or strategies to be studied, the research design, and the target population;

(5) Conduct the research in typical, inclusive school and, if appropriate, community settings;

(6) Conduct the research using methodological procedures that would produce unambiguous findings (a) regarding the effects of the interventions or strategies and interaction effects between particular approaches and particular groups of students or particular contexts; and (b) for use in national, State, and local policy analysis contexts; and

(7) Produce a variety of descriptive and outcome data, including (a) information regarding the settings, the service providers, the students, and, if applicable, their families, targeted by the project (e.g., age, disabilities, skill and ability levels, and membership in a special population, if appropriate); and (b) multiple, performance outcome data regarding the students who are the focus of the interventions or strategies.

Competitive Preference Priority

Within this proposed absolute priority 1, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for this program:

Research projects that would identify effective interventions or strategies enabling students with severe disabilities to be educated in general education classes (a) at the middle or secondary school levels, or (b) in urban or rural school districts, or both.

*Proposed Absolute Priority 2—Model Inservice Training Projects to Prepare Personnel to Educate Students with Severe Disabilities in General Education Classrooms and Community Settings*

Background

This proposed priority would support capacity building projects that develop, demonstrate, evaluate, and disseminate inservice training models and accompanying materials. The purpose of these models is to prepare administrators, teachers, paraprofessionals, and related service personnel to provide, coordinate, and enhance services that result in students with severe disabilities being educated in general education classrooms and, if appropriate, community settings.

One of the major issues facing special education today is the lack of qualified personnel to meet the educational needs of individuals with severe disabilities. Inservice training is one strategy for meeting the needs of existing personnel by specifically targeting training to identified needs. This strategy can be used to (1) enhance the skills of personnel currently working with students with severe disabilities; (2) supplement training to regular educators; or (3) train personnel who have not previously worked with students with severe disabilities.

This proposed priority is being established to meet the immediate need for trained personnel in inclusive general education and community settings. Because students with severe disabilities are a very heterogenous and low incidence group of students, personnel working with these students in general education classrooms and community settings must often demonstrate a broad array of competencies. These competency areas include, but are not limited to (a) instructional technology for teaching students in a variety of instructional situations, including cooperative learning groups and community-referenced or community-based instruction; (b) curriculum adaptation; (c) assistive technology to enhance participation and communication; (d) strategies for facilitating interactions between students with severe disabilities and their peers without disabilities; and (e) nonaversive behavior management.

In addition, personnel working with students with severe disabilities must have the skills to work collaboratively with a variety of other people (e.g., general and special education teachers, parents, paraprofessionals, related service providers, administrators, transition specialists) who are interested in the education of the these students.

Priority

To be considered for funding under this proposed priority, a model inservice training project must—

(1) Identify the target population to be trained, including their roles and responsibilities, and the national needs addressed by the model;

(2) Delineate a conceptual framework on which the training model is to be based, including changes in personnel roles and responsibilities and the skills needed to implement the new roles or responsibilities;

(3) Identify the content of training, the format for delivery of training, and other activities of the model;

(4) Develop and demonstrate an inservice training model for professionals, paraprofessionals, or both, who are currently providing services to children or youth with severe disabilities and their families, or for those individuals who, through retraining, could provide those services;

(5) Include within the model an array of follow-up and support activities that ensure that personnel participating in the training acquire the skills being taught and use that knowledge in meeting the service needs of students with severe disabilities and their families;

(6) Coordinate with the State agency responsible for the Comprehensive System of Personnel Development (CSPD) under the Individuals with Disabilities Education Act (IDEA) and arrange for credit to be granted to trainees by appropriate agencies, organizations, or institutions of higher education;

(7) Evaluate the inservice training model through direct assessment of participants' skills following the training and, after a period of time, and include some direct observation measures of trainees in the service setting using standardized observational rating techniques; and

(8) Package the inservice training model to include all materials validated during the training effort so that the training can easily be replicated.

Invitational Priority

Within this proposed absolute priority 2, the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Model inservice training projects that would provide training to teams of general education, special education, and related service personnel.

*Proposed Absolute Priority 3—Outreach Projects: Serving Children with Severe Disabilities in General Education and Community Settings*

Background

This proposed priority would support projects that build the capacity of educational and other agencies to adopt and implement proven models, or components of those models based on specific needs. At this time States are striving to provide improved services to children with severe disabilities in general education and community settings. Thus, State agencies and local service agencies need information and assistance in accessing the range of available, successful practices, curricula, and products. The models or components of models selected for outreach need not have been developed through this program. In addition, projects may disseminate and help replicate multiple models or components of models that were not developed by the applicant.

The practices to be implemented during the outreach activities may focus on, but are not limited to, transition from school to adult life, the use of activity-based curricula, non-aversive behavior management, facilitating social relationships in school and community settings, or strategies that facilitate the inclusion of children with severe disabilities into their neighborhood schools and local communities. To increase their visibility and to enhance the impact of outreach activities, projects are encouraged to establish adoption sites in multiple States.

Priority

To be considered for funding under this proposed priority, an outreach project must—

(1) Disseminate information about and assist in replicating a proven model or models—or proven components of models—that provide or improve services for children with severe disabilities;

(2) Coordinate its dissemination and replication activities with (a) the lead agency for part H of the IDEA for early intervention services or the State educational agency for special education, as well as (b) technical assistance, information, and personnel development networks within the State;

(3) Include (a) approaches relevant to programming in general education and local community settings; (b) active involvement of children and their families in the design, implementation, and evaluation of project activities; and (c) interagency coordination if multiple agencies are involved in the provision of services;

(4) Ensure that the model or components of models are consistent with part B of the IDEA, are state-of-the-art, match the needs of the proposed sites, and have recent unambiguous evaluation information supporting their effectiveness;

(5) Use activities that include, but need not be limited to, public awareness, product development and dissemination, site development, training, and technical assistance;

(6) Describe the effects of model components (e.g., expected costs, needed personnel, staff training, equipment) on potential users, the sequence of implementation activities, and the criteria for selecting cooperating sites; and

(7) Evaluate the outreach activities to determine their effectiveness. The evaluation must include measures on the number of children and families served at each site, child and family progress, types and numbers of sites where outreach activities are conducted, number of persons trained, types of follow-up activities, and any changes in the model made by sites.

Competitive Priority

Within this proposed absolute priority 3, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for this program:

Outreach projects that would establish implementation sites in urban or rural areas, or both.

*Proposed Absolute Priority 4—Statewide Systems Change: Children with Severe Disabilities*

Background

This proposed priority would support projects that enhance the capacity of States to serve children with severe disabilities—including children who are deaf-blind—in (a) developing, in conjunction with the IDEA part B and part H State Plans, activities to improve the quality of early intervention, special education, and related services in the State for children with severe disabilities, birth through 21 years of age; and (b) changing the delivery of these services from segregated to general education settings and natural environments in the child's neighborhood. It is expected that projects would significantly increase the number of children with severe disabilities the State serves in general education settings, alongside children of the same age without disabilities.

Projects funded under this proposed priority have been most successful in States that, prior to applying for funds, had already made the commitment to change the delivery of services for children with severe disabilities from segregated to general education settings. Therefore, the Secretary anticipates that projects proposed under this proposed priority would show that such a commitment is already in place. Projects that have been most successful have also been characterized by a broad-based approach to systems change involving a variety of groups with a direct interest.

Although it is recognized that States are at different stages of changing the delivery of services from segregated to general education settings, the Secretary encourages projects to include representatives from the following groups in all planning and implementation activities: students and adults with severe disabilities and their families, early intervention personnel, general education and special education teachers, support personnel, related service personnel, school administrators, community agencies, institutions of higher education faculty, State legislators, and a variety of State agency staff.

