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# federal register

Monday  
October 4, 1993

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# Federal Register

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



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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

(two briefings)

- WHEN:** October 19 at 9:00 am and 1:30 pm
- WHERE:** Office of the Federal Register, 7th Floor  
Conference Room, 800 North Capitol Street  
NW, Washington, DC (3 blocks north of  
Union Station Metro)
- RESERVATIONS:** 202-523-4538



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#### Electronic Bulletin Board

Free Electronic Bulletin Board service for Public Law numbers and Federal Register finding aids is available on 202-275-1538 or 275-0920.

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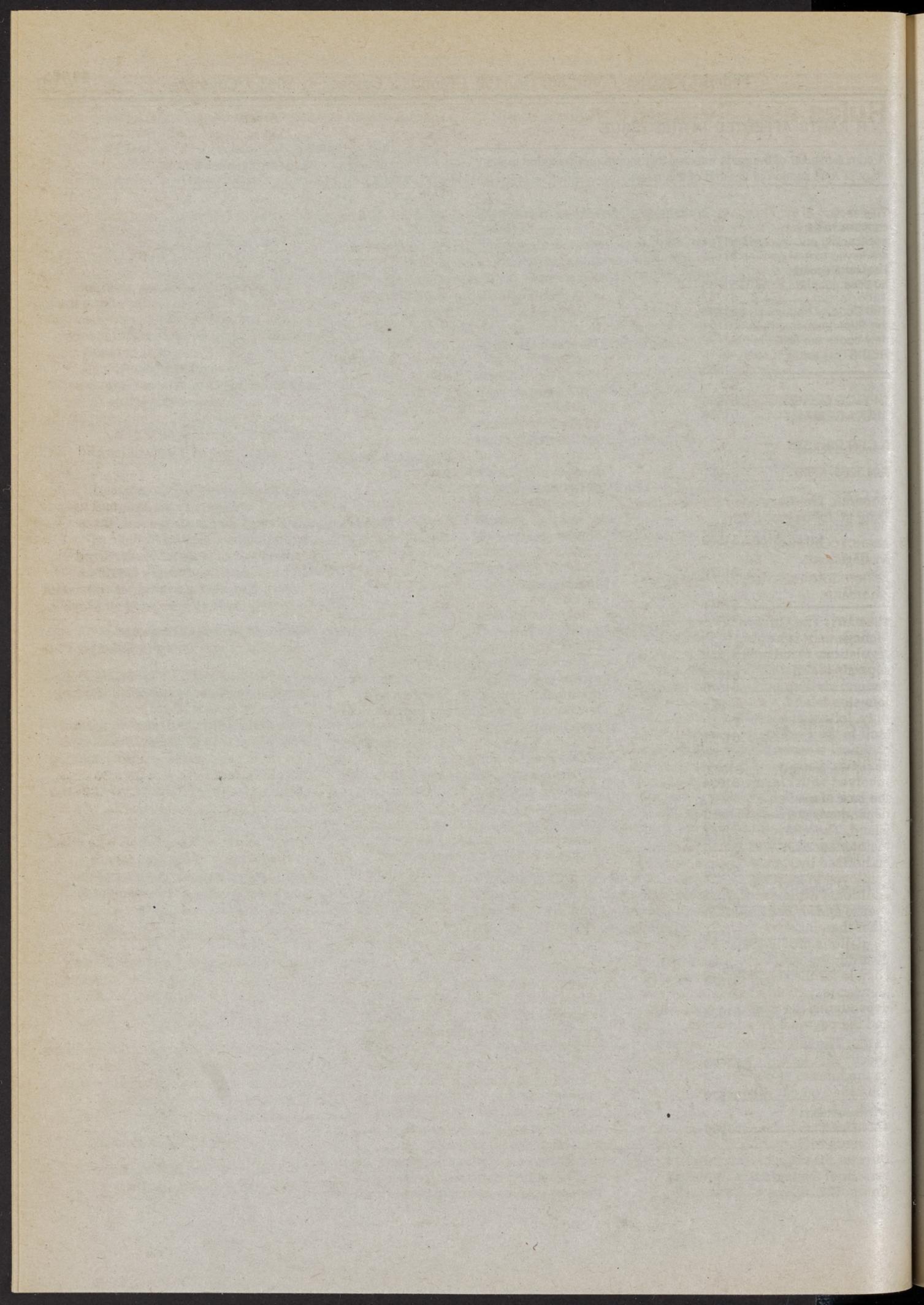
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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 591

RIN 3206-AF59

#### Separate Maintenance Allowance for Duty at Johnston Island

**AGENCY:** Office of Personnel Management.

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

**SUMMARY:** The Office of Personnel Management is issuing interim regulations to authorize payment of a separate maintenance allowance to Federal civilian employees assigned to Johnston Island, a nonforeign post of duty. Johnston Island is an artificial atoll in the Pacific Ocean dedicated to chemical weapon storage and disposal facilities. Because of the hazards involved with chemical weapons and the lack of available housing, dependents are not allowed on the island. Therefore, a separate maintenance allowance has been authorized by statute to assist an employee in meeting some of the additional expenses of maintaining a spouse and/or dependents at a location other than Johnston Island. The interim regulations provide rules for determining which employees are eligible for the separate maintenance allowance, which relatives qualify as dependents, the method of payment, and the payment amounts.

**DATES:** The interim regulations are effective on January 1, 1992. Comments on the interim regulations must be submitted on or before November 3, 1993.

**ADDRESSES:** Comments may be sent or delivered to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel

Management, Room 6H31, 1900 E Street NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Roger M. Knadle, (202) 606-2858.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is issuing interim regulations to implement section 1092 of Public Law 102-190, December 5, 1991 (the National Defense Authorization Act for Fiscal Years 1992 and 1993). Section 1092 amended chapter 59 of title 5, United States Code, by adding section 5942a to provide a separate maintenance allowance to assist an employee assigned to Johnston Island to meet the additional expenses of maintaining a spouse and/or dependents elsewhere who would normally reside with the employee. On November 16, 1992, President Bush signed an amendment to Executive Order 11609 that delegated regulatory authority to OPM to provide rules and procedures for this purpose.

Johnston Island, also called Johnston Atoll, is a possession of the United States located 717 nautical miles southwest of Honolulu, Hawaii. In recent years, Johnston Island has assumed increased importance as a temporary storage facility for chemical agents and munitions. As directed by the Congress (section 1412, Department of Defense Authorization Act, 1986), the Department of Defense has initiated a chemical stockpile demilitarization program on Johnston Island to destroy lethal chemical agents and munitions. Because of the chemical weapons, disposal facilities, dangerous and adverse living conditions, and lack of available housing, dependents are not allowed on the island. Federal agencies have found it difficult to recruit for positions on the island. The positions are primarily in engineering and technical occupations.

Prior to this change, only civilian employees assigned to foreign areas who were precluded from establishing a residence because of the local living conditions or Federal policy were authorized a separate maintenance allowance to offset the cost of maintaining a separate residence for their dependents. This regulation authorizes a separate maintenance allowance for Johnston Island, a nonforeign area, when the agency head finds that it is necessary to assist the Federal employee to meet the additional

expenses involved in maintaining the employee's spouse or dependents, or both, at a location other than Johnston Island.

The interim regulations provide procedures and rules under which the head of the agency may determine eligibility for a separate maintenance allowance and the appropriate payment amount. The regulations define (1) dependents, (2) the annual rate to be paid to an employee according to the number of his or her dependents, (3) the method of payment, and (4) the responsibilities of the agencies and OPM.

To maintain equity for Federal Government employees assigned to nonforeign and foreign areas, these regulations are similar to the Department of State's Standardized Regulations (Government Civilians, Foreign Areas). This provides consistent treatment for both groups of employees.

#### Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. Section 1092(b) of Public Law 102-190 provided that the authorization of a separate maintenance allowance for duty at Johnston Island shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act (December 5, 1991).

#### E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities since they apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 591

Government employees, Travel and Transportation expenses, Wages.

U.S. Office of Personnel Management.  
**Lorraine A. Green,**  
*Deputy Director.*

Accordingly, OPM is amending part 591 of title 5 of the Code of Federal Regulations as follows:

**PART 591—ALLOWANCES AND DIFFERENTIALS**

1. Subpart D is added to part 591 to read as follows:

**Subpart D—Separate Maintenance Allowance for Duty at Johnston Island**

- Sec.  
 591.401 Purpose and applicability.  
 591.402 Definitions.  
 591.403 Amount of payment.  
 591.404 Method of payment.  
 591.405 Responsibilities of agencies and the Office of Personnel Management.  
 591.406 Records and reports.

**Subpart D—Separate Maintenance Allowance for Duty at Johnston Island**

Authority: 5 U.S.C. 5942a(b), 5942a note; E.O. 12822, 3 CFR, 1992 Comp., p. 325.

**§ 591.401 Purpose and applicability.**

(a) *Purpose.* This subpart prescribes the regulations required by section 594a of title 5, United States Code, to require payment of a separate maintenance allowance to assist an employee assigned to Johnston Island to meet the additional expenses of maintaining a spouse (excluding a spouse entitled to and receiving a similar allowance) and/or dependents elsewhere who would normally reside with him or her because they cannot accompany the employee to Johnston Island. This subpart provides rules for determining which employees are eligible to receive the separate maintenance allowance, who qualifies as dependents under the program, the method of payment, and payment amounts.

(b) *Applicability.* This subpart applies to an employee (as defined in 5 U.S.C. 2105) in an executive department (as defined in section 101 of title 5, United States Code) or an independent establishment (as defined in section 104 of title 5, United States Code) who is assigned to a post of duty at Johnston Island.

**§ 591.402 Definitions.**

*Dependent* means one or more of the following relatives of an employee who would normally reside with the employee except for circumstances warranting the granting of a separate maintenance allowance, but who does not receive from the Government an allowance similar to that granted to the employee and who is not deemed to be a dependent of another employee for the

purpose of determining the amount of a separate maintenance allowance or similar allowance:

(1) Children who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support, including natural children, step and adopted children, and those under legal guardianship or custody of the employee or the spouse when they are expected to be under such legal guardianship or custody at least until they reach 21 years of age and when dependent upon and normally residing with the guardian;

(2) Parents (including step and legally adoptive parents) of the employee or of the spouse when such parents are dependent on the employee for support;

(3) Sisters and brothers (including step or adoptive sisters and brothers) of the employee or of the spouse, when such sisters and brothers are dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

*Johnston Island*, also called Johnston Atoll, is a possession of the United States located 717 nautical miles southwest of Honolulu, Hawaii.

*Separate maintenance allowance* means an allowance to assist an employee assigned to Johnston Island who is compelled by reason of dangerous, notably unhealthful, or excessively adverse living conditions at Johnston Island, or for the convenience of the Government, to meet the additional expense of maintaining a spouse or dependents at a location other than Johnston Island.

**§ 591.403 Amount of payment.**

The annual rate of the separate maintenance allowance paid to an employee shall be determined by the number of individuals, including a spouse (excluding a spouse entitled to and receiving a similar allowance) and one or more dependents that are maintained at a location other than Johnston Island. The annual rates in the following table do not vary by location of the separate household:

1 Child only (no adults).....	\$2,900
2 or more children only (no adults).....	5,100
1 Adult only (no children).....	5,700
1 Adult and 1 additional dependent.....	7,200
1 Adult and 2 or 3 additional dependents.....	8,900
1 Adult and 4 or more additional dependents.....	10,800

**§ 591.404 Method of payment.**

(a) Separate maintenance allowance rates are paid from the employee's date of arrival at Johnston Island to the employee's date of departure from Johnston Island. No deductions are

necessary for details away from Johnston Island or for partial days. The separate maintenance allowance shall be computed and paid at daily rates as follows:

(1) Divide the annual rate of payment by the number of days in the applicable calendar year to obtain a daily rate (counting one half-cent and over as a whole cent);

(2) Multiply the daily rate by 14 to obtain a biweekly rate; and

(3) Multiply the daily rate by the number of days involved to obtain the rate for any period.

(b) A separate maintenance allowance is not part of an employee's rate of basic pay for any purpose.

(c) The rate for any pay period shall be computed at the daily rate applicable on the first day of that pay period.

**§ 591.405 Responsibilities of agencies and the Office of Personnel Management.**

(a) Agencies with employees stationed at Johnston Island may require reasonable verification of relationship and dependency.

(b) The Office of Personnel Management will from time to time review the separate maintenance allowance program to determine whether additional amounts may be appropriate.

**§ 591.406 Records and reports.**

So that the Office of Personnel Management can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of a nonforeign separate maintenance allowance, each agency shall maintain such records and submit to the Office of Personnel Management reports and data as requested.

[FR Doc. 93-24132 Filed 10-1-93; 8:45 am]  
 BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE**

**Food and Nutrition Service**

**7 CFR Part 246**

**Special Supplemental Food Program for Women, Infants and Children (WIC): Fifteen Percent Capping Provision Rule**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements a revision to the food funds allocation formula for the Special Supplemental Food Program for Women, Infants and Children (WIC) to remove the provision

limiting any State agency to a 15 percent increase in food funding. The change will ensure that all funds appropriated for Fiscal Year 1994 and subsequent years are allocated to State agencies most in need.

**EFFECTIVE DATE:** October 1, 1993.

**FOR FURTHER INFORMATION CONTACT:** Deborah McIntosh, Chief, Program Analysis and Monitoring Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2710.

**SUPPLEMENTARY INFORMATION:**

**Classification**

This final rule has been reviewed under Executive Order 12291, and has been determined not to be major. The Assistant Secretary for Food and Consumer Services does not anticipate that this rule will have an impact on the economy of \$100 million or more. This rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Further, this rule will not 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.

**Regulatory Flexibility Act**

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to that review, the Acting Administrator of the Food and Nutrition Service (FNS) has certified that this rule will not have a significant impact on a substantial number of small entities. Some State and local agencies will be most affected because of the additional program administration involved; however, the effect on these entities will be minimal. Additional participants and applicants may be served by the Program, and, accordingly, would also be affected.

**Paperwork Reduction Act**

This rulemaking imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

**Executive Order 12372**

This program is listed in the Catalog of Federal Domestic Assistance Programs under 10.557 and is subject to Executive Order 12372, which requires intergovernmental consultation with

State and local officials (7 CFR part 3015, subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

**Executive Order 12778**

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any state or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the WIC Program, the administrative procedures are as follows: (1) Local agencies and vendors—State agency hearing procedures issued pursuant to 7 CFR 246.18; (2) applicants and participants—State agency hearing procedures issued pursuant to 7 CFR 246.9; (3) sanctions against State agencies (but not claims for repayment assessed against a State agency) pursuant to 7 CFR 246.19—administrative appeal in accordance with 7 CFR 246.22; and (4) procurement by State or local agencies—administrative appeal to the extent required by 7 CFR 3016.36.

**Fifteen Percent Capping Provision of the Food Funds Allocation Formula**

*Background*

Each fiscal year, once an appropriation is enacted for the WIC Program, funds are allocated to State agencies through funding formulas. Food funds are first allocated for stability grants, which provide State agencies with their prior fiscal year's total food grant adjusted by an inflation factor, and with funds set aside to serve migrant participants. Any funds remaining after the stability food grants are satisfied are classified as residual funds and are allocated equally through targeting and growth components of the funding formula. All States receive targeting funds based on their service to Priority I participants (mainly prenatal women with identified health risks and/or who are at nutritional risk). Growth funds are allocated only to those States which, when compared to other States, receive less than their equitable share of funds based primarily on the size of their income eligible populations. Census data from 1990, used for the first time in the allocation of Fiscal Year 1993 food growth funds, revealed that

certain States, termed "growth" States, are significantly underfunded based on the size of their income eligible populations. Through the growth component of the funds allocation formula, these underfunded States were eligible for substantial funding increases in Fiscal Year 1993 and will again be eligible for large increases in Fiscal Year 1994.

Although the allocation formula provides additional funds for growth States, the formula also limits the increase in residual funding that any State may receive from one fiscal year to the next to 15 percent above the level of the stability grant adjusted for inflation. This 15 percent capping provision was implemented primarily for two reasons. First, it prevented State agencies from receiving funds beyond their growth capacity in one fiscal year. The limitation also assured that residual funds were shared widely among all growth State agencies in need of funds.

The ability of State agencies to handle rapid Program growth efficiently and effectively has proven to be variable. Even with the 15 percent cap, some State agencies which do not yet have space and staff readily available to expand participation have had to voluntarily return funds during the fiscal year that they are unable to use, or unable to use in a manner which maintains quality of service to participants. More importantly, the cap prevents some underfunded States from receiving the full share of funds that they would otherwise be allocated through the allocation formula. Many of these States have the ability to efficiently and effectively utilize these additional funds.

In Fiscal Year 1993, an unprecedented complication occurred with the current funds allocation formula as a result of the large number of growth States which declined additional funds, while other growth States which desired additional funds were limited by the 15 percent capping provision. Without an emergency revision to current regulations waiving the 15 percent capping provision from July 1, 1993 to September 30, 1993, FNS would have been unable to allocate all available funds in Fiscal Year 1993. Accordingly, FNS published a Final Rule on July 13, 1993 (58 FR 37633) which waived the 15 percent cap for the remainder of Fiscal Year 1993. Congress authorized such a waiver in Public Law 103-50, the Supplemental Appropriations Act of 1993, enacted on July 2, 1993.

**Justification for the Removal of the 15 Percent Capping Provision**

The funds allocation formula was intended to move growth State agencies toward their equitable share of funds; however, the 15 percent cap impedes the capability of the formula to advance this goal. Removal of the 15 percent cap will therefore permit FNS to reduce current inequities among State agencies by allowing growth State agencies to receive larger allocations to use to serve their eligible populations.

Furthermore, it is very possible that the scenario which occurred in Fiscal Year 1993, in which available funds could not be allocated without a waiver to the 15 percent capping provision, will reoccur in Fiscal Year 1994. If this situation again arises, available funds will not be optimally utilized and participants who could be served within current funding levels will not be served without removal of the 15 percent cap.

Congress was unambiguous about its findings and purpose in creating the WIC Program. As set forth in Section 17(a) of the Child Nutrition Act of 1966 (the Act), it found that substantial numbers of pregnant, postpartum and breastfeeding women, and infants and children are from families with inadequate income and are at special risk with respect to their physical and mental health by reason of inadequate nutrition and health care. Section 17(a) further states that the purpose of the WIC Program is to provide supplemental foods and nutrition education to these individuals, "up to the authorization levels set forth in [this Act]."

**Removal of the 15 Percent Capping Provision**

Accordingly, the Department proposed, in a rule published July 30, 1993 (58 FR 40755), to remove the 15 percent capping provision from the funds allocation formula, so that State agencies may receive the full share of funds which would otherwise be indicated by the formula, regardless of the percent increase any one State agency might receive from the allocation. In order to ensure this change occurs in time for initial allocation of Fiscal Year 1994 grants, the proposed rule provided a 30 day comment period which ended on August 30, 1993.

During that period, comments were received from three State agencies, two local agencies, one State agency staff and two non-profit public interest groups. Seven of these eight commenters supported the removal of the 15 percent capping provision from

the funds allocation formula. The commenter opposed to removing the 15 percent capping provision expressed concern that increases in food funds in excess of 15 percent from one fiscal year to the next could result in a State agency expanding so rapidly that it compromises the quality of nutrition and program services. The Department recognizes the need to maintain quality services in this period of program growth, but believes the necessity to allocate all available funds is an overriding concern. Additionally, the ability of States to voluntarily return and decline funds during the fiscal year helps safeguard against States receiving funds above levels which they can manage well. Therefore, the Department has decided it is in the program's best interest to remove the 15 percent capping provision, and is adopting the revised § 246.16(c)(2)(ii) as proposed.

**List of Subjects in 7 CFR Part 246**

Food assistance programs, Food donations, Grant programs—Social programs, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, WIC, Women.