Priority

To be considered for funding under this proposed priority, a Statewide systems change project must—

(1) Establish a project advisory board that (a) is responsible for providing significant recommendations on project planning, implementation, and evaluation activities; and (b) has representation by parents of children participating in the project, service providers (both general education and special education, and providers of related services), institutions of higher education, relevant professional organizations, and State agency staff;

(2) Determine the resources, both human and fiscal, available at the community level to provide quality services to children with severe disabilities as well as resources available through other agencies or parties;

(3) Carry out activities that would assist children with severe disabilities to achieve their highest potential outcomes in general education settings within their neighborhoods—or, in the case of infants and toddlers, in natural environments including nonsegregated settings—by implementing planned, capacity building activities that result in systematic and systemic change. These activities must include, but need not be limited to—

(a) Policy analysis and, if necessary, policy revision or further policy development including development of necessary interagency agreements;

(b) Public awareness;

(c) Product development and dissemination;

(d) Site development;

(e) Staff and parent training;

(f) Technical assistance; and

(g) Analysis and, if necessary, revision of existing teacher training programs, including inservice training of faculty of institutions of higher education;

(4) Disseminate formal, written policies and procedures to relevant State agencies, institutions of higher education, local education agencies, other relevant community agencies, and professional and parent organizations for coordinating services to the target population of children with severe disabilities;

(5) Coordinate activities with the State and Multi-State Services Projects for Children with Deaf-Blindness, the State educational agency (including the State coordinator of services for children with severe disabilities, the coordinator for the comprehensive system of personnel development, and the State's transition project, if the State has a federally funded grant under State Systems for Transition Services), the lead agency for Part H of IDEA for early intervention services, other relevant State agencies, and institutions of higher education, as well as with technical assistance, information, and personnel development networks within the State, the Early Childhood Research Institute on Integration, the National Early Childhood Technical Assistance

System, and the Institute on Implementing Inclusive Education for Children with Severe Disabilities; and

(6) Implement an evaluation plan that includes performance measures for—

(a) Changes in the delivery of special education and related services to the target population, and, in the case of infants and toddlers, changes in the delivery of early intervention services;

(b) The movement of children and youth with severe disabilities in the State from segregated settings to neighborhood general education settings—alongside their peers of the same age—and, in the case of infants and toddlers, to natural environments;

(c) The effectiveness of the training and technical assistance products and procedures; and

(d) The types and numbers of sites where activities are conducted, number and types of persons trained, types of follow-up activities, and number of children and families served at the site where activities were conducted.

Competitive Priority:

Within this proposed absolute priority 4, the Secretary, under 34 CFR 75.105(c)(2)(i), proposes to give preference to applications that meet the following competitive priority. The Secretary proposes to award up to 10 points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for this program:

Statewide Systems Change projects from States that have not received a new Statewide System Change award since fiscal year 1987.

*Proposed Absolute Priority 5—Institute on Implementing Inclusive Education for Children with Severe Disabilities*

Background

During the past five years research and demonstration activities related to inclusive education have expanded dramatically. Increasing numbers of State and local education agencies are involved in school reform and inclusion efforts to ensure that all students, including those with severe disabilities, are provided with equitable opportunities to receive effective educational and related services in their neighborhood schools. This priority is designed to help bridge the gap between the knowledge base and the state of practice by (a) translating theory and research about inclusive education into educational practices, and (b) increasing the capacity of State and local education agencies to provide inclusive educational opportunities.

The Secretary would require the Institute to coordinate its activities on an on-going basis with other relevant efforts sponsored by the Office of Special Education Programs (OSEP), including the Early Childhood Research Institute on Integration.

The Secretary anticipates funding one cooperative agreement with a project period of up to 60 months, subject to the requirements of 34 CFR 75.253(a) for continuation awards. In addition, in determining whether to continue the Institute for the last two years of the project period, the Secretary considers the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the project, are to be performed during the last half of the Institute's second year, and may be included as that year's annual evaluation that the recipient is required to perform under 34 CFR 75.590.

Priority

To be considered for funding under this proposed priority, an Institute on Implementing Inclusive Education project must—

(1) Present a synthesis of the relevant extant inclusion theory and research to serve as the conceptual and empirical basis for institute activities;

(2) Translate this knowledge base into inclusive educational practices and materials for use by program implementers and policy makers at the State, district, building, and classroom levels;

(3) Provide training and technical assistance for the adoption, use, and maintenance of inclusive educational practices to interested projects funded under Statewide Systems Change and to other education agencies interested in systems change activities;

(4) Evaluate the effectiveness of the Institute's activities in assisting with the implementation of inclusive educational practices by assessing (a) the types and numbers of sites where activities are conducted, (b) the number and types of people trained, (c) follow-up activities, and (d) the number of children with severe disabilities who are served in inclusive educational programs;

(5) Produce a variety of evaluation data, including (a) factors that contribute to the successful adoption, use, and maintenance of inclusive educational efforts; (b) descriptions of the instructional contexts and settings, classroom instructional supports, school organizational and administrative patterns, and the attitudes of school administrators, school personnel, families, and students; (c) information about student outcomes and the social validity of project activities; (d) information about how project activities are included in broader school reform efforts at State and local levels; (e) information about expected costs related to the successful adoption, use and maintenance of inclusive educational practices; and (f) analysis of policies and procedures at the State and local level;

(6) Provide training and technical assistance on inclusive educational practices to other OSEP-sponsored technical assistance entities and clearinghouses, including the National Early Childhood Technical Assistance System, the Federal and Regional Resource Centers, the Transition Network, the State and Multi-State Services to Children with Deaf-Blindness technical assistance project, and Technical Assistance to Parent Program projects;

(7) Establish linkages and collaborative relationships among OSEP-sponsored research projects, including projects funded under Developing Innovations for Educating Children with Severe Disabilities Full-Time in General Education Classrooms, the Early Childhood Research Institute on Integration, and the Social Relationships Research Institute for Children and Youth with Severe Disabilities;

(8) Provide training and experience in translating research to practice, materials development, technical assistance, dissemination, and program evaluation for five graduate students annually;

(9) Conduct topical meetings and other activities on strategies and emerging practices in inclusive education; and

(10) Collect and ensure timely dissemination to policymakers and program implementers of information on inclusion, systems change, school reform and restructuring initiatives.

In determining whether to continue the Institute for the fourth and fifth years of the project, in addition to considering factors in 34 CFR 75.253(a), the Secretary considers the following:

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute; and

(b) The degree to which the Institute's technical assistance, evaluation, and dissemination activities demonstrate the potential for significantly increasing the capacity of local school districts and State educational agencies to serve children with severe disabilities in

inclusive school and community settings.

In applying for funding for years four and five, the Institute must set aside, in its budget for the second year, funds to cover costs associated with the services to be performed by the review team appointed by the Secretary to evaluate the project in the second year. These funds are estimated to be approximately $4,000.

**Intergovernmental Review**

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period in room 4092, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

**Applicable Program Regulations**

34 CFR part 315.

**Program Authority:** 20 U.S.C. 1424.

Dated: April 30, 1993

**Richard W. Riley,**

*Secretary of Education.*

(Catalog of Federal Domestic Assistance Number: Program for Children with Severe Disabilities 84.086)

[FR Doc. 93–14807 Filed 6–22–93; 8:45 am]

BILLING CODE 4000–01–U

federal register

Wednesday
June 23, 1993

Part IX

# Department of Education

## Special Projects and Demonstrations for Supported Employment Services and Technical Assistance Projects; Notice

## DEPARTMENT OF EDUCATION

### Special Projects and Demonstrations for Providing Supported Employment Services to Individuals With the Most Severe Disabilities and Technical Assistance Projects—Statewide Supported Employment Demonstration Projects; Proposed Priority

**AGENCY:** Department of Education.

**ACTION:** Notice of Proposed Priority for Fiscal Year 1994.

**SUMMARY:** The Secretary proposes a priority for fiscal year (FY) 1994 under the program of Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with the Most Severe Disabilities and Technical Assistance Projects authorized by title III, section 311(c) of the Rehabilitation Act, as amended. The Secretary takes this action to focus Federal financial assistance on areas of identified national need. This proposed priority is intended to expand and improve supported employment services to individuals with the most severe disabilities.