Accordingly, 7 CFR Part 246 is amended as follows:

**PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN**

1. The authority citation for part 246 is revised to read as follows:

Authority: 42 U.S.C. 1786.

2. In § 246.16, the introductory text of paragraph (c)(2)(ii) is revised to read as follows:

**§ 246.16 Distribution of funds.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) *Allocation of residual funds.* Any funds remaining available for allocation for food costs after the allocation of stability food funds required by paragraph (c)(2)(i) of this section has been completed shall be allocated as follows.

\* \* \* \* \*

Dated: September 27, 1993.

**Christopher J. Martin,**  
*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 93-24331 Filed 10-1-93; 8:45 am]

BILLING CODE 3410-30-U

**Agricultural Marketing Service**

**7 CFR Part 1211**

[FV-93-701-FR]

RIN 0581-AA50

**Procedures for the Conduct of Referenda in Connection With the Pecan Promotion and Research Plan**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** The U.S. Department of Agriculture is adopting without modification as a final rule an interim final rule which specifies procedures for the conduct of the initial and subsequent referenda to continue, terminate, or suspend the Pecan Promotion and Research Plan. The initial referendum will begin with registration from September 27 through October 1, 1993, and mail balloting from October 4 through October 6, 1993.

**EFFECTIVE DATE:** October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Arthur Pease, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2535-S, Washington, DC 20090-6456, telephone (202) 720-6930.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under the Pecan Promotion and Research Plan (7 CFR part 1211) (Plan). The Plan is effective pursuant to the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001 *et seq.*), hereinafter referred to as the Act.

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order No. 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1913 of the Act, a person subject to the Plan may file a petition with the Secretary stating that the Plan, a provision of the Plan or an obligation imposed in connection with the Plan is not in accordance with law; and requesting a modification of the Plan or exemption from the Plan. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the

Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which such person resides or carries on business has jurisdiction to review the Secretary's ruling on the petition, if a complaint is filed within 20 days after the date of entry of a ruling by the Secretary.

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Act authorizes the development of nationally coordinated programs of market promotion, research, industry information, and consumer information designed to improve the position of pecans in the marketplace. The Act further requires that a referendum be held within 24 months after the effective date of the Plan to determine if growers, grower-shellers, and importers favor continuation, termination, or suspension of the Plan. Since the Plan became effective on May 1, 1992, the initial referendum must be conducted by May 1, 1994. The initial referendum will begin with registration from September 27 through October 1, 1993, and mail balloting from October 4 through October 6, 1993.

The most recent available census of agricultural producers/growers indicates that over 21,000 farms in the United States reported having pecan trees. All pecan growers are subject to the provisions under the Plan and a majority are classified as small businesses. Growers engaged in the production and sale of pecans are subject to being assessed under the Plan. Small agricultural producers/growers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms, which include pecan handlers, shellers, grower-shellers, and importers, have been defined as those having annual receipts of less than \$3,500,000. Also, there are approximately 2,000 pecan handlers, 115 shellers, and 25 importers who are subject to the provisions of the Plan, the majority of whom are also classified as small entities.

This action finalizes procedures for the conduct of the initial referendum and subsequent referenda to continue, terminate, or suspend the Plan. The procedures permit all eligible growers,

grower-shellers, and importers of pecans to vote. The provisions of this rule include sections on definitions, voter registration, challenges, voting, instructions for referendum agents and subagents, ballots, the referendum report, and the confidentiality of information. Participation in any referendum will be voluntary. A grower or grower-sheller who chooses to vote in any referendum will be required to register in person at the appropriate local office of the Agricultural Stabilization and Conservation Service (ASCS). Importers who choose to vote will register at their local ASCS office or mail their registration to the AMS prior to the voting period. All voting will be by mail ballot to AMS.

After the initial referendum, referenda may be conducted by the Secretary at any time, or at the request of the Pecan Marketing Board or a group of growers, grower-shellers, and importers comprising 10 percent or more of the total number of growers, grower-shellers, and importers. This action finalizes the procedures for the conduct of referenda in connection with the Plan whereby growers, grower-shellers, and importers can register and vote in any referendum conducted to determine whether the Plan will be continued, terminated, or suspended.

An interim final rule providing procedures whereby a grower, grower-sheller, and importer may vote in any referendum conducted in connection with the Plan was issued on July 12, 1993, and published in the *Federal Register* (58 FR 38278) on July 16, 1993.

The interim final rule provided that comments would be accepted until August 2, 1993. One comment was received. The comment expressed concerns about such issues as the length of the comment period, the delay in receiving a copy of the *Federal Register* at the commenter's public library, whether there is a need for a referendum prior to the 1993 pecan harvest season, the appropriateness of the pecan production information requested on the ballot, and the absence of specific instructions to the ASCS in the rule about publicizing a referendum. The comment did not address any of the specific provisions in these referendum procedures.

The timing of the referendum reflects the judgement of the Department that it is important to offer pecan growers the opportunity to indicate their approval or disapproval of the Plan before large amounts of assessments are collected from growers and importers during the upcoming harvest season. Conducting the referendum at this time will enable the Pecan Marketing Board and the

Department to know whether to begin termination activities or to make commitments to develop and expand promotional and research projects for the coming year. In addition, scheduling the referendum at this time minimizes the impact of the registration and voting process on harvest activities.

The implementation of the Plan and the conduct of the upcoming referendum have been widely publicized in the pecan industry. Thus, the commenter's suggestion that pecan growers are unaware of the referendum schedule is unfounded. Production information which growers must indicate on the ballot is necessary to allow the referendum agent to verify the eligibility of referendum voters.

The requirement that county ASCS offices notify all growers, grower-shellers, and importers at least 30 days prior to the referendum is stated in the Act, so no additional rule is necessary to carry out that requirement.

The Administrator of the AMS has determined that this final rule would not have a significant economic impact on a substantial number of small entities.

Therefore, it is found that finalizing this interim final rule, without change, will tend to effectuate the declared policy of the Act.

Pursuant to the provisions in 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because:

- (1) The interim final rule was published on July 16, 1993, and one comment was received which is discussed herein;
- (2) This action adopts without modification as a final rule, an interim final rule specifying procedures for the conduct of referendum;
- (3) A referendum on continuing the Plan is to be conducted on the dates specified to minimize the impact of the registration and voting process on harvesting activities; and
- (4) The pecan industry is anticipating this action.

#### List of Subjects in 7 CFR Part 1211

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreements, Pecans, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, title 7, part 1211 is amended to read as follows:

**PART 1211—PECAN PROMOTION AND RESEARCH PLAN**

1. The authority citation for 7 CFR part 1211 continues to read as follows:

Authority: 7 U.S.C. 6001 *et seq.*

2. Accordingly, the interim final rule which specifies procedures for the conduct of referendum applicable to the Pecan Promotion and Research Plan, which was published in the Federal Register (58 FR 38278) on July 16, 1993, is adopted as a final rule without change.

Dated: September 30, 1993.

Kenneth C. Clayton,  
Acting Administrator.

[FR Doc. 93-24413 Filed 9-30-93; 12:15 pm]

BILLING CODE 3410-02-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 864**

[Docket No. 85P-0270]

**Medical Devices; Reclassification of the Automated Heparin Analyzer**

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a final rule to reclassify from class III (premarket approval) into class II (special controls) the automated heparin analyzer used to determine the heparin level in a blood sample by mixing the sample with protamine (a heparin-neutralizing substance) and determining photometrically the onset of air-activated clotting. This reclassification is based on new information regarding the device contained in a reclassification petition submitted by HemoTec, Inc. This device will, therefore, not be subject to the premarket approval requirements for class III devices, but to class II special controls sufficient to provide reasonable assurance of its safety and effectiveness. Such special controls may include performance standards, postmarket surveillance, patient registries, guidelines, recommendations, or other appropriate actions.

**EFFECTIVE DATE:** December 3, 1993.

**FOR FURTHER INFORMATION CONTACT:** Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-594-2096.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of September 12, 1980 (45 FR 60601), FDA issued a final rule classifying the automated heparin analyzer into class III (§ 864.5680 (21 CFR 864.5680)). The preamble to the proposal to classify the device (44 FR 52984, September 11, 1979) included the classification recommendation of the Hematology and Pathology Devices Panel (the Panel). The Panel's recommendation included a summary of the reasons why the device should be subject to premarket approval and identified certain risks to health presented by the device. The Panel also recommended a high priority for initiating a proceeding to require premarket approval applications (PMA's) under section 515(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(b)).

In the Federal Register of September 6, 1983 (48 FR 40272), FDA published a notice of intent to initiate proceedings to require premarket approval of 13 preamendments class III devices assigned a high priority by FDA for the application of premarket approval requirements. Among other things, the notice described the factors FDA considered in establishing priorities for initiating proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's or product development protocols (PDP's) that have been declared completed. Using these factors, FDA concurred with the Panel that the automated heparin analyzer should be subject to a high priority for initiating a proceeding to require premarket approval. On April 29, 1985, before FDA initiated a proceeding under section 515(b) of the act to require that the automated heparin analyzer have an approved PMA or a PDP that has been declared completed, HemoTec, Inc., submitted a petition to reclassify the generic automated heparin analyzer from class III into class II. The petition was submitted under section 513(e) of the act (21 U.S.C. 360c(e)). Consistent with the act and the regulations, FDA referred the petition to the Panel for its recommendation on the requested change in classification.

During a public meeting on April 25, 1986, the Panel unanimously abstained from voting because the members believed that insufficient performance data describing the precision and accuracy of the device had been presented. FDA concurred with the Panel's decision and requested supplemental information. Subsequently, the petitioner submitted supplemental data, and on February 29,

1988, the Panel unanimously recommended that the automated heparin analyzer be reclassified from class III into class II and that a low priority be assigned for the establishment of a performance standard. The Panel based its recommendation on its opinion that the controls of class II are sufficient to provide reasonable assurance of the safety and effectiveness of the automated heparin analyzer and that there is sufficient publicly available information to establish a performance standard to assure safety and effectiveness of the device. (See 57 FR 43161, September 18, 1992). HemoTec, Inc.'s petition contained scientific evidence that addressed the Panel's safety concerns that led to the device's initial classification as class III. Specifically, the Panel was concerned that the device would incorrectly report the level of heparin in the patient's circulation thereby placing the patient at risk of hemorrhage or thrombosis. The earlier automated heparin analyzer utilized predetermined or fixed doses of heparin and protamine normally required for other neutralization assays. The currently marketed automated heparin analyzer determines the level of heparin in blood by automatically detecting coagulation in a heparin/protamine titration procedure. This current device measures the relative activated clotting times of aliquots of a blood sample that have been added to increasing amounts of protamine in four channels of a cartridge. The clotting of the heparinized blood in the presence of the heparin-neutralizing protamine is detected using an optical method, and calculations for determining heparin and protamine doses are automatically performed, thereby reducing the probability of hemorrhage or thrombosis due to incorrectly reported heparin levels. Therefore, the Panel now believes that the use of the automated heparin analyzer does not present a potential unreasonable risk to the public health.

Accordingly, in the Federal Register of September 18, 1992 (57 FR 43161), FDA published a proposed rule to reclassify from class III into class II the automated heparin analyzer. Interested persons were given until November 17, 1992, to submit comments. FDA received no comments.

**I. FDA's Analysis and Conclusion**

FDA concludes that the generic automated heparin analyzer should be classified into class II and that a low priority should be assigned for the development of special controls. The agency also concludes that sufficient

new information in the form of publicly available valid scientific evidence exists for establishing special controls to provide reasonable assurance of the safety and effectiveness of the automated heparin analyzer for its intended use. The agency's decision is based on the recommendation of the Panel and review of the data and information contained in the administrative records referenced in the September 18, 1992 proposed rule.

Therefore, under section 513(e) of the act (21 U.S.C. 360c(e)), FDA is adopting the summary of reasons for the recommendation and the summary of data upon which the recommendation is based, and assessment of the risks to public health stated in the proposed rule published on September 18, 1992. FDA is also issuing a final rule that revises § 864.5680(b), thereby reclassifying the generic type of device, the automated heparin analyzer, from class III into class II.

Under the Medical Device Amendments of 1976 to the act, devices were to be classified in class I (general controls) if there was information showing that the general controls of the act were sufficient to provide reasonable assurance of safety and effectiveness; devices were to be classified in class II (performance standards) if there was insufficient information showing that general controls themselves would provide such assurance, but there was sufficient information to establish a performance standard that would provide such assurance; devices were to be classified in class III (premarket approval) if there was insufficient information to support placing a device in class I or class II and the device was life-sustaining or life-supporting or was for a use of substantial importance in preventing impairment of human health. As a minimum, all devices in any class were to be subject to the regulatory requirements of general controls.

The Safe Medical Devices Act of 1990 (the SMDA) amended the act to change the definition of a class II device. Under the SMDA, class II devices are those devices for which there is insufficient information to show general controls themselves will provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance, including the promulgation of a performance standard. Thus, the definition of a class II device was changed from "performance standards" to "special controls."

It is the agency's position that the SMDA does not require the agency to

obtain new reclassification recommendations from a panel which had recommended reclassification under the previous definition of class II. The panel recommended the automated heparin analyzer used to determine the heparin level in a blood sample by mixing the sample with protamine be reclassified from class III (premarket approval) to class II (performance standards). Under the SMDA, FDA may establish a performance standard, as well as establish other special controls, including postmarket surveillance, patient registries, guidelines, and other appropriate actions it believes necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, FDA's final determination was made under the standard set forth in the SMDA.

## II. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) 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.

## III. Economic Impact

Generally, reclassification of preamendments devices from class III into class II should not have any adverse economic impact because manufacturers are relieved of the cost of complying with the premarket approval requirements in section 515 of the act. Although there may be offsetting costs that a manufacturer of the device could incur to comply with provisions of special controls under section 514 of the act (21 U.S.C. 360d), any economic impact would be the result of actions taken to comply with the controls and not the act of reclassification, and these costs would not be likely to exceed costs that may be associated with the device in its present regulatory classification. Nonetheless, the economic impact of the establishment and promulgation of special controls will be assessed prior to their actual proposal as part of the agency's regulatory planning process under Executive Order 12291. After considering the economic consequences of reclassifying the device as discussed above, FDA concludes that this final rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (Pub. L. 96-354).

## List of Subjects in 21 CFR Part 864

Blood, Medical devices, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 864 is amended as follows:

## PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

1. The authority citation for 21 CFR part 864 continues to read as follows:

**Authority:** Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 864.5680 is amended by revising paragraph (b) and by removing paragraph (c) to read as follows:

**§ 864.5680 Automated heparin analyzer.**

\* \* \* \* \*

(b) *Classification.* Class II (special controls).

Dated: September 3, 1993.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

[FR Doc. 93-24279 Filed 10-1-93; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 602

[T.D. 8490]

### Limitations on Corporate Net Operating Loss

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final income tax regulations relating to the segregation of public groups following certain stock issuances for purposes of determining whether an ownership change has occurred under section 382 of the Internal Revenue Code of 1986, as amended. These regulations provide exceptions to the segregation rules contained in temporary regulations issued by the IRS on August 5, 1987. **DATES:** These regulations are effective October 7, 1993.

For dates of applicability of these regulations, see "Effective date" paragraph in the SUPPLEMENTARY INFORMATION portion of the preamble. **FOR FURTHER INFORMATION CONTACT:** Roberta F. Mann of the Office of Assistant Chief Counsel (Corporate),

Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:DOM:CORP:5) or telephone 202-622-7550 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1345. The estimated annual burden per respondent varies from 0.05 to 0.2 hours depending on individual circumstances, with an estimated average of 0.1 hour.

These estimates are approximations of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require more or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

##### Background

This document contains final and temporary regulations to be added to the Income Tax Regulations (26 CFR part 1) under section 382 of the Internal Revenue Code. The final regulations provide exceptions to the rules of the temporary regulations that require the segregation of public groups after issuances of stock. Proposed regulations on this subject were set forth in a notice of proposed rulemaking published in the *Federal Register* on November 5, 1992 (57 FR 52738). The IRS received public comments on the proposed regulations and held a public hearing on February 2, 1993. Having considered the comments and the statements made at the hearing, the IRS and the Treasury Department adopt the proposed regulations as revised by this Treasury decision.

##### Explanation of Provisions

The final regulations adopt the exceptions to the segregation rules provided in the proposed regulations,

with the clarifications and revisions described below.

##### A. Application of Cash Issuance Exception to Issuances for Both Cash and Noncash Consideration

The proposed regulations would have excepted from the segregation rules a portion of stock issued by a loss corporation "for cash." The proposed regulations would have provided that two or more related issuances are treated as a single issuance.

Commentators requested clarification of whether the cash issuance exception applies when a loss corporation issues stock for cash and, either in the same issuance or in a separate but related issuance, also issues stock for consideration other than cash.

The final regulations clarify that the cash issuance exception applies if a loss corporation issues stock solely for cash. A share of stock is not issued solely for cash, if, as a condition of acquiring that share for cash, the acquirer is required to purchase other stock for consideration other than cash.

##### B. Stock Issued Upon the Exercise of Rights Distributed Pro Rata to Existing Shareholders

The proposed regulations would have required a loss corporation to take into account subsequent transfers of any option issued on or after November 4, 1992 (including transfers described in § 1.382-2T(h)(4)(xi)), in applying the actual knowledge exception to the segregation rules on the exercise of the options. It was intended that operation of the segregation rules on the exercise (or deemed exercise) of transferable options issued pro rata to shareholders be the same as the operation of the rules on a stock offering.

To fully effectuate this intent, the final regulations provide that, if transferable options are issued to more than one public group, § 1.382-2T(j)(2)(iii)(F) does not apply to treat options as exercised pro rata by each public group that acquired the options.

##### C. Effective Date

As proposed, the regulations would have applied to issuances of stock in taxable years ending on or after November 4, 1992, the date on which the IRS filed the proposed regulations with the *Federal Register*. Taxpayers would have been allowed to elect to apply the rules of the proposed regulations to prior taxable years.

Commentators questioned the mandatory application of the proposed regulations to stock issuances occurring prior to the filing of the proposed regulations. The IRS and the Treasury

Department agree that the regulations should not mandatorily apply to a transaction that occurred before the taxpayer had notice of the proposed regulations. Therefore, the final regulations generally apply to issuances of stock in taxable years beginning on or after November 4, 1992. Taxpayers may elect, however, to apply the rules of the final regulations to issuances of stock occurring in taxable years beginning prior to November 4, 1992.

The final regulations also contain a special effective date for the rule relating to stock issued on the exercise of certain options described in B. of this preamble. This rule generally applies to stock issued on the exercise of options issued on or after November 4, 1992, unless the option was issued under a transitional rule previously published in Notice 92-54, 1992-2 C.B. 384.

##### D. Application of the Regulations to Farm Credit System Institutions

A commentator suggested that the regulations should contain a provision exempting Farm Credit System institutions from the application of the segregation rules. Exemption of FCS institutions from the application of the segregation rules is beyond the scope of these regulations. The Service and the Treasury Department are studying the application of the segregation rules to FCS institutions.

##### Special Analyses

It has been determined that these regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

##### Drafting Information

The principal author of these regulations is Roberta F. Mann, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 \* \* \* Section 1.382-3 also issued under 26 U.S.C. 382(m).

Par. 2. Section 1.382-1 is amended by revising the entries for § 1.382-3 (b) through (j), to read as follows:

§ 1.382-1 Table of contents.

§ 1.382-3 Definitions and rules relating to a 5-percent shareholder.

- (b) through (i) [Reserved]
- (j) Modification of the segregation rules of § 1.382-2T(j)(2)(iii) in the case of certain issuances of stock.
  - (1) Introduction.
  - (2) Small issuance exception.
    - (i) In general.
    - (ii) Small issuance defined.
    - (iii) Small issuance limitation.
      - (A) In general.
      - (B) Class of stock defined.
      - (C) Adjustments for stock splits and similar transactions.
      - (D) Exception.
        - (iv) Short taxable years.
    - (3) Other issuances of stock for cash.
      - (i) In general.
      - (ii) Solely for cash.
        - (A) In general.
        - (B) Related issuances.
    - (iii) Coordination with paragraph (j)(2) of this section.
    - (4) Limitation on exempted stock.
    - (5) Proportionate acquisition of exempted stock.
      - (i) In general.
      - (ii) Actual knowledge of greater overlapping ownership.
      - (6) Exception for equity structure shifts.
      - (7) Transitory ownership by underwriter disregarded.
      - (8) Certain related issuances.
      - (9) Application to options.
      - (10) Issuance of stock pursuant to the exercise of certain options.
      - (11) Application to first tier and higher tier entities.
      - (12) Certain non-stock ownership interests.
      - (13) Examples.
      - (14) Effective date.
        - (i) In general.

(ii) Effective date for paragraph (j)(10) of this section.

(iii) Election to apply this paragraph (j) retroactively.

- (A) Election.
- (B) Amended returns.
- (C) Revised information statements.

Par. 3. Section 1.382-2T is amended by:

1. Adding a sentence to the end of the concluding text of paragraph (j)(2)(iii)(B)(1).

2. Adding a sentence to the end of paragraph (j)(2)(iii)(D)(1).

3. Adding a sentence to the end of paragraph (j)(2)(iii)(F)(1).

4. The additions read as follows:

§ 1.382-2T Determination of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

- (j) \* \* \*
- (2) \* \* \*
- (iii) \* \* \*
- (B) \* \* \* (1) \* \* \*

\* \* \* See § 1.382-3(j) for exceptions to the segregation rules of this paragraph (j)(2)(iii)(B)(1).

(D) \* \* \* (1) \* \* \* See § 1.382-3(j)(9) for rules relating to this paragraph (j)(2)(iii)(D).

(F) \* \* \* (1) \* \* \* See § 1.382-3(j)(10) for an exception to the application of the rule of this paragraph (j)(2)(iii)(F)(1) to stock issued on the exercise of a transferable option.

Par. 4. In § 1.382-3, paragraph (j) is added to read as follows:

§ 1.382-3 Definitions and rules relating to a 5-percent shareholder.

(j) Modification of the segregation rules of § 1.382-2T(j)(2)(iii) in the case of certain issuances of stock—(1)

Introduction. This paragraph (j) exempts, in whole or in part, certain issuances of stock by a loss corporation from the segregation rules of § 1.382-2T(j)(2)(iii)(B). Terms and nomenclature used in this paragraph (j), and not otherwise defined herein, have the same meanings as in section 382 and the regulations thereunder.

(2) Small issuance exception—(i) In general. Section 1.382-2T(j)(2)(iii)(B) does not apply to a small issuance (as defined in paragraph (j)(2)(ii) of this section), except to the extent that the total amount of stock issued in that issuance and all other small issuances previously made in the same taxable year (determined in each case on issuance) exceeds the small issuance

limitation. This paragraph (j)(2) does not apply to an issuance of stock that, by itself, exceeds the small issuance limitation.

(ii) Small issuance defined. Small issuance means an issuance (other than an issuance described in paragraph (j)(6) of this section) by the loss corporation of an amount of stock not exceeding the small issuance limitation. For purposes of this paragraph (j)(2)(ii), all stock issued in the issuance is taken into account, including stock owned immediately after the issuance by a 5-percent shareholder that is not a direct public group.

(iii) Small issuance limitation—(A) In general. For each taxable year, the loss corporation may, at its option, apply this paragraph (j)(2)—

(1) On a corporation-wide basis, in which case the small issuance limitation is 10 percent of the total value of the loss corporation's stock outstanding at the beginning of the taxable year (excluding the value of stock described in section 1504(a)(4)); or

(2) On a class-by-class basis, in which case the small issuance limitation is 10 percent of the number of shares of the class outstanding at the beginning of the taxable year.

(B) Class of stock defined. For purposes of this paragraph (j)(2)(iii), a class of stock includes all stock with the same material terms.

(C) Adjustments for stock splits and similar transactions. Appropriate adjustments to the number of shares of a class outstanding at the beginning of a taxable year must be made to take into account any stock split, reverse stock split, stock dividend to which section 305(a) applies, recapitalization, or similar transaction occurring during the taxable year.

(D) Exception. The loss corporation may not apply this paragraph (j)(2)(iii) on a class-by-class basis if, during the taxable year, more than one class of stock is issued in a single issuance (or in two or more issuances that are treated as a single issuance under paragraph (j)(8)(ii) of this section).

(iv) Short taxable years. In the case of a taxable year that is less than 365 days, the small issuance limitation is reduced by multiplying it by a fraction, the numerator of which is the number of days in the taxable year, and the denominator of which is 365.

(3) Other issuances of stock for cash—

(i) In general. If the loss corporation issues stock solely for cash, § 1.382-2T(j)(2)(iii)(B) does not apply to such stock in an amount equal (as a percentage of the total stock issued) to one-half of the aggregate percentage

ownership interest of direct public groups immediately before the issuance.

(ii) *Solely for cash*—(A) *In general*. A share of stock is not issued solely for cash if—

(1) The acquiror, as a condition of acquiring that share for cash, is required to purchase other stock for consideration other than cash; or

(2) The share is acquired upon the exercise of an option that was not issued solely for cash or was not distributed with respect to stock.

(B) *Related issuances*. Paragraph (j)(8)(i) of this section (relating to the treatment of one or more issuances as a single issuance) does not apply in determining whether stock is issued solely for cash.

(iii) *Coordination with paragraph (j)(2) of this section*. This paragraph (j)(3) does not apply to a small issuance exempted in whole from § 1.382-2T(j)(2)(iii)(B) under paragraph (j)(2) of this section. In the case of a small issuance exempted in part from § 1.382-2T(j)(2)(iii)(B) under paragraph (j)(2) of this section, this paragraph (j)(3) applies only to the portion of the issuance not so exempted, and that portion is treated as a separate issuance for purposes of this paragraph (j)(3).

(4) *Limitation on exempted stock*. The total amount of stock that is exempted from the application of § 1.382-2T(j)(2)(iii)(B) under paragraphs (j)(2) and (j)(3) of this section cannot exceed the total amount of stock issued in the issuance less the amount of that stock owned by a 5-percent shareholder (other than a direct public group) immediately after the issuance. Except to the extent that the loss corporation has actual knowledge to the contrary, any increase in the amount of the loss corporation's stock owned by a 5-percent shareholder on the day of the issuance is considered to be attributable to an acquisition of stock in the issuance.

(5) *Proportionate acquisition of exempted stock*—(i) *In general*. Each direct public group that exists immediately before an issuance to which paragraph (j)(2) or (j)(3) of this section applies is treated as acquiring its proportionate share of the amount of stock exempted from the application of § 1.382-2T(j)(2)(iii)(B) under paragraph (j)(2) or (j)(3) of this section.

(ii) *Actual knowledge of greater overlapping ownership*. Under the last sentence of § 1.382-2T(k)(2), the loss corporation may treat direct public groups existing immediately before an issuance to which paragraph (j)(2) or (j)(3) of this section applies as acquiring in the aggregate more stock than the amount determined under paragraph (j)(5)(i) of this section, but only if the

loss corporation actually knows that the aggregate amount acquired by those groups in the issuance exceeds the amount so determined.

(6) *Exception for equity structure shifts*. This paragraph (j) does not apply to any issuance of stock in an equity structure shift, except that paragraph (j)(2) of this section applies (if its requirements are met) to the issuance of stock in a recapitalization under section 368(a)(1)(E).

(7) *Transitory ownership by underwriter disregarded*. For purposes of § 1.382-2T(g)(1) and (j), and this paragraph (j), the transitory ownership of stock by an underwriter of the issuance is disregarded.

(8) *Certain related issuances*. For purposes of this paragraph (j), two or more issuances (including issuances of stock by first tier or higher tier entities) are treated as a single issuance if—

(i) The issuances occur at approximately the same time pursuant to the same plan or arrangement; or

(ii) A principal purpose of issuing the stock in separate issuances rather than in a single issuance is to minimize or avoid an owner shift under the rules of this paragraph (j).

(9) *Application to options*. The principles of this paragraph (j) apply for purposes of applying § 1.382-2T(j)(2)(iii)(D) (relating to the deemed acquisition of stock as a result of the ownership of an option).

(10) *Issuance of stock pursuant to the exercise of certain options*. If stock is issued on the exercise of a transferable option issued by the loss corporation, § 1.382-2T(j)(2)(iii)(F) does not apply and, in applying the last sentence of § 1.382-2T(k)(2), the loss corporation must take into account any transfers of the option (including transfers described in § 1.382-2T(h)(4)(xi)). Therefore, even if transferable options are distributed pro rata to members of existing public groups, the actual knowledge exception of § 1.382-2T(k)(2) applies only to the extent that the loss corporation actually knows that the persons acquiring stock on exercise of the options are members of a pre-existing public group. Moreover, if transferable options are issued to more than one public group, § 1.382-2T(j)(2)(iii)(F) does not apply to treat the options as exercised pro rata by each such public group as the options are actually exercised.

(11) *Application to first tier and higher tier entities*. The principles of this paragraph (j) apply to issuances of stock by a first tier entity or a higher tier entity that owns 5 percent or more of the loss corporation's stock (determined

without regard to § 1.382-2T(h)(2)(i)(A)).

(12) *Certain non-stock ownership interests*. As the context may require, a non-stock ownership interest in an entity other than a corporation is treated as stock for purposes of this paragraph (j).

(13) *Examples*. The provisions of this paragraph (j) are illustrated by the following examples:

*Example 1.* (i) L corporation is a calendar year taxpayer. On January 1, 1994, L has 1,000 shares of a single class of common stock outstanding, all of which are owned by a single direct public group (Public L). On February 1, 1994, L issues to employees as compensation 60 new common shares of the same class. On May 1, 1994, L issues 50 new common shares of the same class solely for cash. Following each issuance, L's stock is owned entirely by public shareholders. No other changes in the ownership of L's stock occur prior to May 1, 1994. L chooses to determine its small issuance limitation for 1994 on a class-by-class basis under paragraph (j)(2)(iii)(A)(2) of this section.

(ii) The February issuance is a small issuance because the number of shares issued (60) does not exceed 100, the small issuance limitation (10 percent of the number of common shares outstanding on January 1, 1994). Under paragraph (j)(2) of this section, the segregation rules of § 1.382-2T(j)(2)(iii)(B) do not apply to the February issuance. Under paragraph (j)(5) of this section, Public L is treated as acquiring all 60 shares issued.

(iii) The May issuance is a small issuance because the number of shares issued (50) does not exceed 100, the small issuance limitation (10 percent of the number of common shares outstanding on January 1, 1994). However, under paragraph (j)(2) of this section, only 40 of the 50 shares issued are exempted from the segregation rules of § 1.382-2T(j)(2)(iii)(B) because the total number of shares of common stock issued in the February and May issuances exceeds 100, the small issuance limitation, by 10. Because the May issuance is solely for cash, paragraph (j)(3) of this section exempts 5 of the 10 remaining shares from the segregation rules of § 1.382-2T(j)(2)(iii)(B) (10 shares multiplied by 50 percent, one-half of Public L's 100 percent ownership interest immediately before the May issuance—1,060 shares/1,060 shares). Accordingly, under paragraph (j)(5) of this section, Public L is treated as acquiring 45 shares in the May issuance. Section 1.382-2T(j)(2)(iii)(B) applies to the remaining 5 shares issued, which are treated as acquired by a direct public group separate from Public L. Each such public group is treated as an individual who is a separate 5-percent shareholder. See § 1.382-2T(g)(1)(iv) and (j)(1)(ii).

(iv) Assume that L actually knows that at least 10 shares of the May issuance are acquired by members of Public L. The result is the same. See paragraph (j)(5)(ii) of this section.

(v) Assume instead that L actually knows that all 50 shares of the May issuance are acquired by members of Public L. Under

paragraph (j)(5)(ii) of this section, L may treat Public L as acquiring 50 shares in the May issuance.

**Example 2.** (i) L corporation is a calendar year taxpayer. On January 1, 1995, L has 1,000 shares of Class A common stock outstanding, the aggregate value of which is \$1,000. Five hundred shares are owned by one direct public group (Public 1), and 500 shares are owned by another direct public group (Public 2). On August 1, 1995, L issues 200 shares of Class B common stock for \$200 cash. A, an individual, acquires 120 Class B shares in the transaction. The remaining 80 Class B shares are acquired by public shareholders. No other changes in ownership of L's stock occur prior to August 1, 1995.

(ii) The August issuance is not a small issuance. The total value of the Class B stock issued (\$200) exceeds \$100, the small issuance limitation as calculated under paragraph (j)(2)(iii)(A)(1) of this section (10 percent of the value of L's stock on January 1, 1995). The total number of Class B shares issued (200) exceeds 0, the small issuance limitation as calculated under paragraph (j)(2)(iii)(A)(2) of this section (10 percent of the number of Class B shares outstanding on January 1, 1995). Accordingly, paragraph (j)(2) of this section does not apply to the August issuance.

(iii) Paragraph (j)(3) of this section, as limited by paragraph (j)(4) of this section, exempts 80 Class B shares from the segregation rule of § 1.382-2T(j)(2)(iii)(B). Paragraph (j)(3) of this section, without regard to paragraph (j)(4) of this section, would exempt 100 Class B shares: the product of the 200 Class B shares issued and 50 percent (one-half of the combined 100 percent pre-issuance ownership interest of Public 1 and Public 2). Paragraph (j)(4), however, limits the total number of Class B shares that may be excluded to 80 Class B shares: the difference between the 200 shares issued and the 120 shares acquired by A. Under paragraph (j)(5) of this section, Public 1 and Public 2 are treated as acquiring the 80 exempted Class B shares. Because Public 1 and Public 2 each owned 500 Class A shares prior to the issuance, Public 1 and Public 2 are considered to acquire 40 Class B shares each.

**Example 3.** (i) L has 1,000 shares of a single class of common stock outstanding, all of which are owned by a direct public group (Public L). At the same time pursuant to the same plan, L issues 500 shares of its stock to its creditors in exchange for its outstanding debt and 500 shares of its stock to the public for cash. Assume that the separate issuances of stock for debt and stock for cash do not have a principal purpose of minimizing or avoiding an owner shift. L has no individual 5-percent shareholders immediately after the issuances.

(ii) The 500 shares of stock issued by L to its former creditors were not issued solely for cash. Therefore, paragraph (j)(3) of this section does not apply to those 500 shares, which are treated as owned by a public group separate from Public L. See § 1.382-2T(j)(2)(iii)(B)(1)(ii).

(iii) Paragraph (j)(3) of this section applies to the 500 shares of stock issued by L to the public because that stock was issued solely

for cash. Because the two issuances occur at the same time pursuant to the same plan, they are generally treated as a single issuance for purposes of this paragraph (j). See paragraph (j)(8)(i) of this section. The treatment of the two issuances as a single issuance does not apply, however, for the purpose of determining whether the stock issued to the public was issued solely for cash. See paragraph (j)(3)(ii)(B) of this section.

(iv) Paragraph (j)(3) of this section applies to exempt 250 of the 500 shares issued solely for cash from the segregation rules of § 1.382-2T(j)(2)(iii)(B) (the product of the 500 shares issued for cash and 50 percent (one-half of the 100 percent pre-issuance ownership interest of Public L)). The creditors that receive stock in exchange for their debt would not be treated as acquiring any of the 250 exempted shares even if their exchange of debt for stock occurs prior to the cash issuance. Paragraph (j)(5)(i) of this section allocates exempted shares among the direct public groups that exist immediately before an issuance. Because the issuance for cash and the issuance for debt are generally treated as a single issuance, the public group comprised of the former creditors of L was not a public group that existed immediately before the issuance.

(v) Three public groups owning L stock exist immediately after the two issuances. Public L owns 1,250 shares—the 1,000 shares it owned prior to the issuances plus the 250 shares it is treated as acquiring in the cash issuance. A separate group comprised of the former creditors of L owns the 500 shares issued for debt. A third public group owns the 250 shares that are not treated as acquired by Public L in the cash issuance.

**Example 4.** (i) L has 1,000 shares of a single class of common stock outstanding, all of which are owned by a direct public group (Public L). L issues 1,000 shares pursuant to an offer under which 500 shares must be acquired in exchange for debt and the remainder may be acquired for cash. Under the terms of the offer, only persons that acquire stock for debt are eligible to acquire stock for cash. L has no 5-percent shareholders other than direct public groups immediately after the issuance.

(ii) As a condition of acquiring shares for cash, the creditors are required to purchase stock for debt. Therefore, paragraph (j)(3) of this section does not apply to any part of the issuance because it is not an issuance of stock solely for cash. The segregation rules of § 1.382-2T(j)(2)(iii)(B) apply to treat all 1,000 shares as acquired by a new public group separate from Public L.

(14) **Effective date—(i) In general.** Except as otherwise provided in this paragraph (j)(14), this paragraph (j) applies to issuances or deemed issuances of stock in taxable years beginning on or after November 4, 1992.

(ii) **Effective date for paragraph (j)(10) of this section.** Paragraph (j)(10) of this section applies to stock issued on or after the exercise of an option issued on or after November 4, 1992, unless the option was issued before May 4, 1993, and the

issuer, on or before November 4, 1992, filed a registration statement with the Securities and Exchange Commission (or a comparable document with a State agency regulating securities) for the specific purpose of such issuance.

(iii) **Election to apply this paragraph (j) retroactively—(A) Election.** A loss corporation may elect to apply paragraphs (j)(1) through (j)(13) of this section to all issuances or deemed issuances of stock to which § 1.382-2T(j)(2)(iii)(B) or (D) applied (or would have applied taking paragraph (j)(7) of this section into account) occurring in taxable years beginning prior to November 4, 1992. This election is made by filing with the loss corporation's first income tax return filed more than 60 days after October 4, 1993, the statement, "This is an Election to Apply § 1.382-3(j) Retroactively," accompanied by the amended returns and revised information statements described in paragraphs (j)(14)(iii)(B) and (C) of this section. An election under this paragraph (j)(14)(iii) is irrevocable.

(B) **Amended returns.** If the retroactive application of the rules of this paragraph (j) affects the amount of taxable income or loss for a prior taxable year, then, except as precluded by the applicable statute of limitations, the loss corporation (or the common parent of any consolidated group of which the loss corporation was a member for the year) must file an amended return for the year that reflects the effects of the retroactive application of the rules of this paragraph (j). If the statute of limitations precludes the filing of an amended return for one or more such prior taxable years, the loss corporation (or the common parent) must make appropriate adjustments under the principles of section 382(l)(2)(A) in subsequent taxable years to reflect the difference between the losses and credits actually used in such prior taxable years and the amount that would have been used in those years applying the rules of this paragraph (j).

(C) **Revised information statements.** If the retroactive application of the rules of this paragraph (j) affects the information reported on an information statement filed for any prior taxable year pursuant to § 1.382-2T(a)(2)(ii), then the loss corporation (or the common parent of any consolidated group of which the loss corporation was a member for the year) must file a revised information statement for the year that reflects the retroactive application of the rules of this paragraph (j).

\* \* \* \* \*

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 5.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 6.** Section 602.101(c) is amended by revising the entry in the table for 1.382-3 to read as follows:

**§ 602.101 OMB Control numbers.**

CFR part or section where identified and described	Current OMB control No.
1.382-3	1545-1345

Margaret Milner Richardson,  
Commissioner of Internal Revenue.

Approved:  
Samuel Y. Sessions,  
Assistant Secretary of the Treasury (Tax Policy).  
[FR Doc. 93-24315 Filed 10-1-93; 8:45 am]  
BILLING CODE 4830-01-U

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Parts 175 and 181**

**46 CFR Part 160**

[CGD 92-045]

RIN 2115-AE26

**Recreational Boating Safety Equipment Requirements**

**AGENCY:** Coast Guard, DOT.  
**ACTION:** Final rule; correction.

**SUMMARY:** This notice corrects spelling and technical errors in the preamble and regulatory language of a final rule published in the Federal Register on August 4, 1993 (57 FR 41602). The final rule changed a number of Federal requirements for carriage of personal flotation devices (PFDs) on certain recreational vessels.