**DATES:** Comments must be received on or before July 23, 1993.

**ADDRESSES:** All comments concerning this proposed priority should be addressed to Mark Shoob, U.S. Department of Education, 400 Maryland Avenue SW., room 3228 Switzer Building, Washington, DC 20202–2575.

**FOR FURTHER INFORMATION CONTACT:** Fred Isbister, U.S. Department of Education, 400 Maryland Avenue SW., room 3228 Switzer Building, Washington, DC 20202–2575. Telephone: (202) 205–9297. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** This notice contains information regarding a proposed priority to fund additional statewide supported employment demonstration projects. This priority is established under the program of Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with the Most Severe Disabilities and Technical Assistance Projects authorized by title III, section 311(c) of the Rehabilitation Act, as amended. The proposed priority furthers National Education Goal 5 for adult Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

**Note:** This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

#### Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

*Proposed Priority—Statewide Supported Employment Demonstration Projects*

Background

The purpose of the statewide supported employment demonstration program is to stimulate the development of statewide systems change in order to increase supported employment options for individuals with the most severe disabilities. System change grants assist States in addressing the most difficult developmental issues related to the supported employment initiative, such as establishing or improving the necessary infrastructure and training and personnel needs, serving "difficult-to-serve" populations, and providing long-term funding for extended services. These projects cannot use their Federal funding for the direct provision of client services.

National data collected by the Virginia Commonwealth University (VCU) on the supported employment program indicate that those States that received grants to conduct statewide supported employment demonstration projects generally achieved a greater capacity to develop supported employment options within their States than those States that did not receive grants. For example, VCU data showed that 75.7 percent of the total number of individuals in supported employment in fiscal year 1990 were served in the 27 States that had been awarded five-year statewide system change grants in fiscal years 1985 and 1986. The remaining 24.3 percent of these individuals were served by States that received only title VI, part C funding.

Priority

The purpose of statewide supported employment demonstration projects is to stimulate the development of systems changes to increase supported employment options for individuals with the most severe disabilities. Authorized activities under these projects include the following: (1) Securing or facilitating the conversion of State dollars under existing programs to fund extended services. (2) Providing technical assistance and training to agencies developing supported employment programs and to employers, parents, and consumers. (3) Promoting interagency collaboration and agreements to support the provision of supported employment services.

The Secretary has funded 44 grants to 38 different States in FY 1985, FY 1986, and FY 1990. To date, 12 States have not received grants under this program for statewide supported employment demonstration projects. Only those 12 States are eligible to apply under this competition. The States are Alabama, Hawaii, Idaho, Massachusetts, Mississippi, Missouri, Ohio, Rhode Island, South Carolina, South Dakota, Texas, and West Virginia.

#### Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

#### Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3238 Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

*Applicable Program Regulations:* 34 CFR part 380.

**Program Authority:** 29 U.S.C. 777a(d).

(Catalog of Federal Domestic Assistance Number 84.128, Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with the Most Severe Disabilities and Technical Assistance Projects)

Dated: June 17, 1993.

**Richard W. Riley,**

*Secretary of Education.*

[FR Doc. 93–14808 Filed 6–22–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
June 23, 1993

Part X

# Environmental Protection Agency

40 CFR Ch. I

Technical Amendments to OMB Approval Numbers; Final Rule

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Ch. I**

**[OPPTS–00140; FRL–4587–1]**

### Technical Amendments to OMB Approval Numbers

**AGENCY:** Environmental Protection Agency (EPA).
**ACTION:** Final rule.

**SUMMARY:** EPA is publishing technical amendments to various EPA regulations to consolidate the display of the Office of Management and Budget control numbers issued under the Paperwork Reduction Act for EPA regulations with information collection requirements.

**DATES:** The effective date of this rule is June 23, 1993.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer, Environmental Protection Agency, Information Policy Branch (PM–223), 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–2740.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability:** This document is available as an electronic file on *The Federal Bulletin Board* at 9 a.m. on the date of publication in the **Federal Register**. By modem dial 202–512–1387 or call 202–512–1530 for disks or paper copies. This file is available in Postscript, Wordperfect 5.1 and ASCII.

On April 7, 1993, EPA issued a notice (58 FR 18014) to announce review of the status of EPA information collection requests (ICRs) under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), and to amend various EPA regulations to add references to their current OMB ICR control numbers.

On May 10, 1993, EPA issued another notice (58 FR 27472), to create a consolidated table of the OMB control numbers for various EPA regulations with information collection requirements promulgated under the Safe Drinking Water Act and the Clean Air Act. This table will be codified in 40 CFR part 9. EPA believes that presenting the OMB control numbers in this table format will improve its management of the PRA and make it easier for the public to identify the corresponding OMB control numbers for these EPA regulations.

Today, EPA is issuing these technical amendments to place in the table the OMB ICR control numbers for various EPA regulations issued under the Federal Insecticide, Fungicide and Rodenticide Act, the Toxic Substances Control Act, and section 313 of the Emergency Planning and Community Right–to–Know Act. The affected regulations are codified at 40 CFR Parts 150 – 189, 372, and 700 – 799. These amendments will convert all existing parenthetical notes and individual sections in the CFR which cite OMB ICR control numbers, and add other OMB ICR control numbers, so that all the control numbers appear in the consolidated table.

The ICRs for the OMB control numbers included in these technical amendments were previously subject to public notice and comment prior to OMB approval. As such, EPA finds that there is "good cause" under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553) to issue this technical amendment without prior notice and comment. Due to the technical nature of the table, further notice and public comment would be unnecessary. For the same reason, EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

For additional information, see 58 FR 18014, April 7, 1993, and 58 FR 27472, May 10, 1993.

**List of Subjects**

*40 CFR Part 9*

Reporting and recordkeeping requirements.

*40 CFR Part 152*

Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 153*

Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 155*

Administrative practice and procedure, Confidential business information, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 156*

Labeling, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 157*

Administrative practice and procedure, Infants and children, Packaging and containers, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 158*

Confidential business information, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 166*

Administrative practice and procedure, Intergovernmental relations, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 167*

Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 170*

Administrative practice and procedure, Labeling, Occupational safety and health, and Pesticides and pests.

*40 CFR Part 171*

Indians–lands, Intergovernmental relations, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 177*

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

*40 CFR Part 372*

Air pollution, Chemicals, Hazardous assistance, Hazardous waste, Imports, Intergovernmental relations, Natural resources, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

*40 CFR Part 700*

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 704*

Chemicals, Confidential business information, Environmental protection, Hazardous substances, Imports, Reporting and recordkeeping requirements.

*40 CFR Part 707*

Chemicals, Environmental protection, Exports, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 710*

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 712*

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 716*

Chemicals, Confidential business information, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 717*

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 720*

Chemicals, Environmental protection, Hazardous substances, Imports, Reporting and recordkeeping requirements.

*40 CFR Part 721*

Administrative practice and procedure, Chemicals, Environmental protection, Hazardous substances, Imports, Labeling, Occupational safety and health, Reporting and recordkeeping requirements.

*40 CFR Part 723*

Chemicals, Environmental protection, Hazardous substances, Photographic industry, Reporting and recordkeeping requirements.

*40 CFR Part 761*

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls (PCB's), Reporting and recordkeeping requirements.

*40 CFR Part 763*

Administrative practice and procedure, Asbestos, Confidential business information, Environmental protection, Hazardous substances, Imports, Intergovernmental relations, Labeling, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

*40 CFR Part 766*

Dibenzo–para–dioxins/dibenzofurans, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 790*

Administrative practice and procedure, Chemicals, Confidential business information, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

*40 CFR Part 799*

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 17, 1993.