**EFFECTIVE DATE:** This rule is effective on October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carlton Perry, Auxiliary, Boating, and Consumer Affairs Division, (202) 267-0979.

**Corrections**

1. On page 41603, first column, correct the second paragraph by revising the last sentence in it to read as follows:

"In addition, the statistics indicate that of the 4-year total (830) reported fatalities involving manually propelled boats, about 62% of the boats of known length were under 16 feet in length."

2. On page 41603, first column, fourth paragraph, 5th line, replace the name "Balistreria" with "Balistreri", the correct spelling for Balistreri Consulting, Inc.

3. On page 41605, second column, third paragraph, correct the last sentence by replacing the phrase "16 feet in length and under" with "under 16 feet", the correct phrase describing the applicable vessel length category.

4. On page 41608, second column, in 33 CFR 175.17, by correctly revising paragraphs (a)(1), introductory text, (e)(1), (g)(1) and (2); and correctly adding paragraph (g)(3) to read as follows:

**§ 175.17 Exemptions.**

(a) \* \* \*  
(1) The approval label on the Type V PFD indicates that the device is approved:

(e) \* \* \*  
(1) A USCG approved inflatable PFD for commercial submersibles; or

(g) \* \* \*  
(1) Leased or rented to another for the latter's pleasure as part of a livery or rental business;  
(2) Manually-propelled; and  
(3) Under 16 feet in length.

Dated: September 24, 1993.

W.J. Ecker,  
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.  
[FR Doc. 93-24209 Filed 10-01-93; 8:45 am]  
BILLING CODE 4910-14-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 64**

[Docket No. FEMA-7584]

**Suspension of Community Eligibility**

**AGENCY:** Federal Insurance Administration, FEMA.  
**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program

(NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register. **EFFECTIVE DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood

Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this

final rule may take effect within less than 30 days.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

**Regulatory Impact Analysis**

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

**Paperwork Reduction Act**

This rule does not involve any collection of information for purposes of

the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

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

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

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

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
<b>Regular Program Conversions</b>				
<b>Region I:</b>				
Maine: Abbot, Town of Piscataquis County.	230406	Apr. 21, 1976, Emerg; Sept. 15, 1978, Reg.; Sept. 30, 1993, Susp.	Sept. 30, 1993 ..	Sept. 30, 1993.
<b>Region III:</b>				
Pennsylvania: Trainer, Borough of Delaware County.	420437	Dec. 10, 1971, Emerg.; Sept. 30, 1977, Reg.; Sept. 30, 1993, Susp.	Sept. 30, 1993 ..	Do.
<b>Region V:</b>				
Wisconsin: Outagamie County Unincorporated Areas.	550302	Jan. 14, 1972, Emerg.; Sept. 30, 1977, Reg.; Sept. 30, 1993, Susp.	Sept. 30, 1993 ..	Do.
<b>Region IX:</b>				
California: Highland, City of San Bernardino County.	060732	Oct. 19, 1989, Reg.; Sept. 30, 1993, Susp ..	Sept. 30, 1993 ..	Do.
<b>Region III:</b>				
Virginia: Roanoke, City of Independent County.	510130	Sept. 11, 1973, Emerg.; Nov. 4, 1981, Reg.; Oct. 15, 1993, Susp..	Oct. 15, 1993 ....	Oct. 15, 1993.
Roanoke County Unincorporated Areas.	510190	Oct. 11, 1973, Emerg.; Oct. 17, 1978, Reg.; Oct. 15, 1993, Susp.	Oct. 15, 1993 ....	Do.
Salem, City of Independent City .....	510141	Mar. 8, 1974, Emerg.; Sept. 2, 1981, Reg.; Oct. 15, 1993, Susp.	Oct. 15, 1993 ....	Do.
Vinton, Town of Roanoke County ...	510131	Mar. 6, 1974, Emerg.; Mar. 15, 1978, Reg.; Oct. 15, 1993, Susp.	Oct. 15, 1993 ....	Do.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: September 22, 1993.

**Donald L. Collins,**

*Assistant Administrator, Federal Insurance Administration.*

[FR Doc. 93-24015 Filed 10-1-93; 8:45 am]

BILLING CODE 6718-21-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 93-172; RM-8261]

**Television Broadcasting Services; Cimarron, Kansas**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots UHF Television Channel 23 to Cimarron, Kansas, as that community's first local television transmission service in response to a petition filed by Clear Channel Television Licenses, Inc. See 58 FR 36374, July 7, 1993. The coordinates for Channel 23 are 37-48-41 and 100-22-38. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** November 12, 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. 93-172, adopted September 8, 1993, and released September 28, 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 20037, (202) 857-3800.

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

Television broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

**PART 73—[AMENDED]**

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

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

**§ 73.606 [Amended]**

2. Section 73.606(b), the Table of TV Allotments under Kansas, is amended by adding Cimarron, Channel 23.

Federal Communications Commission.

**Victoria M. McCauley,**

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

[FR Doc. 93-24232 Filed 10-1-93; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 93-167; RM-8256]

**Radio Broadcasting Services; Chillicothe, Missouri**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document substitutes Channel 280C3 for Channel 280A at Chillicothe, Missouri, and modifies the license for Station KCHI-FM to specify operation on Channel 280C3 in response to a petition filed by Livingston Broadcasting Corporation. See 58 FR 34555, June 28, 1993. The coordinates for Channel 280C3 at Chillicothe are 39-45-15 and 93-27-09. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** November 12, 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. 93-167, adopted September 8, 1993, and released September 28, 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 20037, (202) 857-3800.

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

Radio broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

**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 Missouri, is amended by removing Channel 280A and adding Channel 280C3 at Chillicothe.

Federal Communications Commission.

**Victoria M. McCauley,**

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

[FR Doc. 93-24230 Filed 10-1-93; 8:45 am]

BILLING CODE 6712-D1-M

**47 CFR Part 73**

[MM Docket No. 93-173; RM-8262]

**Television Broadcasting Services; Hoisington, Kansas**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots UHF Television Channel 14 to Hoisington, Kansas, as that community's first local television service in response to a petition filed by Clear Channel Television Licenses, Inc. See 58 FR 36375, July 7, 1993. The coordinates for Channel 14 are 38-31-00 and 98-46-38. The allotment of Channel 14 to Hoisington requires a plus offset. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** November 12, 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. 93-173, adopted September 8, 1993, and released September 28, 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 20037, (202) 857-3800.

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

Television broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

**PART 73—[AMENDED]**

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

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

**§ 73.606 [Amended]**

2. Section 73.606(b), the Table of TV Allotments under Kansas, is amended by adding Hoisington, Channel 14.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93-24231 Filed 10-1-93; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 93-120; RM-8217]

**Radio Broadcasting Services; New Boston, TX**

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** The Commission, at the request of Louis M. Basso, III allots Channel 236A to New Boston, Texas. See 58 FR 27256, May 7, 1993. Channel 236A can be allotted to New Boston, Texas, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for the allotment of Channel 236A to New Boston are North Latitude 33-27-36 and West Longitude 94-25-18. With this action, this proceeding is terminated.

**DATES:** Effective November 12, 1993. The window period for filing applications will open on November 15, 1993, and close on December 15, 1993.

**FOR FURTHER INFORMATION CONTACT:**

Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 93-120, adopted September 10, 1993, and released September 28, 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, ITS, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Radio broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

**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 Texas, is amended by adding Channel 236A at New Boston.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93-24235 Filed 10-1-93; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 642**

[Docket No. 930791-3191; ID 092893D]

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure of commercial fishery for king mackerel.

**SUMMARY:** NMFS closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the western zone of the Gulf migratory group. NMFS has determined that the commercial quota for Gulf group king mackerel from the western zone was reached on September 30, 1993. This closure is necessary to protect the overfished Gulf king mackerel resource.

**EFFECTIVE DATE:** Closure is effective on October 1, 1993, through June 30, 1994.

**FOR FURTHER INFORMATION CONTACT:** Mark F. Godcharles, 813-893-3161.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 642, under the authority of the Magnuson Fishery Conservation and Management Act.

Catch limits recommended by the Councils and implemented by NMFS for the Gulf of Mexico migratory group of king mackerel for the current fishing year (July 1, 1993, through June 30, 1994) set the commercial allocation at 2.50 million pounds (1.13 million kg)

divided into quotas of 1.73 million pounds (0.78 million kg) for the eastern zone and 0.77 million pounds (0.35 million kg) for the western zone. The boundary between the eastern and western zones is a line directly south from the Florida/Alabama boundary (87°31'06"W. longitude).

Under § 642.26(a), NMFS is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the *Federal Register*. NMFS has determined that the commercial quota of 0.77 million pounds (0.35 million kg) for the western zone of the Gulf migratory group of king mackerel was reached on September 30, 1993. Hence, the commercial fishery for Gulf group king mackerel from the western zone is closed effective 12:01 a.m., local time, October 1, 1993, through June 30, 1994, the end of the fishing year.

Except for a person aboard a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ king mackerel from the western zone. A person aboard a charter vessel may continue to fish for king mackerel in the western zone under the bag limit set forth in § 642.24(a)(1)(i), provided the vessel is under charter and the vessel has an annual charter vessel permit, as specified in § 642.4(a)(2). A charter vessel with a permit to fish on a commercial allocation is under charter when it carries a passenger who fishes for a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the western zone taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

**Classification**

This action is required by 50 CFR 642.26(a) and complies with E.O. 12291.

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

**List of Subjects in 50 CFR Part 642**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 28, 1993.

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

[FR Doc. 93-24308 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register

Vol. 58, No. 190

Monday, October 4, 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.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 317 and 318

[Docket No. 89-022P]

RIN 0583-AB15

#### Ascorbic Acid, Erythorbic Acid, Citric Acid, Sodium Ascorbate, and Sodium Citrate on Beef, Lamb, and Pork Cuts

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to permit the application of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, to the surface of fresh beef cuts or fresh lamb cuts to delay discoloration of such cuts. Use of these substances will result in the preservation of a fresh color and appearance throughout the product's microbiological shelf life. This action is in response to petitions submitted by Wilson Foods Corporation. In addition, FSIS proposes to amend the regulations to clarify the permitted use and levels of such substances on fresh pork cuts, and revise the purpose of these substances from "to maintain color" to "delay discoloration" for clarification. Preserving the fresh color and appearance of beef and lamb cuts increases the marketability of such products, therefore, losses to manufacturers due to color deterioration would be reduced.

**DATES:** Comments must be received on or before November 3, 1993.

**ADDRESSES:** Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under "SUPPLEMENTARY INFORMATION.")

#### FOR FURTHER INFORMATION CONTACT:

Charles R. Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 254-2565.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in export or domestic markets.

##### Executive Order 12778

This proposed rule concerns the use of substances in meat products. States are precluded from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat products that are in addition to, or different than those imposed under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 678). States may, however, exercise concurrent jurisdiction over meat products that are outside official establishments for the purpose of preventing the distribution of meat products that are misbranded or adulterated under the FMIA, or, in the case of imported articles which are not at such an establishment, after their entry into the United States. States that conduct meat inspection programs must impose requirements at least equal to those imposed on federally inspected products and establishments under the FMIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule.

#### Effect on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposal would allow the application of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, to the surface of fresh beef cuts or fresh lamb cuts to delay discoloration. This proposed rule would impose no new requirements on industry. Current regulations already allow these substances to be applied to the surface of fresh pork cuts. The meat industry would benefit from this proposed action because by preserving the fresh color and appearance of beef cuts and lamb cuts for a longer period of time, the marketability of these products should increase, thereby reducing the losses to manufacturers due to color deterioration of beef cuts and lamb cuts. Manufacturers, both large and small, opting to use such substances in the proposed manner would be required to revise the ingredients statement on product labels to show the presence of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and/or sodium citrate. However, the use of these substances would be voluntary and any costs associated with new label applications would be covered under existing approved paperwork requirements of FSIS's prior label approval system.

Manufacturers choosing to apply ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, to fresh beef cuts and fresh lamb cuts would be required to develop and maintain a partial quality control (PQC) program, and would thus incur expenses associated with maintaining the PQC program. Decisions by individual manufacturers on whether to use such substances on the surface of fresh beef and fresh lamb cuts would be based on their conclusions that the benefits would outweigh the costs of maintaining the required PQC program.

#### Paperwork Requirements

Manufacturers opting to apply ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, or sodium citrate to fresh beef and lamb cuts would be required to develop and maintain a partial quality control (PQC)

program. FSIS would receive, evaluate, and either approve or disapprove requests for such PQC programs. The PQC program would be placed on file in the establishment and be available to any duly authorized representative of the Secretary. The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for approval.

#### Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 89-022P. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

#### Background

On December 13, 1988, and October 24, 1991, Wilson Foods Corporation, Oklahoma City, Oklahoma, submitted petitions, along with supporting technical data, to FSIS to permit the application of ascorbic acid, erythorbic acid, sodium ascorbate, citric acid and sodium citrate, singly or in combination, to fresh beef cuts and fresh lamb cuts to delay discoloration of the meat cuts.<sup>1</sup> The intended effect of ascorbic acid, erythorbic acid, and sodium ascorbate is to serve as antioxidants; the intended effect of citric acid and sodium citrate is to serve as sequestrants. The petitioner's data demonstrate that the required amount to accomplish the intended effects, singly or in combination, would be at levels not to exceed 500 ppm or 1.8 milligrams (mg) per square inch of the product's surface of ascorbic acid, erythorbic acid, or sodium ascorbate, and/or not to exceed 250 ppm or 0.9 mg per square inch of the product's surface of citric acid or sodium citrate. The data submitted by the petitioner were the results of experiments on products which were packaged in a modified atmosphere of carbon dioxide, oxygen, and nitrogen. However, this rulemaking concerns the addition of substances, rather than packaging gases, which are not a part of this rule.

The petitioner's data further demonstrate that such treatments result in delaying undesirable discoloration of the product for a period of time that

does not exceed the product's microbiological shelf life. Fresh beef cuts and fresh lamb cuts treated with the substances mentioned above and stored at refrigerator temperature will remain wholesome for up to 21 days. Loss of the "fresh" color and marketability of beef cuts and lamb cuts occurs before the product becomes microbiologically unsafe. Because of the change to a darker color of the product before spoilage, consumers are reluctant to purchase fresh beef or lamb cuts.

#### Current Regulations

Section 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) allows the use of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate on fresh pork cuts to maintain color at levels not to exceed either 500 ppm or 1.8 mg/sq inch of surface of ascorbic acid, erythorbic acid or sodium ascorbate, singly or in combination, and/or not to exceed either 250 ppm or 0.9 mg/sq inch of surface of citric acid or sodium citrate, singly or in combination. In addition, 9 CFR 318.7(c)(4) requires the use of such substances under an approved PQC program under 9 CFR 318.4 (d) and (e). Section 317.8(b)(37) of the Federal meat inspection regulations (9 CFR 317.8(b)(37)) requires that when ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, are added to fresh pork cuts, there shall appear on the label of that product, in letters of the same style and type and not less than one-fourth the size of letters in the product name, contiguous to the name of the product, a statement identifying the specific approved substance(s) by its common name and the purpose for which it is added, such as "Sprayed with a solution of water, ascorbic acid and citric acid to maintain color."

The Food and Drug Administration (FDA) lists ascorbic acid in 21 CFR 182.3013, erythorbic acid in 21 CFR 182.3041, and sodium ascorbate in 21 CFR 182.3731 as generally recognized as safe (GRAS) when used in accordance with good manufacturing practices for use as preservatives. FDA lists citric acid in 21 CFR 182.6033 and sodium citrate in 21 CFR 182.6751 as GRAS when used in accordance with good manufacturing practices for use as sequestrants.

#### The Proposal

FSIS proposes to permit the application of ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate, singly or in combination, to the surface of fresh beef

cuts or fresh lamb cuts to delay discoloration of such meat cuts. The amount of these substances used, singly or in combination, to achieve the intended technical effects would not be more than 500 ppm or 1.8 milligrams per square inch of product surface area for ascorbic acid, erythorbic acid or sodium ascorbate, and/or not more than 250 ppm or 0.9 milligrams per square inch of surface area for citric acid or sodium citrate. The Administrator finds that: (1) The proposed use of these substances would be in compliance with applicable FDA requirements, (2) their use would be functional and suitable for the intended products, (3) the substances would be used at the lowest level necessary to accomplish their intended technical effects, and (4) the use of these substances in fresh beef and lamb cuts at the proposed levels would not render the treated product adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act.

Processors who apply these substances to cuts of fresh beef and lamb would be required to follow an approved PQC program as set forth in 9 CFR 318.4(d). Neither processing of such products nor distribution of such products in commerce would be permitted until such PQC programs are approved and utilized according to the requirements set forth in 9 CFR 318.4(e). All such PQC programs would be required to cover certain critical control points, including: (1) The condition of the meat before treatment (it must be fresh or previously frozen and maintained in a wholesome condition, evidenced by time and temperature records from the point of slaughter), (2) solution formulation control, (3) single application control, (4) finished product ingredient analysis monitoring, and (5) integrity of the packaging during storage, transportation, and distribution. This would ensure that these substances applied to the surface of the meat cuts to delay discoloration would not be applied in excessive amounts; therefore, the discoloration of the cuts would occur before the onset of microbiological spoilage.

Cuts of fresh pork treated with ascorbic acid, erythorbic acid, sodium ascorbate, sodium citrate and citric acid are currently required by 9 CFR 317.8(b)(37) to be labeled with a statement identifying these substances by their common and usual name and the purpose for which they are used; e.g., "Sprayed with a solution of water, ascorbic acid and citric acid to maintain color." This statement is required to be shown on the label in a prominent manner, contiguous to the product

<sup>1</sup> Copies of the petitions and supporting technical data are available for public review in the office of the FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

name, in letters of the same style and type and not less than one-fourth the size of the largest letter in the product name. The Agency is reassessing its overall policy regarding prominent labeling and intends to issue a proposed rule in the near future to eliminate unnecessary product qualifiers that identify the presence of a substance that does not significantly alter the basic identity of the finished product. Such proposed rule would include the elimination of product qualifiers on fresh pork cuts treated with ascorbic acid, erythorbic acid, sodium ascorbate, sodium citrate and citric acid. FSIS believes that such action would not deprive consumers of informative labeling because all substances used in the preparation of a product are required to be listed in the ingredients statement (9 CFR 317.2(f)(1)). Today's consumer relies upon the ingredients statement as the source of information on the composition of a food product.

Section 317.8(b)(6) of the Federal meat inspection regulations (9 CFR 317.8(b)(6)) prohibits the word "fresh" on labels to designate product which has been salted for preservation. Therefore, the word "fresh" would not be allowed to be used on the labels of

products treated with ascorbic acid, erythorbic acid, sodium ascorbate, sodium citrate, and citric acid.

This proposal would amend the table of approved substances in 9 CFR 318.7 by revising the current entry for the Class of substance titled "Miscellaneous," under the Substance column for "Ascorbic acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate" to include such use on fresh beef and lamb cuts, along with the existing use on fresh pork cuts. In addition, the entry would be revised to clarify the permitted use and levels of such substances on fresh pork cuts. This proposal would also revise the purpose of these substances from "to maintain color" to "delay discoloration" for clarification.

For reasons explained in this preamble, FSIS is proposing to amend 9 CFR parts 317 and 318 of the Federal meat inspection regulations to read as follows:

**List of Subjects**

**9 CFR 317**

Meat inspection, Food labeling.

**9 CFR 318**

Meat inspection, Food additives.

**PART 317—LABELING, MARKING DEVICES, AND CONTAINERS**

1. The authority citation for part 317 would continue to read as follows:

**Authority:** 21 U.S.C. 601-695; 7 CFR 2.17, 2.55.

2. Section 317.8 would be amended by removing and reserving paragraph (b)(37).

**PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS**

3. The authority citation for part 318 would continue to read as follows:

**Authority:** 7 U.S.C. 450, 1901-1906; 21 U.S.C. 601-695; 7 CFR 2.17, 2.55.

4. In the table in § 318.7(c)(4) under the Class of substance "Miscellaneous," the entry under the Substance "Ascorbic Acid, erythorbic acid, citric acid, sodium ascorbate, and sodium citrate" would be revised to read as follows:

**§ 318.7 Approval of substances for use in the preparation of products.**

\* \* \* \* \*  
(c) \* \* \*  
(4) \* \* \*

Class of substance	Substance	Purpose	Product	Amount
Miscellaneous.	Ascorbic acid, erythorbic acid, citric acid, sodium ascorbate and sodium citrate, singly or in combination, under an approved partial quality control (PQC) program (9 CFR 318.4 (d) & (e)).	To delay discoloration ..	Fresh beef cuts, fresh lamb cuts, and fresh pork cuts.	Not to exceed, singly or in combination, 500 ppm or 1.8 mg/sq inch of product surface of ascorbic acid (in accordance with 21 CFR 182.3013), erythorbic acid (in accordance with 21 CFR 182.3041), or sodium ascorbate (in accordance with 21 CFR 182.3731); and/or not to exceed, singly or in combination, 250 ppm or 0.9 mg/sq inch of product surface of citric acid (in accordance with 21 CFR 182.6033), or sodium citrate (in accordance with 21 CFR 182.6751).

Done at Washington, DC, on September 23, 1993.

Eugene Branstool,  
Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-24252 Filed 10-1-93; 8:45 am]

BILLING CODE 3410-DM-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 93-CE-21-AD]

**Airworthiness Directives: Fairchild Aircraft SA226 and SA227 Series Airplanes**

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

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

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes. The proposed action would require repetitively visually inspecting the wing skin for cracks; dye penetrant inspecting the spar straps if the wing skin is found cracked; and repairing the spar straps and modifying the wing skin if cracks are found in the spar straps. It also would provide the option of modifying the wing skin as terminating action for the repetitive inspections. Repeated bending of the wing during service has caused upper

wing skin cracking on several of the affected airplanes. The actions specified by the proposed AD are intended to prevent failure of the wing skin at the lower edge of the nacelle and battery box, which could result in structural damage to the wing.

**DATES:** Comments must be received on or before November 30, 1993.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-CE-21-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490; Telephone (512) 824-9421. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 4400 Blue Mound Road, Fort Worth, Texas 76193-0150; Telephone (817) 624-5155; Facsimile (817) 740-3394.

#### 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 should 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 that summarizes 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 No. 93-CE-21-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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-CE-21-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

##### Discussion

The FAA has received several reports of repeated bending of the wing during service on certain Fairchild Aircraft SA226 and SA227 series airplanes. This bending has resulted in cracks in the upper wing skin at the lower edge of the nacelle and battery box on the affected airplanes. If not detected and corrected, wing skin cracking could result in structural damage to the wing.

Fairchild Aircraft has issued: (1) Service Bulletin (SB) 226-57-018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); (2) SB 227-57-005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); and (3) SB CC7-57-002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12). These service bulletins specify procedures for inspecting and modifying the upper wing skin on Fairchild Aircraft SA226 and SA227 series airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that AD action should be taken to prevent failure of the wing skin at the lower edge of the nacelle and battery box, which could result in structural damage to the wing.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA226 and SA227 series airplanes of the same type design, the proposed AD would require repetitively visually inspecting the wing skin for cracks; and dye penetrant inspecting the spar straps if the wing skin is found cracked; and repairing the spar straps and modifying the wing skin if cracks are found in the spar straps. It also would provide the option of modifying the wing skin as terminating action for the repetitive inspections. The proposed actions would be accomplished in accordance

with the service information previously described, as applicable.

The FAA estimates that 776 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed visual inspection on both wings, and that the average labor rate is approximately \$55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$42,680. These figures take into account that none of the affected airplane operators have accomplished the proposed inspection-terminating modification.

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 action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 has been placed 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 AD:

**Fairchild Aircraft:** Docket No. 93-CE-21-AD.

**Applicability:** The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
SA226-T .....	T201 through T275, and T277 through T291.
SA226-T(B) .	T(B)276, and T(B)292 through T(B)417.
SA226-AT ....	AT001 through AT074.
SA226-TC ....	TC201 through TC419.
SA227-TT ....	TT421 through TT541.
SA227-AT ....	AT423 through AT631, and AT695.
SA227-AC ...	AC406, AC415, AC416, and AC420 through AC789.
SA227-BC ...	BC420 through BC789.
SA227-CC ...	CC784, and CC790 through CC822.
SA227-DC ...	DC784, and DC790 through DC822.

**Compliance:** Required initially upon the accumulation of 2,500 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter as indicated.

To prevent failure of the wing skin at the lower edge of the nacelle and battery box, which could result in structural damage to the wing, accomplish the following:

**Note 1:** The paragraph structure of this AD is as follows:

- Level 1: (a), (b), (c), etc.
- Level 2: (1), (2), (3), etc.
- Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Visually inspect the right and left upper skin by the lower edge of the wing skin and battery box for cracks in accordance with Figure 1 and the ACCOMPLISHMENT INSTRUCTIONS, A. Inspection, section of whichever of the following is applicable:

(1) Fairchild Service Bulletin (SB) 226-57-018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12);

(2) Fairchild SB 227-57-005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or

(3) Fairchild Aircraft SB CC7-57-002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12).

(b) If cracks are not found during the visual inspection required by paragraph (a) of this AD, within 500 hours TIS after this initial visual inspection, accomplish one of the following:

(1) Reinspect the right and left upper wing skin by the lower edge of the nacelle and battery box for cracks in accordance with Figure 1 and the ACCOMPLISHMENT

INSTRUCTIONS, A. Inspection, section of the applicable service information presented in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, and reinspect thereafter at intervals not to exceed 500 hours TIS; or

(2) Modify the upper wing skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Accomplishing this modification does not require the repetitive visual inspections that are specified in paragraph (b)(1) of this AD, and the modification may be accomplished at any time to eliminate this repetitive inspection requirement.

(c) If cracks are found during the inspection required by paragraph (a) of this AD, prior to further flight, dye penetrant inspect the 27-31130 straps in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal section, paragraph (7), of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) If cracks are found in either of the 27-31130 straps during the inspection required by paragraph (c) of this AD, prior to further flight, accomplish the following:

(i) Repair the 27-31130 strap in accordance with a scheme obtained from the manufacturer through the Fort Worth Airplane Certification Office at the address specified in paragraph (d) of this AD; and

(ii) Modify the upper wing skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(2) If no cracks are found in either of the 27-31130 straps, within 50 hours TIS after the initial dye penetrant inspection required by paragraph (c) of this AD, accomplish one of the following:

(i) Reinspect (dye penetrant) the edges of the spar straps (27-31130) in the wheel wells for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B.

Removal, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable, and if no cracks are found, continue to reinspect at intervals not to exceed 50 hours TIS; or

(ii) Modify the upper wing skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Accomplishing this modification does not require the repetitive dye penetrant inspections that are specified in paragraph (c)(2)(i) of this AD, and the modification may be accomplished at any time to eliminate this repetitive inspection requirement.

**Note 2:** The modification specified in paragraphs (b)(2), (c)(1)(ii), and (c)(2)(ii) of this AD is already accomplished through the incorporation of Approved Repair Procedure 57-20-9232, Initial Issue, or Revision A, B, or C; Limited Approve Repair 93-FA-120, Initial Issue; or Limited Approve Repair 93-FA-040, Initial Issue or Revision A.

(d) 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.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, Fort Worth, Texas 76193-0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 24, 1993.

**Barry D. Clements,**  
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-23972 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-13-U

**14 CFR Part 39**

[Docket No. 93-ANE-40]

**Airworthiness Directives; Rolls-Royce, plc RB211 Series Turbofan Engines**

**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 Rolls-Royce, plc RB211-524 series turbofan engines. This proposal would require a one-time modification of the nozzle guide vane (NGV) assembly to incorporate vane core reinforcement inserts which would prevent release of the stage 2 NGV seal ring, rotor contact, and severance of the rotor drive arm. This proposal is prompted by a report of an uncontained stage 1 low pressure turbine failure. The actions specified by the proposed AD are intended to prevent release of the stage 2 NGV seal ring, which could result in an uncontained engine failure.

**DATES:** Comments must be received by December 3, 1993.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief

Counsel, Attention: Rules Docket No. 93-ANE-40, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Rolls-Royce, plc, P.O. Box 31, Derby, England DE2 8BJ. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7148, fax (617) 238-7199.

#### 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 should 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-ANE-40." 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-40, 12 New

England Executive Park, Burlington, MA 01803-5299.

##### Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on certain Rolls-Royce, plc (R-R) RB211-524 series turbofan engines. The CAA advises that they received a report of an uncontained stage 1 low pressure turbine (LPT) disk failure following an upstream turbine blade failure, which caused severe damage to the LPT stage 2 nozzle guide vanes (NGV). The damage led to the release of the NGV inner seal ring resulting in contact with the LPT rotor, severing the stage 1 to stage 2 drive arm, and causing an LPT stage 1 disk failure due to overspeed.

Rolls-Royce has issued Service Bulletin (SB) No. RB.211-72-9672, Revision 1, dated November 6, 1992, that specifies procedures for a one-time modification of the NGV assembly to incorporate vane core reinforcement inserts which would prevent release of the stage 2 NGV seal ring, rotor contact, and severance of the rotor drive arm. The CAA classified this service bulletin as mandatory in order to assure the airworthiness of these R-R RB211-524 series turbofan engines in the United Kingdom.

This engine model is manufactured in the United Kingdom 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 CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, 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 R-R RB211-524 series turbofan engines of the same type design installed on aircraft registered in the United States, the proposed AD would require a one-time modification of the NGV assembly to incorporate vane core reinforcement inserts which would prevent release of the stage 2 NGV seal ring, rotor contact, and severance of the rotor drive arm. Due to different aircraft utilization and number of engines per aircraft, the proposed AD requires the one-time modification to be accomplished at the next shop visit but no later than 9 months after the effective

date of this AD for engines installed on Boeing 747 series aircraft, and at the next shop visit but no later than 20 months after the effective date of this AD for engines installed on Lockheed L-1011 series aircraft. The different compliance times between Lockheed L-1011 series and Boeing 747 series aircraft are required to ensure an acceptable level of safety is maintained for each aircraft type, considering different fleet utilization rates and number of engines installed per aircraft. The actions would be required to be accomplished in accordance with the mandatory service bulletin described previously.

There are approximately 300 engines of the affected design in the worldwide fleet. There are currently no engines installed on aircraft of U.S. registry that would be affected by this proposed AD. If an engine were installed on an aircraft of U.S. registry, the FAA estimates that it would take approximately 37 work hours to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts would cost approximately \$2,420 per engine. Based on these figures, the total cost per engine to accomplish the actions of this proposed AD would be approximately \$4,455.

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:

**Rolls-Royce, plc:** Docket No. 93-ANE-40.

**Applicability:** Rolls-Royce, plc (R-R) Models RB211-524B-02, -524B-B-02, -524B3-02, -524B2-19, -524B2-B-19, -524C2-19, and -524C2-B-19 turbofan engines, installed on but not limited to Boeing 747 series and Lockheed L-1011 series aircraft.

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

To prevent release of the stage 2 nozzle guide vane (NGV) seal ring, which could result in an uncontained engine failure, accomplish the following:

(a) For engines installed on Boeing 747 series aircraft, modify the NGV assembly in accordance with R-R Mandatory Service Bulletin (SB) No. RB.211-72-9672, Revision 1, dated November 6, 1992, at the next shop visit, but not later than 9 months after the effective date of this AD, whichever occurs first.

(b) For engines installed on Lockheed L-1011 series aircraft, modify the NGV assembly in accordance with R-R Mandatory SB No. RB.211-72-9672, Revision 1, dated November 6, 1992, at the next shop visit, but not later than 20 months after the effective date of this AD, whichever occurs first.

(c) For the purpose of this AD, a shop visit is defined as an engine removal where engine maintenance entails separation of pairs of mating engine flanges or the removal of a disk, hub, or spool.

(d) 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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

**Note:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) 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 Burlington, Massachusetts, on September 23, 1993.

**Jack A. Sain,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 93-24260 Filed 10-1-93; 8:45 am]

**BILLING CODE 4910-13-P**

**14 CFR Part 39**

[Docket No. 93-ANE-49]

**Airworthiness Directives; Allied-Signal Aerospace Co., Garrett Engine Division, TFE731-3 Series Turbofan Engines**

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

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

**SUMMARY:** This document proposes to supersede priority letter airworthiness directive (AD) 92-12-09 by adopting a new AD, applicable to Allied-Signal Aerospace Company, Garrett Engine Division, TFE731-3 series turbofan engines. Priority letter AD 92-12-09 currently requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) to provide procedures for monitoring engine performance in order to detect A5 seal cracking and opening before first stage low pressure (LP) turbine disk failure. Additionally, the revision to the AFM requires a procedure for verification of LP rotor (N1) rotation during engine start to detect rotor lockup due to first stage LP turbine rotor creep. This proposal would maintain those requirements for engine and flight data monitoring, would add a more stringent procedure for verifying rotor lockup during engine start and for detection of rubbing noises, and would require replacement of A5 seals with a redesigned seal. Replacement of A5 seals with a redesigned seal would constitute terminating action to the monitoring requirements. This proposal is prompted by reports of an additional first stage LP turbine disk failure due to A5 seal cracking. The actions specified by the proposed AD are intended to prevent uncontained failure of the first stage LP turbine disk.

**DATES:** Comments must be received by December 3, 1993.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-49, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this

location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Engines, Aviation Services Division, Data Distribution, Dept. 64-3/2102-1M, P.O. Box 29003, Phoenix, AZ 85038-9003. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:**

Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, CA 90806-2425; telephone (310) 988-5246; fax (310) 988-5210.

**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 should 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-ANE-49." 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-49, 12 New England Executive Park, Burlington, MA 01803-5299.

### Discussion

On June 8, 1992, the Federal Aviation Administration (FAA) issued priority letter AD 92-12-09, applicable to Allied-Signal Aerospace Company, Garrett Engine Division, TFE731-3 series turbofan engines, which requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) to provide procedures for monitoring engine performance in order to detect first stage low pressure (LP) turbine nozzle air seal (A5 seal) cracking and opening before first stage LP turbine disk failure. Additionally, the revision to the AFM requires a procedure for verifying low pressure rotor (N1) rotation during engine start to detect rotor lockup due to first stage LP turbine rotor excessive growth (creep). That action was prompted by reports of two uncontained first stage LP turbine disk failures attributed to the cracking and subsequent opening of the forward portion of the A5 seal. The FAA has determined that this opening allows hot combustion gases to enter the first stage LP turbine cavity causing creep, web cracking, and subsequent failure of the first stage LP turbine disk. In addition to the uncontained failures of the first stage LP turbine disk, the FAA has received 11 other reports of through-cracks in the A5 seal. Eight of these reports described openings of the A5 seal of varying lengths along the circumference of the seal. That condition, if not corrected, can result in an uncontained failure of the first stage LP turbine disk.

The FAA has determined that cracking and subsequent opening of the A5 seal may cause a significant change in engine performance on several flights before the first stage LP turbine disk fails. This change in performance can be detected by comparing the engine parameters displayed in the cockpit under specified operating conditions with those same parameters on previous flights. In addition, since the Allied-Signal Aerospace Company, Garrett Engine Division, Model TFE731-3 series turbofan engines are installed on multi-engine aircraft, operators can compare one engine's performance with another engine on the same aircraft. Cracking and opening of the A5 seal may also result in N1 lock-up during start.

Since the issuance of that priority letter AD, the FAA has received reports of error in engine and flight data monitoring and interpretation which resulted in an additional failure.

The FAA has reviewed and approved the technical contents of Allied-Signal Aerospace Company, Garrett Engine Division, Service Bulletin (SB) No.

TFE731-72-3502, Revision 2, dated March 15, 1993, SB No. TFE731-72-3502, Revision 1, dated December 21, 1992, or SB No. TFE731-72-3502, Original, dated November 25, 1992; and SB No. TFE731-72-3503, Revision 1, dated December 21, 1992, that describe procedures for installing a redesigned A5 seal.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, the proposed AD would supersede priority letter AD 92-12-09 and continue the engine and flight data monitoring requirements by revising the Limitations Section of the AFM to provide for procedures to trend monitor engine performance in order to detect A5 seal cracking and opening before first stage LP turbine disk failure. In addition, this proposed AD would require a more stringent procedure for verifying N1 rotation during engine start to detect rotor lockup and for detecting rubbing noises due to first stage LP turbine rotor creep. Also, this proposed AD would add the Allied-Signal Aerospace Company, Garrett Engine Division, Model TFE731-2A engine to the AD applicability. Finally, this proposed AD would require replacement of current A5 seals with a redesigned A5 seal within 150 hours time in service after the effective date of this AD. Installation of the redesigned A5 seal constitutes terminating action to the engine and flight data monitoring required by this AD. The actions are required to be accomplished in accordance with the service bulletins described previously.

There are approximately 3,300 engines of the affected design in the worldwide fleet. The FAA estimates that 2,000 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 55 work hours per engine to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts would cost approximately \$7,500 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$21,050,000.

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:

**Allied-Signal Aerospace Company, Garrett Engine Division:** Docket No. 93-ANE-4

**Applicability:** Allied-Signal Aerospace Company, Garrett Engine Division, Model TFE731-2A, -3, -3A, -3R, -3AR, -3B, and -3BR turbofan engines, assembled with first stage low pressure (LP) turbine nozzles. Part Number (P/N) 3072842-1 or P/N's 3072314-1 through -8. These engines are installed on but not limited to Avions Marcel Dassault Falcon 50, AirResearch Aviation Company 731 Jetstar, Lockheed 1329-25 (Jetstar II), Israel Aircraft Industries Ltd. 1124 series (Westwind) and 1125 Westwind Astra, British Aerospace DH/HS/BH 125 series, Learjet 55 series, Cessna 650 Citation III series, and Sabreliner NA265-65 (Sabreliner 65 and 65 series) aircraft.

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

To prevent uncontained failure of the first stage LP turbine disk, accomplish the following:

(a) Prior to further flight revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following paragraphs (1) through (4) relating to engine and flight data monitoring. This

may be accomplished by inserting a copy of this AD in the AFM.

#### “Engine and Flight Data Monitoring

(1) If any engine has more than 500 hours time in service since new (TSN), record the flight data set forth in paragraph (2) once every two flights while meeting the following conditions:

- a. Matched low pressure rotor (N1) speed;
- b. Turn engine anti-ice off (consistent with safe operation); and
- c. Attain a stabilized cruise speed for five minutes or longer.

Note: If flight operations do not permit all of these conditions to be met, the engine to engine comparison data may be unreliable.

(2) When the conditions specified in paragraph (1) are met, record the following flight data and retain this data for six months:

- a. Date of flight;
- b. Aircraft altitude or flight level;
- c. Outside static air temperature in degrees celsius (°C);
- d. Mach number;
- e. engine N1 speed for each engine;
- f. engine high pressure rotor (N2) speed for each engine;
- g. fuel flow for each engine; and
- h. Interstage turbine temperature (ITT) for each engine.

(3) Verify N1 rotation during engine start by allowing N2 to increase to approximately 12 to 15 percent and confirm N1 rotation prior to fuel initiation. If no N1 rotation is observed, discontinue further attempts at engine start.

(4) Check for rubbing noises and free rotation of the N1 spool following each engine shutdown. If any rubbing noises are detected, discontinue further flight.”