**Carol M. Browner,**

*Administrator.*

Therefore, 40 CFR Chapter I is amended as follows:

**PART 9—[AMENDED]**

1. In part 9:

a. The authority citation is revised to read as follows:

**Authority:** 7 U.S.C. 136–136y; 21 U.S.C. 331j, 346a, 348; 15 U.S.C. 2601–2671; 31 U.S.C. 9701; 42 U.S.C. 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, 7401, 7412, 7414, 7416, 7601, 7671–7671q, 11023, 11048.

b. Section 9.1 is amended by adding new entries to the table to read as follows:

**§ 9.1 OMB approvals under the Paperwork Reduction Act.**

* * * * *

| 40 CFR citation | OMB control No. |
|---|---|
| * * * * * | |
| Pesticide Registration and Classification Procedures | |
| 152.46 | 2070–0060 |
| 152.50 | 2070–0024, 2070–0040 and 2070–0060 |
| 152.80 | 2070–0040 and 2070–0060 |
| 152.85 | 2070–0040 and 2070–0060 |
| 152.98 | 2070–0060 |
| 152.122 | 2070–0060 |
| 152.132 | 2070–0044 |
| 152.135 | 2070–0060 |
| 152.142 | 2070–0057 and 2070–0107 |
| 152.164 | 2070–0060 |
| 152.404 | 2070–0040 and 2070–0060 |
| 152.406 | 2070–0040 and 2070–0060 |
| 152.412 | 2070–0040 and 2070–0060 |
| 152.414 | 2070–0040 and 2070–0060 |
| Registration Policies and Interpretations | |
| part 153, subpart D | 2070–0039 |
| Registration Standards | |
| 155.30 | 2070–0057 |
| Labeling Requirements for Pesticides and Devices | |
| 156.36 | 2070–0052 |
| 156.206 | 2070–0060 |
| 156.208 | 2070–0060 |
| 156.210 | 2070–0060 |
| 156.212 | 2070–0060 |
| Packaging Requirements for Pesticides and Devices | |
| 157.22 | 2070–0052 |
| 157.24 | 2070–0052 |
| 157.34 | 2070–0052 |
| 157.36 | 2070–0052 |
| Data Requirements for Registration | |
| 158.30 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.32 | 2070–0040, 2070–0053, 2070–0057, 2070–0060 and 2070–0107 |
| 158.34 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.45 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.75 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.101 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.155 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.160 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.162 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.165 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.167 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.170 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.175 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |

| 40 CFR citation | OMB control No. |
|---|---|
| 158.180 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.190 | 2070–0040, 2070–0057, 2070–0060 and 2070–0107 |
| 158.240 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.290 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.340 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.390 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.440 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.490 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.540 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.590 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.640 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.690 | 2070–0057, 2070–0060 and 2070–0107 |
| 158.740 | 2070–0057, 2070–0060 and 2070–0107 |
| Good Laboratory Practice Standards | |
| part 160 | 2070–0024, 2070–0032, 2070–0040, 2070–0055, 2070–0057, 2070–0060 and 2070–0107 |
| State Registration of Pesticide Products | |
| 162.153 | 2070–0055 |
| Certification of Usefulness of Pesticide Chemicals | |
| 163.4 | 2070–0060 and 2070–0024 |
| 163.5 | 2070–0060 and 2070–0024 |
| Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions | |
| 166.20 | 2070–0032 |
| 166.32 | 2070–0032 |
| 166.43 | 2070–0032 |
| 166.50 | 2070–0032 |
| Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports | |
| part 167 | 2070–0078 |
| Statements of Enforcement Policies and Interpretations | |
| 168.65 | 2070–0027 |
| 168.75 | 2070–0027 |
| 168.85 | 2070–0027, 2070–0028, and 2070–0078 |
| Books and Records of Pesticide Production and Distribution | |
| 169.2 | 2070–0028 |
| Worker Protection Standards for Agricultural Pesticides | |
| 170.112 | 2070–0060 |
| Certification of Pesticide Applicators | |
| 171.7 | 2070–0029 |
| 171.8 | 2070–0029 |
| 171.9 | 2070–0029 |
| 171.10 | 2070–0029 |
| 171.11 | 2070–0029 |
| Experimental Use Permits | |
| 172.4 | 2070–0040 |
| 172.8 | 2070–0040 |
| Issuance of Food Additive Regulations | |
| 177.81 | 2070–0024 |
| 177.92 | 2070–0024 |
| 177.98 | 2070–0024 |
| 177.99 | 2070–0024 |
| 177.102 | 2070–0024 |
| 177.105 | 2070–0024 |
| 177.110 | 2070–0024 |
| 177.116 | 2070–0024 |
| Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities | |
| 180.7 | 2070–0024 |
| 180.8 | 2070–0024 |
| 180.9 | 2070–0024 |
| 180.31 | 2070–0024 |
| 180.32 | 2070–0024 |
| 180.33 | 2070–0024 |
| Toxic Chemical Release Reporting: Community Right–to–Know | |
| part 372 | 2070–0093 |
| Toxic Substances Control Act: General | |
| 700.45 | 2070–0012 and 2070–0038 |
| Reporting and Recordkeeping Requirements | |
| 704.5 | 2010–0019 and 2070–0067 |
| 704.11 | 2010–0019 and 2070–0067 |
| 704.25 | 2070–0067 |
| 704.30 | 2070–0067 |
| 704.33 | 2070–0067 |
| 704.43 | 2070–0067 |
| 704.45 | 2070–0067 |
| 704.95 | 2070–0067 |
| 704.102 | 2070–0067 |
| 704.104 | 2070–0067 |
| 704.175 | 2070–0067 |
| part 704, subpart C | 2010–0019 |
| part 704, subpart D | 2010–0019 |
| Chemical Imports and Exports | |
| 707.20 | 1515–0173 |
| 707.65 | 2070–0030 |
| 707.67 | 2070–0030 |
| 707.72 | 2070–0030 |
| Inventory Reporting Regulations | |
| part 710, subpart B | 2070–0070 |
| Chemical Information Rules | |
| 712.5 | 2070–0054 |
| 712.7 | 2070–0054 |
| 712.20 | 2070–0054 |
| 712.28 | 2070–0054 |
| 712.30 | 2070–0054 |
| Health and Safety Data Reporting | |
| 716.5 | 2070–0004 |
| 716.10 | 2070–0004 |
| 716.20 | 2070–0004 |
| 716.25 | 2070–0004 |
| 716.30 | 2070–0004 |
| 716.35 | 2070–0004 |
| 716.40 | 2070–0004 |
| 716.45 | 2070–0004 |
| 716.50 | 2070–0004 |
| 716.60 | 2070–0004 |
| 716.65 | 2070–0004 |
| 716.105 | 2070–0004 |
| 716.120 | 2070–0004 |
| Records and Reports of Allegations that Chemical Substances Cause Significant Adverse Reactions to Health or the Environment | |
| 717.5 | 2070–0017 |
| 717.7 | 2070–0017 |
| 717.12 | 2070–0017 |
| 717.15 | 2070–0017 |
| 717.17 | 2070–0017 |
| Premanufacture Notification | |
| 720.1 | 2070–0012 |
| 720.22 | 2070–0012 |
| 720.25 | 2070–0012 |
| 720.30 | 2070–0012 |
| 720.36 | 2070–0012 |
| 720.38 | 2070–0012 |
| part 720, subpart C | 2070–0012 |
| 720.62 | 2070–0012 |
| 720.75 | 2070–0012 |
| 720.78 | 2070–0012 |
| 720.80 | 2070–0012 |
| 720.85 | 2070–0012 |
| 720.87 | 2070–0012 |
| 720.90 | 2070–0012 |
| 720.102 | 2070–0012 |
| part 720, Appendix A | 2070–0012 |