(b) When engine and flight data monitoring is required by the AFM revision of paragraph (a) of this AD, accomplish the following:

(1) After each flight, calculate the difference (i.e., No. 1 minus No. 2, No. 1 minus No. 3, and No. 1 minus No. 4) between the engines' ITT, N2 speed, and fuel flow readings for each flight having recorded data. Compare these differences to the differences calculated from previous flights.

(2) Discontinue further flight if a change of 20° C or more occurs in the ITT difference between two engines, (on three and four engine airplanes compare No. 2, No. 3 and No. 4 engine parameters to the No. 1 engine) with the last ten flights having recorded data. Flight operation can be continued when the cause of the ITT temperature shift has been determined and appropriate corrective action has been accomplished. Engine and flight data monitoring must be continued upon return to flight operations.

Note: A suspect engine may indicate an increase in ITT temperature and an increase in N2 speed greater than 1% and an increase in fuel flow to a lesser degree with respect to the other normal engine(s).

Additional guidance and information regarding flight data collection, trend monitoring, and corrective actions, may be obtained from Allied-Signal Aerospace Company, Garrett Engine Division, Operating Information Letter No. OI 731-13, Revision C, dated November 20, 1992.

(c) Discontinue further flight if no N1 rotation is observed during engine start or if engine rubbing noises are detected after engine shutdown. Flight operation can be continued when the cause of the N1 rotor lock-up or engine rubbing noises has been determined and appropriate corrective action has been accomplished. Engine and flight data monitoring must be continued upon return to flight operations.

(d) Within 150 hours time in service after the effective date of this AD, replace the A5 seal assembled in affected first stage LP turbine nozzles and install a redesigned A5 seal in accordance with the Accomplishment Instructions of Allied-Signal Aerospace Company, Garrett Engine Division, Service Bulletin (SB) No. TFE731-72-3502, Revision 2, dated March 15, 1993, SB No. TFE731-72-3502, Revision 1, dated December 21, 1992, or SB No. TFE731-72-3502, Original, dated November 25, 1992; or SB No. TFE731-72-3503, Revision 1, dated December 21, 1992, as applicable. Installation of the redesigned A5 seal constitutes terminating action to the engine and flight data monitoring and AFM revision required by this AD.

(e) 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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(f) 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 Burlington, Massachusetts, on September 22, 1993.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-24259 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-13-P

#### 14 CFR Part 39

[Docket No. 93-NM-143-AD]

#### Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped with Rolls Royce RB211-535C Engines

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 Boeing Model 757 series airplanes. This proposal would require tests of the thrust reverser system, and

repair, if necessary; installation of a modification that would terminate those tests; and repetitive operational checks of that installation, and repair, if necessary. This proposal is prompted by results of a safety review, which revealed that in-flight deployment of a thrust reverser could result in a significant reduction in the controllability of the airplane. The actions specified by the proposed AD are intended to prevent deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane.

**DATES:** Comments must be received by November 30, 1993.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-143-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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Duven, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2688; fax (206) 227-1181.

#### 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-143-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-143-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

The FAA has conducted a safety review of the thrust reverser system installed on Boeing Model 757 series airplanes equipped with Rolls Royce RB211-535C engines. The results of that review revealed that in-flight deployment of a thrust reverser could result in a significant reduction in the controllability of the airplane.

Consequently, Boeing has developed a modification for these airplanes, which, when accomplished, will ensure that the level of safety inherent in the original type design of the thrust reverser system is further enhanced. The FAA has determined that the installation of these additional features will reduce the likelihood of an in-flight thrust reverser deployment.

The FAA has reviewed and approved Boeing Service Bulletin 757-78-0035, dated April 29, 1993, that describes procedures for installation of an additional thrust reverser system locking feature (denoted as a "sync-lock"), which will reduce the possibility of an uncommanded in-flight deployment of the thrust reversers. The sync-lock is controlled independently of the existing electro-mechanical safety features of the thrust reverser system. The FAA has determined that installation of the sync-lock is necessary in order to positively address the identified unsafe condition with regard to these airplanes.

The FAA has determined that, prior to installation of the sync-lock, interim tests of the thrust reverser system must be accomplished to ensure that the safety features of the existing thrust reverser system are functioning properly and are being checked at regular intervals. Two interim tests must be accomplished: a restow test is necessary

to verify proper operation of the auto restow system, including checks of the system sensors, indicators, and system components; and an integrity test is necessary to ensure the mechanical integrity of the existing thrust reverser actuator locks and the connecting crossover shaft.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require restow and integrity tests to verify proper operation of the thrust reverser system on certain airplanes, and repair, if necessary. Those tests would be required to be accomplished in accordance with certain procedures described in the Boeing 757 Maintenance Manual.

This AD would also require the installation of an additional thrust reverser system locking feature (sync-lock). Installation of the sync-lock would terminate the requirement for the restow and integrity tests discussed previously. The sync-lock installation would be required to be accomplished in accordance with the service bulletin described previously.

In addition, this AD would require that the integrity of the sync-lock installation be verified by periodic operational tests of the installation, and repair of any discrepancies. These tests are necessary in order to ensure that the sync-lock has not failed in the unlocked state. These test procedures and any necessary repairs would be required to be accomplished in accordance with certain procedures described in the Boeing 757 Maintenance Manual. The proposed interval for conducting these tests is every 1,000 hours time-in-service; however, the FAA may consider revising these intervals based on sync-lock service experience.

There are approximately 40 Model 757 series airplanes of the affected design in the worldwide fleet. Currently, there are no Model 757 series airplanes of the affected design on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour per airplane to accomplish the proposed restow and integrity tests; 514 work hours per airplane to accomplish the proposed sync-lock installation; and 1 work hour per airplane to accomplish the proposed operational tests; at an average labor charge of \$55 per work hour. Required parts are currently planned to be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of this AD for non-modified

airplanes would be \$28,380 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:

**Boeing:** Docket 93-NM-143-AD.

**Applicability:** Model 757 series airplanes equipped with Rolls Royce RB211-535C engines, as listed in Boeing Service Bulletin 757-78-0035, dated April 29, 1993; certificated in any category.

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

To prevent deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane, accomplish the following:

(a) For airplanes on which the sync-lock feature has not been installed as a

modification in accordance with Boeing Service Bulletin 757-78-0035: Within 4,000 hours time-in-service after the effective date of this AD; and thereafter at intervals not to exceed 4,000 hours time-in-service until the modification required by paragraph (b) of this AD is accomplished; accomplish paragraphs (a)(1) and (a)(2) of this AD to verify proper operation of the thrust reverser system. Prior to further flight, repair any discrepancy found, in accordance with the procedures described in the Boeing 757 Maintenance Manual.

(1) Perform a thrust reverser-auto restow test in accordance with Section 78-31-00, pages 513-517, dated December 20, 1992, of the Boeing 757 Maintenance Manual.

(2) Perform an actuator lock and crossover shaft integrity test in accordance with Section 78-31-00, page 517, dated December 20, 1992, and pages 518-519, dated March 20, 1993, of the Boeing 757 Maintenance Manual.

(b) For airplanes on which the sync-lock feature has not been installed as a modification in accordance with Boeing Service Bulletin 757-78-0035: Within 5 years after the effective date of this AD, install an additional thrust reverser system locking feature (sync-lock installation), in accordance with Boeing Service Bulletin 757-78-0035, dated April 29, 1993. Installation of this additional locking feature constitutes terminating action for the tests required by paragraph (a) of this AD.

(c) Within 1,000 hours time-in-service after accomplishing the modification required by paragraph (b) of this AD, or within 1,000 hours time-in-service after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 1,000 hours time-in-service: Accomplish paragraphs (c)(1) and (c)(2) of this AD to verify that the sync-locks have not failed in the "unlocked" state. Prior to further flight, repair any discrepancy found, in accordance with procedures described in the Boeing 757 Maintenance Manual.

(1) Perform a thrust reverser-auto restow test in accordance with Section 78-31-00, pages 534-538, dated December 20, 1992, of the Boeing 757 Maintenance Manual.

(2) Perform an actuator lock, crossover shaft, and sync-lock integrity test in accordance with Section 78-31-00, page 538, dated December 20, 1992, and pages 539-540, dated March 20, 1993, of the Boeing 757 Maintenance Manual.

(d) 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, Seattle Aircraft Certification Office (ACO), 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, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) 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 September 27, 1993.

**Darrell M. Pederson,**

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

[FR Doc. 93-24258 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-13-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA46-4-6040; FRL-4784-1]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is proposing to approve a revision to the California State Implementation Plan (SIP) adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD) on February 23, 1993. The California Air Resources Board submitted this revision to EPA on April 6, 1993. This revision concerns SMAQMD Rule 456, Aerospace Assembly and Component Coating Operations. This revision will control and reduce volatile organic compound (VOC) emissions from aerospace assembly and coating operations. The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** Comments must be received on or before November 3, 1993.

**ADDRESSEES:** Comments may be mailed to: Esther Hill, Rulemaking Section I (A-5-4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

A copy of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revision is also available for inspection at the following locations:

California Air Resources Board, P.O. Box 2815, 2020 L Street Sacramento, California 95814.

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, California 95826.

**FOR FURTHER INFORMATION CONTACT:** Dave Hodges, Rulemaking Section I (A-5-4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, telephone: (415) 744-1197.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Sacramento Metropolitan Area, 43 FR 8964, 40 CFR 81.305. Because the Sacramento Metropolitan Area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amended guidance.<sup>1</sup> EPA's SIP-Call used that

<sup>1</sup> Among other things, the pre-amended guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

guidance to indicate the necessary corrections for specific nonattainment areas. The Sacramento Metropolitan Area is classified as Serious<sup>2</sup>; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on April 6, 1993, including the rules being acted on in this notice. This notice addresses EPA's proposed action for SMAQMD Rule 456, Aerospace Assembly and Component Coating Operations. The submitted rule was found to be complete on April 28, 1993 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V<sup>3</sup> and is being proposed for approval into the SIP. In 56 FR 54554, dated October 22, 1991, EPA made a finding under section 179(a)(1) of the CAA that SMAQMD failed to submit a SIP element as required by section 182(a)(2)(A). As stated in the notice cited above, the finding of nonsubmittal triggered an 18-month sanction clock and a 2-year clock for promulgation of a Federal Implementation Plan (FIP). The State's complete submittal of Rule 456 satisfied the deficiency for which the finding of nonsubmittal was made and stopped the sanctions clock. However, the FIP clock will not stop until EPA takes final action on approval of the rule.

SMAQMD Rule 456 will regulate the emission of VOCs from aerospace assembly and component coating operations. VOCs contribute to the production of ground level ozone and smog. SMAQMD Rule 456 was adopted as part of the district's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for Rule 456.

#### EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA

interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). For some source categories, such as aerospace assembly and coating operations, EPA has not published a CTG.<sup>4</sup> Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP. Should the forthcoming CTG for the aerospace industry described in footnote 4 propose a presumptive norm for coating technology more stringent than the requirements of SMAQMD Rule 456, then the rule must be revised to conform with both the technological requirements and time table set forth in the CTG.

SMAQMD Rule 456, Aerospace Assembly and Component Coating Operations' is a new rule which was adopted to control and reduce the emission of VOCs from aerospace assembly and component coating operations.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, SMAQMD Rule 456, Aerospace Assembly and Coating Operations is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future

request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

<sup>2</sup> The Sacramento Metropolitan Area was redesignated nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

<sup>3</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>4</sup> As required by the Clean Air Act Amendments of 1990, EPA is preparing a CTG for the aerospace industry. Section 183(b)(3) requires that EPA issue control technique guidelines to reduce the aggregate emissions of VOCs into the ambient air from aerospace coatings and solvents. Where required, states must submit a rule developed in accordance with the requirements and time schedule set forth in the CTG.

Dated: September 22, 1993.

John C. Wise,

Acting Regional Administrator.

[FR Doc. 93-24295 Filed 10-1-93; 8:45 am]

BILLING CODE 6560-50-F

#### 40 CFR Part 52

[W128-01-5743; AD-FRL-4783-3]

### Approval and Promulgation of State Implementation Plans for Wisconsin

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

**SUMMARY:** The USEPA proposes to conditionally approve a request for a State Implementation Plan (SIP) revision, for the Milwaukee ozone nonattainment area (Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties), submitted by the State of Wisconsin. The purpose of the revision is to offset any growth in emissions due to a growth in Vehicle Miles Travelled (VMT) or the number of vehicle trips, and to attain a reduction in motor vehicle emissions, in combination with other measures, as needed to comply with Reasonable Further Progress (RFP) milestones and attainment requirements of the Clean Air Act (CAA). The implementation plan request was submitted by the State of Wisconsin to satisfy certain statutory requirements, found in section 182 of the CAA, that the State submit a SIP revision which identifies and adopts specific enforceable Transportation Control Measures (TCM) to offset growth in emissions from growth in VMT or number of vehicle trips. The rationale for the proposed conditional approval is set forth in this document; additional information is available at the address indicated in the ADDRESSES section.

**DATES:** Comments on this proposed action must be received in writing by November 3, 1993.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the Wisconsin SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Michael Leslie at (312) 353-6680 before visiting the Region 5 Office.) U.S. Environmental Protection Agency Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the Wisconsin SIP revision request is available for inspection at the office of: Jerry Kurtzweg (ANR-443), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Michael G. Leslie, Air Toxics and Radiation Branch, Regulation Development Section (AT-18J), U.S. Environmental Protection Agency Region 5, Chicago, Illinois 60604, (312) 353-6680.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 182(d)(1)(A) of the CAA as amended in 1990, requires States containing ozone nonattainment areas classified as "severe" pursuant to section 181(a) of the CAA to adopt transportation control measures and transportation control strategies to offset any growth in emissions from growth in VMT or number of vehicle trips, and to attain reductions in motor vehicle emissions (in combination with other emissions reduction requirements) as necessary to comply with the Act's RFP milestones. The requirements for establishing a VMT Offset program are discussed in the April 16, 1992, General Preamble to Title I of the CAA (57 FR 13498), in addition to section 182(d)(1)(A) of the CAA.

Section 110(k) of the CAA contains provisions governing USEPA's action on SIP submittals. Once found to be complete (or deemed complete by the passage of time), this section authorizes USEPA to take one of three actions on VMT Offset SIP submittals. As provided by section 110(k)(3), if the submittal satisfactorily addresses all of the required VMT Offset elements, the USEPA will grant full approval. USEPA may grant a conditional approval of the submission under section 110(k)(4), however, if the submittal contains:

(1) A commitment from the Governor or the Governor's designee to take the required actions;

(2) A schedule establishing a date certain for taking the required actions, with the date not being later than 1 year from the time USEPA will issue a final conditional approval; and

(3) Evidence that a public hearing was held on the commitments.

See the July 22, 1992, memorandum from Michael M. Shapiro, Deputy Assistant Administrator for Air and Radiation, entitled "Guidelines for State Implementation Plan (SIP) Submittals Due November 15, 1992." Finally, if the submittal fails to adequately address or commit to address one or more of the mandatory VMT Offset elements, the

USEPA shall issue a disapproval. A State plan may therefore be approved, conditionally approved or disapproved.

In order to satisfy all applicable requirements, and to gain full approval, section 182(d)(1)(A) requires that a State VMT offset SIP submittal must:

(1) Identify and adopt specific enforceable transportation control strategies and TCMs to offset any growth in emissions from growth in VMT or number of vehicle trips;

(2) Identify and adopt specific enforceable transportation control strategies and TCMs that attain reductions in motor vehicle emissions (in combination with other emissions reduction requirements) as necessary to comply with RFP milestones and attainment requirements of the CAA;

(3) Consider the measures specified in section 108(f) of the CAA, and choose from among and implement such measures as necessary to demonstrate attainment of the National Ambient Air Quality Standards (NAAQS); and

(4) Ensure adequate access to downtown, other commercial, and residential areas is maintained, and that emissions and congestion are reduced rather than relocated.

##### II. Analysis

The following discussion provides more information on the requirements for full approval, and Wisconsin's efforts to meet these requirements.

Section 182(d)(1)(A) sets forth four requirements that must be met by a VMT Offset SIP. The first and second requirements mandate that the State must submit a revision, by November 15, 1992, that identifies and adopts specific enforceable transportation control strategies and TCMs to offset any growth in emissions from growth in VMT or number of vehicle trips in affected areas and attains reduction in motor vehicle emissions as necessary, in combination with other emissions reduction requirements of CAA Title I, Part D, Subpart II, to comply with the RFP and attainment requirements of the Act. These requirements are to ensure that projected motor vehicle VOC emissions will never be greater during the ozone season in any given year than during the preceding year's ozone season. When growth in VMT and vehicle trips would otherwise cause a motor vehicle emissions upturn, that upturn must be prevented. The emissions level at the point of potential upturn becomes a ceiling on motor vehicle emissions.

It should be noted that while the above requirements are simple in concept, their application could encourage areas to delay VMT or

emissions reduction measures suitable for use as offsets until the trend in motor vehicle emissions reaches its minimum point and is about to turn upwards. To implement the VMT offset provision while avoiding this counterproductive incentive for delay, USEPA looks for State compliance with the following approach: If the projected motor vehicle emissions during the ozone season in one year are not higher than during the ozone season the year before, given the control measures in the SIP, the VMT offset requirement is satisfied. However, if the State plans to implement control measures over and above those specifically required by the CAA and those required to demonstrate RFP and attainment earlier than would be necessary and sufficient to prevent an emissions upturn, a projected subsequent growth-related increase to the level of emissions that would occur if these measures were scheduled later will not be considered to violate the requirements to offset emissions due to growth in VMT or the number of trips. The latter situation will be viewed as a temporary reduction in emissions to a level below that required by the provision, rather than increase above the required level, with no effect on emissions at or after the point at which offsetting measures become essential to compliance.

The USEPA will approve a SIP revision as meeting this provision despite a forecasted upturn in vehicle emissions long as motor vehicle VOC emissions in the ozone season of a given year do not exceed a ceiling level which reflects a hypothetical strategy of implementing otherwise specifically required measures on schedule and saving offset measures until the point at which VMT growth would otherwise cause an emissions upturn. The ceiling level is therefore defined (up to the point of upturn) as motor vehicle emissions that would occur in the ozone season of that year, with VMT growth, if all measures for that area in that year were implemented as required by the Act. When this curve begins to turn up due to growth in VMT or vehicle trips, the ceiling becomes a fixed value. The ceiling line would include the effects of Federal measures such as new motor vehicle standards, Phase II RVP controls, and reformulated gasoline, as well as CAA mandated SIP requirements such as enhanced inspection and maintenance, the clean-fuel vehicle fleet program, and the employee commute option program. The ceiling line would also include the effect of forecasted growth in VMT and vehicle trips in the absence of new

discretionary measures to reduce them. The ceiling line must, in combination with projected emissions from nonvehicle source, satisfy the RFP requirements for the area. Any VMT reduction measures or other actions to reduce motor vehicle emissions adopted since November 15, 1990, and do not specifically required for the area by another provision of the Act would not be included in the calculation of the ceiling line.

Forecasted motor vehicle emissions must be held at or below the minimum level of the ceiling line after the ceiling line reaches its minimum level. If an area implements offset measures early, the forecasted emissions will be less than the ceiling line, and forecasted motor vehicle emissions could increase from one year to the next, as long as forecasted motor emissions never exceed the ceiling line.

The emissions offset requirements apply to projected emissions during the years between submission of the SIP revision and the statutory ozone National Ambient Air Quality Standards (NAAQS) attainment deadline. The State has not met these requirements, but is in the process of forecasting future travel and emissions levels and has committed to implement these requirements by adopting specific enforceable measures by November 15, 1993.

The third requirement is that the State shall consider transportation control measures specified in section 108(f) and choose from among and implement such measures as necessary to demonstrate attainment with the National ambient air quality standards. The State has not met this requirement, but is assessing TCM strategies to offset any growth in emissions due to growth in VMT or number of vehicle trips and has committed to implement this requirement by adopting specific enforceable measures by November 15, 1993.

The fourth requirement is that the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. The State has not met this requirement, but is making progress towards forecasting future emissions that would occur from implementing specific TCMs and has committed to implement this requirement within by adopting specific enforceable measures by November 15, 1993.

The State of Wisconsin has not submitted a SIP revision implementing all the requirements relevant to the nonattainment classification of the

State's nonattainment areas contained in section 182(d)(1)(A) of the CAA. Wisconsin has, however, made commitments to adopt the plan by November 15, 1993, and has subjected the commitments and schedule to public hearings on January 12 and 13, 1993. Wisconsin has prepared analyses evaluating TCMs effectiveness (ridesharing, parking and pricing strategies, transit expansion, etc). Wisconsin has completed preliminary VMT forecasts, and project future mobile source emissions using USEPA mobile source emission factor model MOBILE5a. USEPA is therefore proposing to grant conditional approval to this submittal under section 110(k)(4) of the CAA.

USEPA believes that VMT Offset submittals such as Wisconsin's are appropriate for conditional approval considerations because section 182(d)(1)(A) of the CAA requires that specific, enforceable measures identified and adopted by the State be submitted by November 15, 1992, along with a demonstration that they are adequate to offset any growth in emissions from growth in VMT or number of vehicle trips, which USEPA interprets to mean adequate to hold vehicle emissions within the emissions ceiling described in the General Preamble to Title I, Section III. (A) (5) (d) (57 FR 13498, 13521-13523). The Act also states that these measures, beyond offsetting growth in emissions, shall be sufficient to allow total area emissions to comply with the RFP and attainment requirements. These requirements create a timing problem. Ozone nonattainment areas affected by this provision are not otherwise required to submit SIP demonstrations which would predict attainment of the 1996 RFP milestone until November 15, 1993, and likewise are not required to demonstrate post-1996 RFP and attainment until November 15, 1994. USEPA does not believe that Congress intended the offset growth provisions to advance the dates for these broader submissions. Even without the requirement that the offset growth measures be sufficient to allow overall RFP and attainment in conjunction with other measures, USEPA believes that the November 15, 1992, date might not allow the States sufficient time to develop a set of measures that would comply with the offset growth provisions over the long term.

To solve this timing problem and to allow a more coordinated and comprehensive planning process, USEPA may accept and conditionally approve committal SIP revisions for the offset growth requirements under the

authority of section 110(k)(4) of the CAA. This could allow States one (1) year, from the date of USEPA's final conditional approval of the committal SIP revision, but not beyond November 1994, to submit the full revision containing sufficient measures in specific and enforceable form.

If USEPA takes final conditional approval on the commitment, the State must meet its commitment to adopt the specific enforceable VMT requirements by November 15, 1993, and submit these rules to USEPA within the time specified in its schedule. If the State fails to adopt or submit any rules to USEPA within its time frame, this approval will become a disapproval upon USEPA notification of the State by letter. At that time, this commitment will no longer be part of the approved Wisconsin SIP. USEPA subsequently will publish a notice in the notice section of the *Federal Register* indicating that the commitment has been disapproved and removed from the SIP. If the State adopts and submits these rules to USEPA within the applicable time frame, the conditionally approved commitment will remain a part of the SIP until USEPA takes final action approving or disapproving the new submittal. If the commitment is associated with existing rules and USEPA disapproves the subsequent submittal, the rules on which the conditional approval was based will also be disapproved at that time. If USEPA approves the subsequent submittal, those newly approved rules will become a part of the SIP.

If USEPA issues a final disapproval, or if the conditional approval is converted to a disapproval, the sanctions clock under section 179(a) will begin. This clock will begin at the time USEPA issues the final disapproval or at the time USEPA notifies the State by letter that a conditional approval has been converted to a disapproval. If the State does not submit and USEPA does not approve the rule on which the disapproval was based within 18 months of the disapproval, USEPA must impose one of the following sanctions under section 179(b)—highway funding restrictions or the offset sanction. In addition, the final disapproval triggers the Federal Implementation Plan requirement under section 110(c). Finally, under section 110(m), USEPA has discretionary or conversion of conditional approval to disapproval.

### III. This Action

In this action, USEPA is proposing to conditionally approve the SIP revision commitment submitted by the State of Wisconsin.

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989, (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirement of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. See *Union Electric CO. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to disapproval under section 110(k) of the CAA, based upon the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, USEPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing State requirements nor does it substitute a new Federal requirement.

### List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Ozone.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 21, 1993.

David Kee,

Acting Regional Administrator.

[FR Doc. 93-24296 Filed 10-1-93; 8:45 am]

BILLING CODE 6560-50-F

### 40 CFR Part 89

[FRL-4784-7]

#### Control of Air Pollution; Emissions of Oxides of Nitrogen and Smoke From New Nonroad Compression-Ignition Engines at or Above 50 Horsepower

AGENCY: Environmental Protection Agency.

ACTION: Notice of reopening of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is reopening the comment period on the Notice of Proposed Rulemaking (NPRM) regarding new nonroad compression-ignition engines that was published in the *Federal Register* on May 17, 1993 (58 FR 28809). The original public comment period closed on July 27, 1993. The comment period is being reopened so that interested parties may provide additional comment on several specific issues.

**DATES:** Comments must be received on or before October 25, 1993.

**ADDRESSES:** Interested parties may submit written comments (in triplicate, if possible) for EPA consideration by addressing them as follows: Written comments must be sent in duplicate to: EPA Air Docket LE-131, Attention: Docket No. A-91-24, Room M-1500, 401 M Street SW., Washington, DC 20460 ((202) 382-7548). Materials relevant to this rulemaking are contained in this docket and may be reviewed at the above location from 8 a.m. until noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

**FOR FURTHER INFORMATION CONTACT:** Linda Hormes, Office of Mobile Sources, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313)668-4502.

**SUPPLEMENTARY INFORMATION:** EPA is reopening the comment period for three weeks to provide the public with an opportunity to comment on a revised definition of the term "nonroad engine," a requirement that nonroad equipment

manufacturers use certified new nonroad engines in their equipment, and the appropriateness of regulating in this action auxiliary engines in locomotives under Clean Air Act (CAA) section 213(a)(5). Opportunities to discuss relevant issues as originally proposed were provided at a June 25, 1993 public hearing, and during the written comment period that closed on July 27, 1993. Copies of the transcript of the hearing and written comments are available in the docket.

### I. Background

CAA section 216(10) defines the term "nonroad engine" as "an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or 202." Section 111(a)(3) notes, however, that "Nothing in Title II of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines." In the May 17, 1993 NPRM, EPA proposed that the engines encompassed by the statutory definition included internal combustion engines meeting one of the following criteria:

(1) Any internal combustion engine (including the fuel system) of any size which is used to propel any vehicle if the engine is not excluded under paragraph (2) of this definition. This includes any internal combustion engine which serves a dual function (that is, to both propel a vehicle and operate a device while stationary), such as a mobile crane;

(2) Any internal combustion engine which is located in (or on) a nonroad vehicle and which is an integral part of the nonroad vehicle at the time of the nonroad vehicle's manufacture and which is not excluded under paragraph (2) of this definition; or

(3) Any internal combustion engine or combination of internal combustion engines arranged to function together, regardless of application, with a combined output of less than 175 hp, unless excluded under paragraph (2) of this definition.

Several specific exclusions were included in the proposed definition of nonroad engines. An internal combustion engine would not be considered a nonroad engine if:

(1) The engine is used to propel a motor vehicle or a vehicle used solely for competition;

(2) The engine is regulated under section 111 or section 202 of the Act, regardless of size; or

(3) The engine is located on a trailer or other platform attached to (not an

integral part of) a nonroad vehicle or is otherwise not an integral part of a nonroad vehicle and the engine has an output greater than or equal to 175 hp.

In addition, the NPRM noted that EPA has authority to require nonroad vehicle manufacturers to use certified nonroad engines; however, EPA did not propose such a requirement, and instead asked for comment on how it may assure that only certified engines be used in nonroad vehicles.

### II. Revised Definition

EPA received numerous comments in response to the NPRM definition. Almost every commenter opposed all, or part, of the proposed definition. The primary reason cited by commenters for their opposition to the proposed definition relates to the use of a horsepower cut-off point as the means for determining which internal combustion engines are classified as nonroad engines. Commenters indicated that an engine should be classified on the basis of mobile or stationary use rather than on the size of the engine.

Industry commenters argued that the horsepower cut-off arbitrarily allowed engines that were used in mobile applications to be regulated as stationary sources, and allowed stationary engines to be regulated as mobile sources, solely on the basis of engine size. Commenters argued that the determination of whether an engine is a nonroad engine should depend on whether the engine is used in equipment that is mobile (i.e., self-propelled, portable or transportable), or whether the equipment is in fact used at a particular location for long periods of time. According to the commenters, this could result in costly and unnecessary administrative burdens for manufacturers, and would be contrary to the intent of the Act.

Comments from state and local pollution control agencies also opposed the horsepower cut-off for determining whether internal combustion engines would be considered nonroad or stationary. Pollution control agencies pointed out that they are currently regulating stationary engines under 175 horsepower and would lose that authority under the proposed definition.

As a result of the comments, EPA is requesting comment on the following revised definition of nonroad engine:

(1) Except as discussed in (2) below, a nonroad engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as a mobile crane); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawn mowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, platform or mounting.

(2) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition; or

(ii) The engine is regulated under section 111 or section 202 of the Act; or

(iii) The engine otherwise included in (1)(iii) remains or will remain at a location for more than 12 consecutive months, or a shorter period of time where such period is representative of normal annual source operation at a stationary source that resides at a fixed location for more than 12 months (e.g., seasonal operations such as canning facilities.) A location is any site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period.

An example of the final sentence of (2)(iii) is when a portable generator engine which functions as a permanent back-up generator is replaced by a different engine (or engines) that performs the same function. In that case, the cumulative residence time of both generators, including the time between removal of the original engine and installation of the replacement, would be counted toward the consecutive residence time period.

EPA believes that this revised definition answers the commenters' concerns regarding the proposed definition. Under the revised definition, an internal combustion engine would be considered a nonroad engine if it is used in equipment that is self-propelled or intended to be propelled while performing its function, or if it is portable or transportable; the definition specifically distinguishes nonroad engines from stationary internal combustion engines on the basis of engine mobility and residence time. EPA intends that stationary internal combustion engines are all internal combustion engines that are neither nonroad engines nor engines used to propel a motor vehicle or a vehicle used solely for competition. Moreover, the

definition specifically states that portable and transportable engines that remain in a particular location for over 12 months are not nonroad engines (this excludes engines in self-propelled equipment and equipment intended to be propelled while performing its intended function), thus ensuring that engines that are actually used in a stationary manner are considered stationary engines.

The revised nonroad engine definition also excludes from nonroad regulation those engines that are used as integral parts of fixed stationary sources that may operate only seasonally, for instance, as in canneries. This provision is designed to ensure that engines that operate as integral parts of these stationary sources are considered stationary. The definition also includes a provision that if an engine is replaced by another engine within the 12 month period, that the replacement engine should be considered in calculating the consecutive time period. This provision is designed to ensure that where an internal combustion engine is necessary for the operation of a stationary facility, the replacement of one particular engine with another would not prevent the engines from being included as part of the stationary facility.

EPA is also proposing that any attempt to circumvent the residence time exclusion of a portable or transportable engine in (2)(iii) by means of removing the engine from its location for a period and then returning it to that same location is a prohibited act. In such cases, the time between removal of the engine and its return to service (or replacement) would be counted towards the time period specified in (2)(iii).

Finally, EPA requests comment on what effect the revised definition may have on state and local agencies regarding permitting and new source review processes.

### III. Requirement That Nonroad Equipment Use Certified Nonroad Engines

The Agency is also seeking comment on its intention to require that equipment manufacturers and importers use certified nonroad engines in their equipment where appropriate, including all equipment that is self-propelled, portable, or transportable, unless the equipment manufacturer can prove that the equipment will be used in a stationary manner, as defined in paragraph (2)(iii) above, or will be used to propel a motor vehicle or vehicle used solely for competition.

EPA received comments indicating that failure to require equipment manufacturers to use certified engines

would undercut the entire program, as equipment manufacturers would be free to buy noncomplying engines without penalty. After reviewing the comments, EPA believes that the most effective way to ensure that certified engines are used in nonroad equipment is to require that manufacturers and importers use such engines.

Moreover, the revised definition of nonroad engine relies to a great extent on the use of an engine in a piece of equipment to determine whether the engine is a nonroad engine. Therefore, the focus of enforcement of this rule must fall to some extent on equipment manufacturers who will finally determine the type of equipment in which an engine is to be used. This further demonstrates the need for equipment manufacturers to be required to use certified engines under these regulations.

Equipment manufacturers and importers would be subject to the prohibition, injunction and penalty provisions of sections 203, 204 and 205 of the Act, except that only the nonroad engine in the equipment, as opposed to the equipment itself, would need to be certified for compliance. Thus, no federal paperwork or reporting burden would be imposed on equipment manufacturers by the requirement that certified nonroad engines be used in nonroad equipment.

### IV. Auxiliary Engines in Locomotives

In the NPRM, EPA proposed to exclude engines used to propel locomotives from this rulemaking, as regulation of such engines is being undertaken separately. EPA did not, however, exclude other engines operated on locomotives from this rulemaking. EPA requested comment as to whether such other engines ("auxiliary engines") should more appropriately be regulated under section 213(a)(5).

EPA has received several comments regarding whether auxiliary engines should be regulated in this rulemaking or under the later locomotive rulemaking. Some comments state that auxiliary engines are appropriately regulated under section 213(a)(5) as "engines used in locomotives." EPA has not determined at this time whether such auxiliary engines must be regulated under section 213(a)(5), or whether they may be regulated under section 213(a)(3) and (4). However, EPA believes that the statutory mandate of section 213(a)(5) allows EPA to regulate auxiliary engines in this rulemaking. Moreover, the standard under which such engines are to be regulated is virtually identical to the standard under

section 213(a)(3). EPA has also received comments indicating that auxiliary engines are similar in design and performance to other nonroad engines regulated in this rulemaking, and that such engines should therefore be regulated in this rulemaking.

Therefore, EPA intends to regulate auxiliary engines operated on locomotives in this rulemaking. If EPA determines that such auxiliary engines should be regulated under section 213(a)(5), then EPA shall promulgate such regulations with reference to section 213(a)(5). EPA requests comment on the appropriateness of regulating locomotive auxiliary engines under section 213(a)(5) in this rulemaking.

### V. Request for Comments

EPA requests comment on all aspects of the proposed revised nonroad definition, the decision to require nonroad equipment manufacturers to use certified nonroad engines, and the decision to regulate locomotive auxiliary engines in this rulemaking. In particular, EPA requests comment on the following: (1) The appropriateness of residence time as a criterion for excluding engines from nonroad regulation; (2) the length of time presented; (3) the impact of such a definition on environmental benefits and costs; and (4) the impact of such a definition on current and future nonroad regulations imposed by state and local governments. EPA also notes that it has placed the "Supplemental Guidelines on Discounting in the Preparation of Regulatory Impact Analyses" into the docket and has noted the address for SAE International from which certain SAE documents noted in the NPRM can be obtained. Commenters may send written comments on these documents during the new comment period. A copy of all comments received in response to this notice will be placed in the docket. The docket shall be reopened for 21 days following publication of this notice for comments pertaining to this notice.

Dated: September 28, 1993.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93-24297 Filed 10-1-93; 8:45 am]

BILLING CODE 6580-50-P

**FEDERAL EMERGENCY  
MANAGEMENT AGENCY**
**44 CFR Part 67**
**[Docket No. FEMA-7075]**
**Proposed Flood Elevation  
Determinations**
**AGENCY:** Federal Insurance  
Administration, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

**FOR FURTHER INFORMATION CONTACT:** William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646-2766.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency

(FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

**National Environmental Policy Act**

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Federal Insurance Administrator has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42

U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

**Regulatory Impact Analysis**

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

**Executive Order 12612, Federalism**

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

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

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

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

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Arkansas	City of Conway, Faulkner County	Little Creek	Approximately 2,300 feet downstream of U.S. Highway 286.	*272	*272
			Approximately 200 feet upstream of East German Lane.	*279	*279
			Just upstream of Mockingbird Lane	*285	*285
			Approximately 250 feet upstream of U.S. Highway 64.	*295	*295
			Approximately 200 feet upstream of Siebenmorgen Road.	None	*304
			At the confluence with Little Creek	*276	*276
			Approximately 500 feet upstream of Middle Road, at a private low water crossing.	*277	*278
			Approximately 500 feet upstream of Wiggle Worm Road.	*279	*282
			Just upstream of U.S. Highway 64	*292	*292
			Approximately 900 feet upstream of Runker Road.	None	*301
<p>Maps are available for review at City Hall, City of Conway, 1201 Oak Street, Conway, Arkansas.                      Send comments to The Honorable David Kinley, Mayor, City of Conway, 1201 Oak Street, Conway, Arkansas 72032.</p>					
Arkansas	Faulkner County, Unincorporated Areas	Little Creek	Approximately 2,300 feet downstream of U.S. Highway 286.	*272	*272
			Approximately 200 feet upstream of East German Lane.	*279	*279
			Just upstream of Mockingbird Lane	*285	*285
			Approximately 250 feet upstream of U.S. Highway 64.	*295	*295
			Approximately 200 feet upstream of Siebenmorgen Road.	None	*304
			At the confluence with Little Creek	*276	*276
			Approximately 500 feet upstream of Middle Road, at a private low water crossing.	*277	*278
			Approximately 500 feet upstream of Wiggle Worm Road.	*279	*282
			Just upstream of U.S. Highway 64	*292	*292
			Approximately 900 feet upstream of Runker Road.	None	*301
<p>Maps are available for review at Faulkner County Tax Assessor's Office, 806 Locust Street, Conway, Arkansas.                      Send comments to The Honorable John Wayne Carter, Faulkner County Judge, 801 Locust Street, Conway, Arkansas 72032.</p>					
Arkansas	City of Hardy, Sharp County	Spring River	Approximately 0.16 mile downstream of the confluence with Forty Island Creek.	N/A	*362
			Approximately 160 feet downstream of U.S. Highway 62.	N/A	*369
			Approximately 1,690 feet upstream of U.S. Highway 62.	N/A	*370
			Approximately 0.22 mile above the confluence with Spring River.	N/A	*356

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
<p>Maps are available for review at the Mayor's Office, Church Street Fire Station, Hardy, Arkansas.                      Send comments to The Honorable A. L. Hutson, Mayor, City of Hardy, Church Street Fire Station, Hardy, Arkansas 72542.</p>					
California	City of Oroville, Butte County	Wyman Ravine	3,500 feet north of Palermo Road 800 feet west of Western Pacific Railroad At Baggett—Palermo Road At Oroville Dam Boulevard	*157 *163 *168 *160	*375 *414
<p>Maps are available for review at the Department of Public Works, 1675 Montgomery Street, Oroville, California.                      Send comments to The Honorable Dennis Diver, Mayor, City of Oroville, City Hall, 1735 Montgomery Street, Oroville, California 95965.</p>					
Iowa	City of New Vienna, Dubuque County	North Fork Maquoketa River	Approximately 1,900 feet downstream of the confluence of Coffee Creek. At the confluence of Coffee Creek Approximately 200 feet upstream of State Highway 136. At Maquoketa Street Approximately 1,300 feet upstream of Maquoketa Street.	*990 *993 *997 *1,000 *1,001	*988 *990 *995 *998 *999
<p>Maps are available for review at City Hall, City of New Vienna, 7271 Columbia Street, New Vienna, Iowa.                      Send comments to The Honorable Gene Loeffelholz, Mayor, City of New Vienna, P.O. Box 9, New Vienna, Iowa 52065.</p>					
Maine	Augusta (City), Kennebec County	Kennebec River	Approximately 1.3 miles downstream of Memorial Bridge. Approximately 4.2 miles upstream of Cushnoc Dam. At confluence with the Kennebec River Approximately 0.6 mile downstream of Dunn's Pit Road.	*32 *44 *38 *40	*30 *45 *36 *39
<p>Maps available for inspection at the Code Enforcement Office, City Center Plaza, Augusta, Maine.                      Send comments to the Honorable William D. Burney, Jr., Mayor of the City of Augusta, Kennebec County, City Center Plaza, 16 Cony Street, Augusta, Maine 04330.</p>					
Maine	Chelsea (Town), Kennebec County	Kennebec River Togus Stream Lower Togus Pond	At downstream corporate limits At upstream corporate limits At downstream corporate limits Approximately 100 feet upstream of the downstream corporate limits. Entire shoreline within the community	*30 *32 *80 *81 None	*26 *30 *81 *82 *184
<p>Maps available for inspection at the Town Office, Route 226, Chelsea, Maine.                      Send comments to Mr. Andrew L. Hart, Chelsea Town Manager, Kennebec County, R.R. 6, Box 1320, Gardiner, Maine 04345.</p>					
Maine	Gardiner (City), Kennebec County	Kennebec River Cobbosseecontee Stream	At Gardiner-Richmond corporate limits At Gardiner-Farmingdale corporate limits * At confluence with Kennebec River Approximately 725 feet upstream of Winter Street	*25 *29 *29 *34	*20 *25 *25 *33

Maps available for inspection at the Gardiner City Hall, 6 Church Street, Gardiner, Maine.  
 Send comments to Mr. Bill Nagpauer, Code Enforcement Officer for the City of Gardiner, City Hall, 6 Church Street, Gardiner, Maine 04345.