| 40 CFR citation | OMB control No. |
|---|---|
| Significant New Uses of Chemical Substances | |
| part 721, subpart A | 2070–0012 and 2070–0038 |
| 721.72 | 2070–0012 and 2070–0038 |
| 721.125 | 2070–0012 and 2070–0038 |
| 721.160 | 2070–0012 and 2070–0038 |
| 721.170 | 2070–0012 and 2070–0038 |
| 721.185 | 2070–0012 and 2070–0038 |
| 721.225 | 2070–0012 |
| 721.275 | 2070–0012 |
| 721.325 | 2070–0012 |
| 721.370 | 2070–0012 |
| 721.390 | 2070–0012 |
| 721.400 | 2070–0012 |
| 721.415 | 2070–0012 |
| 721.430 | 2070–0012 |
| 721.445 | 2070–0012 |
| 721.460 | 2070–0012 |
| 721.490 | 2070–0012 |
| 721.505 | 2070–0012 |
| 721.520 | 2070–0012 |
| 721.530 | 2070–0012 |
| 721.540 | 2070–0012 |
| 721.550 | 2070–0012 |
| 721.575 | 2070–0012 |
| 721.600 | 2070–0012 |
| 721.625 | 2070–0012 |
| 721.650 | 2070–0038 |
| 721.700 | 2070–0012 |
| 721.750 | 2070–0012 |
| 721.775 | 2070–0012 |
| 721.805 | 2070–0012 |
| 721.840 | 2070–0012 |
| 721.875 | 2070–0012 |
| 721.925 | 2070–0012 |
| 721.950 | 2070–0012 |
| 721.1000 | 2070–0012 |
| 721.1025 | 2070–0038 |
| 721.1050 | 2070–0012 |
| 721.1075 | 2070–0012 |
| 721.1120 | 2070–0012 |
| 721.1150 | 2070–0012 |
| 721.1175 | 2070–0012 |
| 721.1210 | 2070–0012 |
| 721.1225 | 2070–0012 |
| 721.1240 | 2070–0012 |
| 721.1300 | 2070–0012 |
| 721.1325 | 2070–0012 |
| 721.1350 | 2070–0012 |
| 721.1375 | 2070–0012 |
| 721.1425 | 2070–0038 |
| 721.1450 | 2070–0012 |
| 721.1500 | 2070–0012 |
| 721.1525 | 2070–0012 |
| 721.1550 | 2070–0012 |
| 721.1575 | 2070–0012 |
| 721.1600 | 2070–0012 |
| 721.1625 | 2070–0012 |
| 721.1650 | 2070–0012 |
| 721.1675 | 2070–0012 |
| 721.1700 | 2070–0012 |
| 721.1725 | 2070–0012 |
| 721.1735 | 2070–0012 |
| 721.1745 | 2070–0012 |
| 721.1750 | 2070–0012 |
| 721.1765 | 2070–0012 |
| 721.1775 | 2070–0012 |
| 721.1790 | 2070–0038 |
| 721.1800 | 2070–0012 |
| 721.1820 | 2070–0012 |
| 721.1825 | 2070–0012 |
| 721.1850 | 2070–0012 |
| 721.1875 | 2070–0012 |
| 721.1900 | 2070–0012 |
| 721.1925 | 2070–0012 |
| 721.1950 | 2070–0012 |
| 721.2000 | 2070–0012 |
| 721.2025 | 2070–0012 |
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| 721.2075 | 2070–0012 |
| 721.2086 | 2070–0012 |
| 721.2120 | 2070–0012 |
| 721.2140 | 2070–0012 |
| 721.2175 | 2070–0012 |
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| 721.2380 | 2070–0012 |
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| 721.2725 | 2070–0038 |
| 721.2750 | 2070–0012 |
| 721.2800 | 2070–0038 |
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| 721.3040 | 2070–0012 |
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| 721.3080 | 2070–0012 |
| 721.3100 | 2070–0012 |
| 721.3120 | 2070–0012 |
| 721.3140 | 2070–0012 |
| 721.3160 | 2070–0038 |
| 721.3180 | 2070–0012 |
| 721.3200 | 2070–0012 |
| 721.3220 | 2070–0038 |
| 721.3240 | 2070–0012 |
| 721.3248 | 2070–0012 |
| 721.3254 | 2070–0012 |
| 721.3260 | 2070–0012 |
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| 721.3480 | 2070–0012 |
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| 721.4568 | 2070–0012 |
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| 721.4880 | 2070–0012 |
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| 721.5225 | 2070–0012 |
| 721.5250 | 2070–0012 |
| 721.5275 | 2070–0012 |
| 721.5300 | 2070–0012 |
| 721.5325 | 2070–0012 |
| 721.5350 | 2070–0012 |

| 40 CFR citation | OMB control No. |
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| 721.5575 | 2070–0012 |
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| 721.6000 | 2070–0038 |
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| 721.6160 | 2070–0012 |
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| 721.9850 | 2070–0012 |
| 721.9870 | 2070–0012 |
| 721.9900 | 2070–0012 |
| 721.9920 | 2070–0012 |
| 721.9930 | 2070–0038 |
| 721.9940 | 2070–0012 |
| 721.9975 | 2070–0012 |
| **Premanufacture Notification Exemptions** | |
| 723.50 | 2070–0012 |
| 723.175 | 2070–0012 |
| 723.250(m)(1) | 2070–0012 |
| **Water Treatment Chemicals** | |
| part 749, subpart D | 2060–0193 |
| **Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions** | |
| 761.20 | 2070–0008 and 2070–0021 |
| 761.20(e) | 2050–0047 |
| 761.30 | 2070–0003, 2070–0008 and 2070–0021 |
| 761.60 | 2070–0011 |
| 761.65 | 2070–0112 |
| 761.70 | 2070–0011 |
| 761.75 | 2070–0011 |
| 761.80 | 2070–0021 |
| 761.125 | 2070–0112 |
| 761.180 | 2070–0112 |
| 761.185 | 2070–0008 |
| 761.187 | 2070–0008 |
| 761.193 | 2070–0008 |
| 761.202 | 2070–0112 |
| 761.205 | 2070–0112 |
| 761.207 | 2070–0112 |
| 761.207(a) | 2050–0039 |
| 761.208 | 2070–0112 |
| 761.209 | 2070–0112 |
| 761.210 | 2070–0112 |
| 761.211 | 2070–0112 |
| 761.215 | 2070–0112 |
| 761.218 | 2070–0112 |
| **Asbestos** | |
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| part 763, subpart E | 2070–0091 |
| part 763, subpart F | 2070–0091 |
| part 763, subpart G | 2070–0072 |
| part 763, subpart I | 2070–0082 |
| **Dibenzo–para–dioxin/Dibenzofurans** | |
| 766.35(b)(1) | 2070–0054 |

| 40 CFR citation | OMB control No. |
|---|---|
| 766.35(b)(2) | 2070–0054 |
| 766.35(b)(3) | 2070–0017 |
| 766.35(b)(4)(iii) | 2070–0054 |
| 766.35(c)(1)(i) | 2070–0054 |
| 766.35(c)(1)(ii) | 2070–0054 |
| 766.35(c)(1)(iii) | 2070–0017 |
| 766.35(d) Form | 2070–0017 |
| 766.38 | 2070–0054 |
| Procedures Governing Testing Consent Agreements and Test Rules | |
| 790.5 | 2070–0033 |
| 790.42 | 2070–0033 |
| 790.45 | 2070–0033 |
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| 799.1051 | 2070–0033 |
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| 799.2200 | 2070–0033 |
| 799.2325 | 2070–0033 |
| 799.2475 | 2070–0033 |
| 799.2500 | 2070–0033 |
| 799.2700 | 2070–0033 |
| 799.3175 | 2070–0033 |
| 799.3300 | 2070–0033 |
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| 799.4000 | 2070–0033 |
| 799.4360 | 2070–0033 |
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| 799.4440 | 2070–0033 |
| 799.5000 | 2070–0033 |
| 799.5025 | 2070–0033 |
| 799.5055 | 2070–0033 |

## PART 152—[AMENDED]

2. In part 152:

a. The authority citation for part 152 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y. Subpart U is also issued under 31 U.S.C. 9701.

**§§ 152.46, 152.50, 152.80, 152.85, 152.135, 152.142, 152.404, 152.406, 152.412, and 152.414 [Amended]**

b. Sections 152.46, 152.50, 152.80, 152.85, 152.135, 152.142, 152.404, 152.406, 152.412, and 152.414 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 153—[AMENDED]

3. In part 153:

a. The authority citation for part 153 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y.

**§ 153.79 [Removed]**

b. Section 153.79 is removed.

## PART 155—[AMENDED]

4. In part 155:

a. The authority citation for part 155 continues to read as follows:

**Authority:** 7 U.S.C. 136 through 136y.

**§ 155.30 [Amended]**

b. Section 155.30 is amended by removing the parenthetical statement containing the OMB control number at the end of the section.

## PART 156—[AMENDED]

5. In part 156:

a. The authority citation for part 156 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y.

**§§ 156.36, 156.206, 156.208, 156.210, and 156.212 [Amended]**

b. Sections 156.36, 156.206, 156.208, 156.210, and 156.212 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 158—[AMENDED]

6. In part 158:

a. The authority citation for part 158 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y.

**§§ 158.30, 158.34, 158.75, 158.101, 158.190, 158.240, 158.340, 158.390, 158.440, 158.490, 158.540, 158.590, 158.640, 158.690, and 158.740 [Amended]**

b. Sections 158.30, 158.34, 158.75, 158.101, 158.190, 158.240, 158.340, 158.390, 158.440, 158.490, 158.540, 158.590, 158.640, 158.690, and 158.740 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 166—[AMENDED]

7. In part 166:

a. The authority citation for part 166 continues to read as follows:

**Authority:** 7 U.S.C. 136–136y.

**§§ 166.20, 166.32, 166.43, and 166.50 [Amended]**

b. Sections 166.20, 166.32, 166.43, and 166.50 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 167—[AMENDED]

8. In part 167:

a. The authority citation for part 167 continues to read as follows:

**Authority:** 7 U.S.C. 136 (e) and (w).

**§§ 167.20 and 167.85 [Amended]**

b. Sections 167.20 and 167.85 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 171—[AMENDED]

8. In part 171:

a. The authority citation for part 171 continues to read as follows:

**Authority:** 7 U.S.C. 136b and 136w.

**§ 171.11 [Amended]**

b. Section 171.11 is amended by removing the parenthetical statement containing the OMB control number at the end of the section.

## PART 177—[AMENDED]

9. In part 177:

a. The authority citation for part 177 continues to read as follows:

**Authority:** 21 U.S.C. 348, 371(a) 331(j); Reorganization Plan No. 3 of 1970.

**§§ 177.102, 177.105, 177.110, and 177.116 [Amended]**

b. Sections 177.102, 177.105, 177.110, and 177.116 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 372—[AMENDED]

10. In part 372 by revising the authority citation to read as follows:

**Authority:** 42 U.S.C. 11023 and 11048.

## PART 700—[AMENDED]

11. In part 700:

a. The authority citation for part 700 continues to read as follows:

**Authority:** 15 U.S.C. 2625.

**§ 700.45 [Amended]**

b. Section 700.45 is amended by removing the parenthetical statement containing the OMB control number at the end of the section.

**PART 704—[AMENDED]**

12. In part 704:

a. The authority citation for part 704 continues to read as follows:

**Authority:** 15 U.S.C. 2607(a).

**§§ 704.11, 704.33, 704.45, 704.95, 704.102, 704.104, and 704.175 [Amended]**

b. Sections 704.11, 704.33, 704.45, 704.95, 704.102, 704.104, and 704.175 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

**PART 707—[AMENDED]**

13. In part 707:

a. The authority citation for part 707 continues to read as follows:

**Authority:** 15 U.S.C. 2611(b) and 2612.

**§§ 707.65, 707.67, 707.70, 707.72, and 707.75 [Amended]**

b. Sections 707.65, 707.67, 707.70, 707.72, and 707.75 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

**PART 710—[AMENDED]**

14. In part 710:

a. The authority citation for part 710 continues to read as follows:

**Authority:** 15 U.S.C. 2607(a).

**§§ 710.5 and 710.37 [Amended]**

b. Sections 710.5 and 710.37 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

**PART 712—[AMENDED]**

15. In part 712:

a. The authority citation for part 712 continues to read as follows:

**Authority:** 15 U.S.C. 2607(a).

**§ 712.30 [Amended]**

b. Section 712.30 is amended by removing the parenthetical statement containing the OMB control number at the end of the section.

**PART 716—[AMENDED]**

16. In part 716:

a. The authority citation for part 716 continues to read as follows:

**Authority:** 15 U.S.C. 2607(d) and 2625(c).

**§ 716.120 [Amended]**

b. Section 716.120 is amend by removing the parenthetical statement containing the OMB control number at the end of the section.

**PART 717—[AMENDED]**

17. In part 717:

a. The authority citation for part 717 continues to read as follows:

**Authority:** 15 U.S.C. 2607(c).

**§§ 717.12, 717.15, and 717.17 [Amended]**

b. Sections 717.12, 717.15, and 717.17 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

**PART 720—[AMENDED]**

18. In part 720:

a. The authority citation for part 720 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2613.

**§§ 720.1, 720.25, 720.38, 720.40, 720.62, 720.75, 720.78, 720.80, 720.90, 720.120, and Appendix A [Amended]**

b. Sections 720.1, 720.25, 720.38, 720.40, 720.62, 720.75, 720.78, 720.80, 720.90, 720.120, and Appendix A to the part are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

**PART 721—[AMENDED]**

19. In part 721:

a. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

**§§ 721.47, 721.72, 721.185, 721.225, 721.275, 721.325, 721.390, 721.400, 721.415, 721.460, 721.490, 721.505, 721.520, 721.530, 721.540, 721.550, 721.575, 721.600, 721.625, 721.700, 721.750, 721.775, 721.805, 721.840, 721.875, 721.925, 721.950, 721.1000, 721.1025, 721.1050, 721.1075, 721.1120, 721.1150, 721.1175, 721.1210, 721.1225, 721.1300, 721.1325, 721.1350, 721.1375, 721.1425, 721.1450, 721.1500, 721.1525, 721.1550, 721.1575, 721.1600, 721.1625, 721.1650, 721.1675, 721.1700, 721.1725, 721.1735, 721.1745, 721.1765, 721.1775, 721.1790, 721.1800, 721.1825, 721.1850, 721.1875, 721.1900, 721.1925, 721.1950, 721.2000, 721.2025, 721.2050, 721.2075, 721.2086, 721.2120, 721.2140, 721.2175, 721.2225, 721.2250, 721.2275, 721.2340, 721.2380, 721.2420, 721.2460, 721.2475, 721.2540, 721.2560, 721.2600, 721.2625, 721.2650, 721.2675, 721.2725, 721.2750, 721.2800, 721.2825, 721.2840, 721.2860, 721.2880, 721.2900, 721.2920, 721.2940, 721.2980, 721.3000, 721.3020, 721.3040, 721.3060, 721.3080, 721.3100, 721.3120, 721.3140, 721.3160, 721.3180, 721.3200, 721.3220, 721.3240, 721.3260, 721.3320, 721.3340, 721.3360, 721.3380, 721.3420, 721.3440, 721.3460, 721.3480, 721.3500, 721.3520, 721.3540, 721.3560, 721.3580, 721.3620, 721.3625, 721.3640, 721.3680, 721.3700, 721.3720, 721.3740, 721.3764, 721.3800, 721.3840, 721.3860, 721.3870, 721.3880, 721.3900, 721.4000, 721.4020, 721.4040, 721.4060, 721.4100, 721.4140, 721.4160, 721.4180, 721.4200, 721.4220, 721.4240, 721.4260, 721.4270, 721.4280, 721.4300, 721.4320, 721.4340, 721.4360, 721.4380, 721.4400, 721.4420, 721.4460, 721.4480, 721.4500, 721.4520, 721.4600, 721.4620, 721.4640, 721.4660, 721.4680, 721.4700, 721.4720, 721.4740, 721.4780, 721.4790, 721.4800, 721.4820, 721.4840, 721.4880, 721.4925, 721.5050, 721.5200, 721.5225, 721.5250, 721.5275, 721.5300, 721.5325, 721.5350, 721.5375, 721.5400, 721.5425, 721.5450, 721.5475, 721.5500, 721.5525, 721.5550, 721.5575, 721.5600, 721.5625, 721.5660, 721.5700, 721.5740, 721.5760, 721.5780, 721.5800, 721.5820, 721.5840, 721.5860, 721.5880, 721.5900, 721.5960, 721.5980, 721.6000, 721.6020, 721.6060, 721.6080, 721.6100, 721.6120, 721.6140, 721.6160, 721.6180, 721.6200, 721.6220, 721.6440, 721.6480, 721.6500, 721.6520, 721.6540, 721.6560, 721.6580, 721.6600, 721.6620, 721.6640, 721.6660, 721.6680, 721.6700, 721.6720, 721.6740, 721.6760, 721.6780, 721.6820, 721.6840, 721.6880, 721.6900, 721.6920, 721.6940, 721.6960, 721.6980, 721.7000, 721.7020, 721.7040, 721.7080, 721.7100, 721.7140, 721.7160, 721.7180, 721.7200, 721.7210, 721.7220, 721.7240, 721.7260, 721.7280, 721.7300, 721.7320, 721.7340, 721.7360, 721.7400, 721.7420, 721.7440, 721.7460, 721.7480, 721.7500, 721.7540, 721.7560, 721.7580, 721.7600, 721.7620, 721.7660, 721.7680, 721.7700, 721.7720, 721.7740, 721.7760, 721.7780, 721.8075, 721.8100, 721.8125, 721.8225, 721.8250, 721.8275, 721.8300, 721.8325, 721.8350, 721.8375, 721.8400, 721.8425, 721.8450, 721.8475, 721.8500, 721.8525, 721.8550, 721.8575, 721.8600, 721.8675, 721.8700, 721.8750, 721.8775, 721.8825, 721.8850, 721.8875, 721.8900, 721.9220, 721.9240, 721.9260, 721.9280, 721.9300, 721.9320, 721.9360, 721.9400, 721.9420, 721.9460, 721.9480, 721.9500, 721.9525, 721.9530, 721.9550, 721.9570, 721.9630, 721.9675, 721.9700, 721.9720, 721.9740, 721.9760, 721.9780, 721.9800, 721.9820, 721.9850, 721.9870, 721.9900, 721.9920, 721.9930, 721.9940, and 721.9975 [Amended]**

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## PART 723—[AMENDED]

20. In part 723:

a. The authority citation for part 723 continues to read as follows:

**Authority:** 15 U.S.C. 2604.

**§§ 723.50 and 723.250 [Amended]**

b. Sections 723.50 and 723.250(m) are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 761—[AMENDED]

21. In part 761:

a. The authority citation for part 761 continues to read as follows:

**Authority:** 15 U.S.C. 2605, 2607, 2611, 2614 and 2616.

**§§ 761.20, 761.30, 761.65, 761.180, 761.185, 761.187, 761.193, 761.205, 761.209, 761.210, 761.211, and 761.215 [Amended]**

b. Sections 761.20, 761.30(a)(1)(xii), 761.65, 761.180, 761.185, 761.187, 761.193, 761.205, 761.209, 761.210, 761.211, and 761.215 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 763—[AMENDED]

22. In part 763:

a. The authority citation for part 763 continues to read as follows:

**Authority:** 15 U.S.C. 2605 and 2607(c).

**§§ 763.124 and 763.178 [Amended]**

b. Sections 763.124 and 763.178 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 766—[AMENDED]

23. In part 766:

a. The authority citation for part 766 continues to read as follows:

**Authority:** 15 U.S.C. 2603 and 2607.

**§ 766.35 [Amended]**

b. Section 766.35 is amended by removing and reserving paragraph (e).

## PART 790—[AMENDED]

24. In part 790:

a. The authority citation for part 790 continues to read as follows:

**Authority:** 15 U.S.C. 2603.

**§§ 790.5, 790.50, and 790.80 [Amended]**

b. Sections 790.5, 790.50, and 790.80 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 795—[AMENDED]

25. In part 795:

a. The authority citation for part 795 continues to read as follows:

**Authority:** 15 U.S.C. 2603.

**§§ 795.45 and 795.232 [Amended]**

b. Sections 795.45 and 795.232 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

## PART 799—[AMENDED]

26. In part 799:

a. The authority citation for part 799 continues to read as follows:

**Authority:** 15 U.S.C. 2603, 2611, 2625.

**§§ 799.500, 799.925, 799.940, 799.1051, 799.1052, 799.1053, 799.1054, 799.1250, 799.1285, 799.1550, 799.1560, 799.1575, 799.1645, 799.1650, 799.1700, 799.2155, 799.2175, 799.2200, 799.2325, 799.2475, 799.2500, 799.2700, 799.3175, 799.3300, 799.4000, 799.4360, 799.4400, 799.4440, 799.5000, and 799.5055 [Amended]**

b. Sections 799.500, 799.925, 799.940, 799.1051, 799.1052, 799.1053, 799.1054, 799.1250, 799.1285, 799.1550, 799.1560, 799.1575, 799.1645, 799.1650, 799.1700, 799.2155, 799.2175, 799.2200, 799.2325, 799.2475, 799.2500, 799.2700, 799.3175, 799.3300, 799.4000, 799.4360, 799.4400, 799.4440, 799.5000, and 799.5055 are amended by removing the parenthetical statement containing the OMB control number at the end of each section.

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federal register

Wednesday
June 23, 1993

Part XI

# The President

**Proclamation 6574—Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Formulate or Implement Policies That Are Impeding the Transition to Democracy in Zaire or Who Benefit From Such Policies**

Federal Register
Vol. 58, No. 119
Wednesday, June 23, 1993

# Presidential Documents

Title 3—

The President

**Proclamation 6574 of June 21, 1993**

## Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Formulate or Implement Policies That Are Impeding the Transition to Democracy in Zaire or Who Benefit From Such Policies

**By the President of the United States of America**

**A Proclamation**

In light of the political and economic crisis in Zaire, I have determined that it is in the interests of the United States to restrict the entrance into the United States as immigrants and nonimmigrants of certain Zairian nationals who formulate or implement policies that impede Zaire's transition to democracy or who benefit from such policies, and the immediate families of such persons.

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the power vested in me as President by the Constitution and laws of the United States of America, including section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code, hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 or 3 of this proclamation, be detrimental to the interests of the United States. I, therefore, do proclaim that:

**Section 1.** The entry into the United States as immigrants and nonimmigrants of persons who formulate, implement, or benefit from policies that impede Zaire's transition to democracy, and the immediate family members of such persons, is hereby suspended.

**Sec. 2.** Section 1 shall not apply with respect to any person otherwise covered by section 1 where entry of such person would not be contrary to the interests of the United States.

**Sec. 3.** Persons covered by sections 1 and 2 shall be identified pursuant to procedures established by the Secretary of State, as authorized in section 6 below.

**Sec. 4.** Nothing in this proclamation shall be construed to derogate from United States Government obligations under applicable international agreements.

**Sec. 5.** This proclamation is effective immediately and shall remain in effect until such time as the Secretary of State determines that it is no longer necessary and should be terminated.

**Sec. 6.** The Secretary of State shall have responsibility to implement this proclamation pursuant to procedures the Secretary may establish.

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

William J. Clinton

[FR Doc. 93–14984
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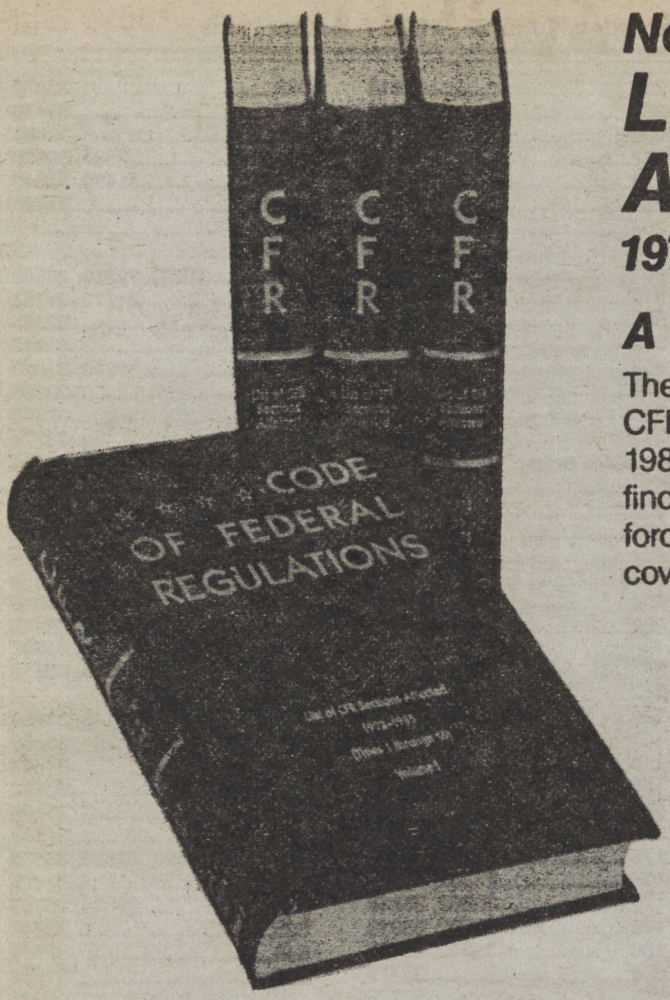


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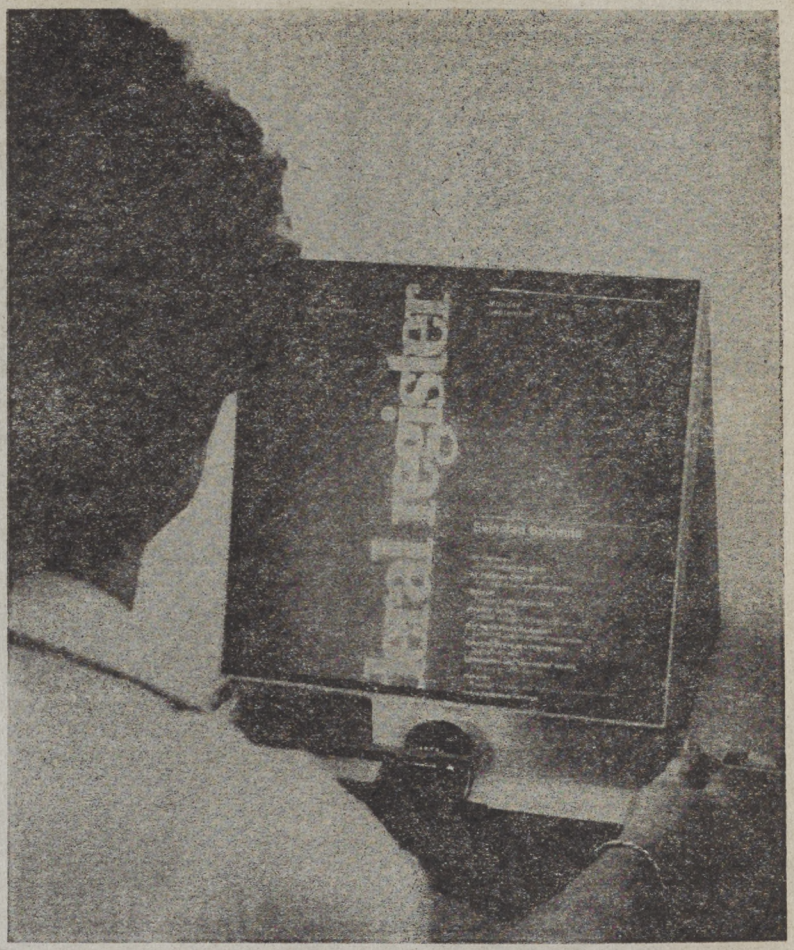


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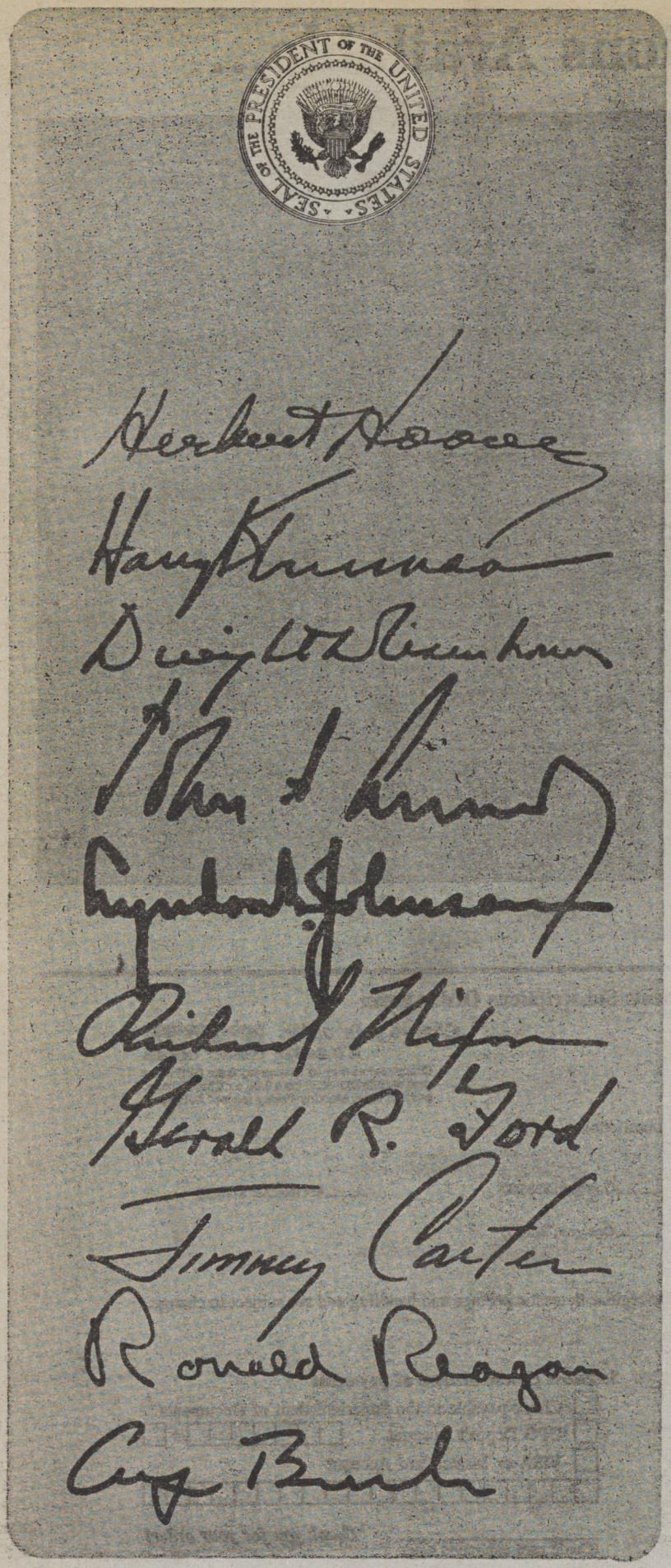


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