Maine	Hallowell (City), Kennebec County	Kennebec River	At the downstream corporate limits At the upstream corporate limits	*31 *32	*28 *30
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Maps available for inspection at the Hallowell City Hall, 1 Winthrop Street, Hallowell, Maine.

Send comments to Mr. Ed Sullivan, Code Enforcement Officer, Hallowell City Hall, 1 Winthrop Street, Hallowell, Maine 04347

Maine	Strong (Town), Franklin County	Sandy River Valley Brook Bean Brook McLeary Brook Doctor Brook Porter Lake	At downstream corporate limits At upstream corporate limits At confluence with Sandy River At upstream corporate limits Confluence with Valley Brook At upstream corporate limits At confluence with Sandy River At upstream side of Spaulding Hill Road At confluence with Bean Brook At upstream side of Burbank Hill Road Entire shoreline within community	*385 *463 *445 None *486 *566 *401 None *504 None None	*389 *467 *448 *582 *491 *567 *402 *559 *508 *524 *630
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Maps available for inspection at the Town Office, Foster Memorial Building, Main Street, Strong, Maine.

Send comments to Ms. Ruth Marden, Chairperson of the Town of Strong Board of Selectmen, Franklin County, P.O. Box 263, Strong, Maine 04983.

Pennsylvania	Union (Township) Huntingdon County	Juniata River	Approximately 300 feet upstream of State Route 829. Approximately 0.4 mile upstream of State Route 829 at upstream corporate limits.	None None	*601 *603
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Maps available for inspection at the home of Mr. Robert E. Fisher, Sr., Union Township Supervisor, Township Route 424, Mapleton Depot, Pennsylvania.  
 Send comments to Mr. Sidney M. Heaster, Chairman of the Township of Union Board of Supervisors, P.O. Box 261, Mapleton Depot, Pennsylvania 17052.

Texas	Lewisville (City) Dallas and Denton Counties.	Prairie Creek Copperas Branch Fox Creek (Stream TC-1) Milestone Ridge Tributary Prairie Creek Stream PC-2	Approximately 150 feet downstream of Valley Parkway. Upstream side of Kirkpatrick Lane Approximately 450 feet downstream of Brazos Boulevard. Approximately 250 feet upstream of corporate limits. Approximately 60 feet downstream of Belaire Boulevard. Approximately 75 feet upstream of Edmonds Lane. Approximately 1,300 feet upstream of confluence with Timber Creek. Approximately 0.6 mile upstream of confluence with Timber Creek. Approximately 0.4 mile downstream of North Summit Drive. Approximately 450 feet downstream of North Summit Drive. Approximately 680 feet upstream of confluence with Prairie Creek. Downstream side of Valley Parkway	*544 *573 *544 *567 *496 *537 None None *526 *531 *522 *551	*543 *577 *545 *571 *495 *536 *503 *525 *525 *530 *521 *550
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State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
<p>Maps available for inspection at the Engineering Division, Department of Community Development, City of Lewisville, 1197 W. Main at Civic Circle, Lewisville, Texas. Send comments to The Honorable Bobbie J. Mitchell, Mayor of the City of Lewisville, Dallas and Denton Counties, P.O. Box 29902, Lewisville, Texas 75029-9002.</p>					
Vermont	Barton, Town (Orleans County)	Barton River	Approximately 1,900 feet downstream of the most upstream crossing of the Canadian Pacific Railroad. Approximately 550 feet downstream of Interstate Route 91.	*831	*830
				*863	*862
<p>Maps available for inspection at the Barton Town Clerk's Office, Howard Bank Building, Main Street, Barton, Vermont. Send comments to Mr. Ronald Penharlow, Chairman of the Town of Barton Board of Selectmen, Orleans County, 14 Prospect Street, Orleans, Vermont 05860.</p>					
Vermont	Barton, Village (Orleans County)	Barton River	At downstream corporate limits. Approximately 200 feet upstream of Roaring Brook Road.	*858 *862	*856 *860
<p>Maps available for inspection at the Barton Town Clerk's Office, Howard Bank Building, Main Street, Barton, Vermont. Send comments to Mr. William Moroney, Chairman of the Village of Barton Board of Trustees, Orleans County, Barton Village, Inc., Box D, Barton, Vermont 05822.</p>					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: September 20, 1993.

Donald L. Collins,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 93-23811 Filed 10-1-93; 8:45 am]

BILLING CODE 6718-03-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 93-247, RM-8328]

#### Radio Broadcasting Services; Pauls Valley, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Washita Broadcasting, Inc., seeking the substitution of Channel 249C3 for Channel 249A at Pauls Valley, Oklahoma, and the modification of Station KGOK's license to specify the higher class channel. Channel 249C3 can be allotted to Pauls Valley in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.5 kilometers (3.4 miles) southwest, at coordinates North Latitude 34-42-14 and West Longitude 97-15-46, to accommodate petitioner's desired transmitter site.

**DATES:** Comments must be filed on or before November 19, 1993, and reply comments on or before December 6, 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: Peter H. Doyle, Esq., Arter & Hadden, 1801 K Street NW., suite 400K, Washington, DC 20006-1301 (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. 93-247, adopted September 8, 1993, and released September 28, 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 NE., 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.

Victoria M. McCauley,

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

[FR Doc. 93-24233 Filed 10-1-93; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 93-248; RM-8321]

#### Radio Broadcasting Services; Pleasant City, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Peter L. Cea seeking the allotment of Channel 232A to Pleasant City, Ohio, as the community's first local aural transmission service. Channel 232A can be allotted to Pleasant City in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.5 kilometers (2.8 miles) east, at coordinates North Latitude 39-53-22 and West Longitude 81-29-47, to avoid short-spacings to Station WHBC-FM, Channel 231B, Canton, Ohio, and to the outstanding construction permit (BMPH-891102IC) of Station WFCB, Channel 232B1, Chillicothe, Ohio. Canadian concurrence is required since Pleasant City is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

**DATES:** Comments must be filed on or before November 19, 1993, and reply comments on or before December 6, 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: Peter L. Cea, 707 Green Cook Road, Sunbury, Ohio 43074 (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. 93-248, adopted September 13, 1993, and released September 28, 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 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.

Victoria M. McCauley,

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

[FR Doc. 93-24234 Filed 10-1-93; 8:45 am]

BILLING CODE 6712-01-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1063

[Ex Parte No. MC-95 (Sub-No. 7)]

#### Petition To Amend 49 CFR Part 1063—Adequacy of Intercity Motor Common Carrier Passenger Service

AGENCY: Interstate Commerce Commission.

ACTION: Request for comment.

**SUMMARY:** The Commission is considering whether to propose amendments to its regulations governing

the adequacy of intercity bus services. Certain trade organizations in the industry have petitioned the Commission to adopt suggested amendments concerning publishing regular-route bus schedules; providing notice of schedule changes; and operating computerized reservation systems.

**DATES:** Comments are due November 3, 1993.

**ADDRESSES:** Send comments (an original and 10 copies), referring to Ex Parte No. MC-95 (Sub-No. 7), to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:**

Beryl Gordon, (202) 927-5610; or James L. Brown, (202) 927-5303. [TDD for hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The American Bus Association, United Bus Owners of America, and Independent Bus Companies Creditors (petitioners) jointly filed a petition on January 14, 1993, requesting that we adopt amended regulations that would (1) require all motor passenger carriers to cooperate with one another in providing a single publication containing the schedules of all regular-route carriers; (2) require regular-route motor passenger carriers to provide at least 30 days' advance notice of schedule changes; and (3) assure access to any computerized reservation system by all other carriers at cost and on a nondiscriminatory basis.

The Commission's decision contains additional information. To obtain a copy of the decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927-7428. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

**Regulatory Flexibility**

Because this is not a notice of proposed rulemaking within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we need not make, at this time, the small business impact examination required by that Act. We are, however, particularly concerned that the suggestions in the petition may have a significant negative impact on small businesses and other small organizations, because the suggested amendments would affect carriers other than those most directly affected by the problems for which petitioners seek solutions. Accordingly, we specifically request comments from interested persons regarding the impact of the suggested amendments on small entities. If we decide to issue a notice

of proposed rulemaking in this matter, we will conduct an appropriate Regulatory Flexibility Act examination at that time.

**Environmental Statement**

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

**Authority:** 5 U.S.C. 553 and 559 and 49 U.S.C. 10102, 10321, 10701, 10702-10705, 10708, 10721, 10722, 10723, 10724, 10730, 10741, 10761, 10762, 10764, 10922, 11101, 11141-11145, 11701, 11702, 11707, 11708, 11901, 11904, 11906, 11909, 11910, and 11914.

**List of Subjects in 49 CFR Part 1063**

Aged, Blind, Buses, Handicapped, Motor carriers.

Decided: September 27, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Vice Chairman Simmons, joined by Chairman McDonald, dissented with a separate expression.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 93-24289 Filed 10-1-93; 8:45 am]

BILLING CODE 7035-01-P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

RIN 1018-AC09

**Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Hine's Emerald Dragonfly as Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to determine Hine's emerald dragonfly (*Somatochlora hineana*) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). Historically, this dragonfly was reported from isolated sites in Indiana and Ohio. Recent reports indicate that it is present at five Illinois sites within Cook, DuPage, and Will Counties and at five Wisconsin sites in Door Country. This species is threatened primarily by habitat loss and modification. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *Somatochlora hineana*. Critical habitat is not being proposed at this time. The

Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by December 3, 1993. Public hearing requests must be received by November 18, 1993.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Division of Endangered Species, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111-4056. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** T.J. Miller, Acting Chief, Division of Endangered Species, at the above address (telephone 612/725-3276).

**SUPPLEMENTARY INFORMATION:**

**Background**

Hine's emerald dragonfly, also known as the Ohio emerald dragonfly, was described in 1931 from seven adults collected June 7 and 14, 1929, and July 4, 1930, near Indian Lake, Logan County, Ohio (Williamson 1931). It is a dragonfly (class Insecta, order Odonata) with bright, emerald-green eyes. Its body is 60-65 mm (ca. 2.5 inches) long and the male has a pair of distinctive, clasper-like appendages at the end of the abdomen. The wingspan is 80-85 mm (ca. 3.3 inches). The thorax is metallic green, with two distinct creamy yellow lateral stripes. The bright green eyes and yellow lateral stripes separate this species from similar species.

Cashatt (1991) indicated that the Illinois habitat of the Hine's emerald dragonfly consists of complex wetlands with small, shallow, spring-fed streams that drain into wet meadows and cattail marshes. These marshes are found primarily along the Des Plaines River drainage. Wisconsin habitat consists of small, calcareous, marshy streams and associated cattail marshes on dolomite bedrock.

Price (1958) reported collecting a total of 21 specimens in Ohio from Lucas County (Mud Lake in 1949, and from Oak Openings State Park in 1952, 1953, and 1956) and from Williams County (Bridgewater Township) in 1956. Until recently, the species was reported only from Ohio and Indiana (Montgomery 1953, Bick 1983). Recent investigations indicated that the species has apparently been extirpated from Ohio. Only one adult male was collected in Indiana (near Gary) and the species' status in Indiana is uncertain (Montgomery 1953, Bick 1983).

On May 22, 1984, the Service published in the Federal Register its first listing of invertebrate animal species being considered for listing under the Act. Hine's emerald dragonfly (under the common name of Ohio emerald dragonfly) was designated a category 2\* species. The asterisk indicated that it was possibly extinct, but that insufficient information was available for either listing or for declaring it extinct. No additional distribution information was available until 1990, when the Service supported investigations in Wisconsin by Vogt and Cashatt (1990) and in Illinois by Cashatt and Vogt (1990). These investigations confirmed the presence of remnant populations in those states. In Wisconsin, Vogt and Cashatt (1990) surveyed 27 potential sites in 9 eastern counties with the species being found in 5 sites in Door County. In Illinois, Cashatt and Vogt (1990) surveyed 28 potential sites in 5 counties and reported it present at 5 sites in Cook, DuPage, and Will Counties. Based on these status surveys, the small size and disjunct distribution of the remnant populations, and the immediacy of threats to the remnant populations, the Service determined that the species warranted protection under the Act.

Hine's emerald dragonfly is listed as endangered by the International Union for the Conservation of Nature, is on the Illinois State endangered species list, and is being added to the Wisconsin State endangered species list.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species determined to be an endangered or threatened species may be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to Hine's emerald dragonfly (*Somatochlora hineana*) are as follows:

##### A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The greatest threat to the species in Illinois and Wisconsin is habitat destruction. In Wisconsin's Door County, land development by agricultural, tourist, and recreational interests pose various threats to Hine's emerald dragonfly sites. Pesticide drift and run-off from Door County's apple and cherry orchards is a potential threat. Contaminated groundwater-to-surface

recharge and contaminated surface runoff may carry pesticides to the species' sites. If gypsy moth control is instituted in Door County it could also affect Hine's emerald dragonfly populations. There is an open highway salt storage area within 100 feet and draining into one Hine's emerald dragonfly stream site in Door County and a solid waste dump is being considered for development near another site. Beaver are common in Door County and their impoundments can eliminate the microhabitat of the aquatic dragonfly nymphs.

In Illinois, the remaining sites for the Hine's emerald dragonfly are located in Cook, DuPage, and Will Counties. These three counties are in the Chicago metropolitan area and represent the fastest-growing counties in that area. The sites in these counties are already highly fragmented and are further threatened by urban and industrial development. Industrial development in the immediate vicinity of the sites includes a petroleum refinery, a sewage treatment plant, rock quarries, an electrical power plant, and an asphalt plant. These facilities degrade surface water, ground water, and air quality in the vicinity of Hine's emerald dragonfly sites. Degraded ground water quality is a particular concern because the sites receive water from seeps and springs. Proposed highway FAP-431, an extension of I-355, also threatens the species' habitat. A variety of other developments in this rapidly-growing area are in various stages of planning and execution and also threaten the dragonfly's habitat.

##### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not believed to be a factor in the species' continued existence, but the proposal, if published, will prohibit unauthorized collection of individuals of the species. Protection from collection may become important because collectors may seek the species if it becomes listed.

##### C. Disease or Predation

The importance of these factors is presently unknown.

##### D. The Inadequacy of Existing Regulatory Mechanisms

The wetland habitat of Hine's emerald dragonfly is protected from physical, chemical, and biological degradation by provisions of the Clean Water Act. However, regulatory programs that implement the Clean Water Act have not effectively protected this dragonfly's habitat from being destroyed,

fragmented, and chemically degraded. The Hine's emerald dragonfly is under review for listing as an endangered species by the State of Wisconsin and is presently listed as endangered by the State of Illinois and by the International Union for the Conservation of Nature. State and Federal regulations are only partially effective in forestalling incremental habitat loss until a species using that habitat is formally listed as endangered or threatened. With the listing of the Hine's emerald dragonfly, such Federal laws and regulations would be used to protect the species' habitat.

##### E. Other Natural or Manmade Factors Affecting Its Continued Existence

Automobile impact is a threat where sites are near highways because individuals of the species tend to hover over highways, perhaps mistaking them for water, as part of their hunting and territorial defense strategies.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list Hine's emerald dragonfly as endangered.

##### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. The Service finds that designation of critical habitat for the Hine's emerald dragonfly is not presently determinable. The presently known populations of this species are located on fragmented and degraded wetland habitats. The size, location, area, spatial configuration, and composition of specific areas essential to the conservation of the Hine's emerald dragonfly or which may require special management considerations or protection cannot be determined without further study.

The Service will initiate a concerted effort to obtain the information needed to determine critical habitat for the Hine's emerald. When the Service finds that critical habitat is not determinable at the time of listing, regulations require the Service to make determination within two years of the date of the proposed rule to list the species (50 CFR 424.17(b)(2)). A proposed rule for critical habitat designation must be published in the Federal Register, and the notification process and public comment provisions parallel those for a species listing. In addition, the Service

will evaluate the economic and other relevant impacts of the critical habitat designation, as required under Section 4(b)(2) of the Act.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including capture, harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain

exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. This species is not in trade, and such permit requests are not expected.

#### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation(s) on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to \* \* \* (appropriate Washington Office, Regional Office, or Field Office address or refer to ADDRESSES section).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

#### References Cited

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- Cashatt, E.D. and T.E. Vogt. 1990. The Illinois 1990 status survey for the Ohio emerald dragonfly (*Somatochlora hineana*) Williamson. Illinois State Museum, Springfield. 20pp.
- Montgomery, B.E. 1953. Notes and records of Indiana Odonata, 1951-1952. *Proc. Indiana Acad. Sci.* 62: 200-202.
- Price, H.F. 1958. Additional notes on the dragonflies of northwestern Ohio. *Ohio J. Sci.* 58: 50-62.
- U.S.F.W.S. 1984. Endangered and threatened wildlife and plants; animal notice of review. 49 FR 21667.
- U.S.F.W.S. 1989. Endangered and threatened wildlife and plants; animal notice of review. 54 FR 567.
- Vogt, T.E. and E.D. Cashatt. 1990. The 1990 Wisconsin status survey for the Ohio emerald dragonfly (*Somatochlora hineana*) Williamson. Wisconsin Dept. of Natural Resources, Madison. 14pp.
- Williamson, E.B. 1931. A new North American *Somatochlora* (Odonata: Corduliidae). *Occ. Pap. Mus. Zool. Univ. Mich.* 225: 1-8.

#### Author

The primary author of this proposed rule is Charles G. Kjos (see ADDRESSES above). Everett D. Cashatt, Zoology Section, Illinois State Museum, Springfield, Illinois 62706, (217) 782-6689 and Timothy E. Vogt, Bureau of Endangered Resources, Wisconsin Department of Natural Resources, Box 7921, Madison, Wisconsin 53707-7921, (608) 266-8736, provided substantial information.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

#### Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—[AMENDED]**

U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

**§ 17.11 Endangered and threatened wildlife.**

1. The authority citation for Part 17 continues to read as follows:

**Authority:** The Endangered Species Act 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16

2. Section 17.11(h) is amended by adding the following, in alphabetical order under "Insects" to the List of Endangered and Threatened Wildlife:

\* \* \* \* \*  
(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
INSECTS							
* Hine's emerald (Ohio emerald dragonfly).	* <i>Somatochlora hineana</i>	* U.S.A. (IL, IN, OH, & WI).	* NA	* E	* .....	* NA	* NA
* 	* 	* 	* 	* 	* 	* 	* 

Dated: September 14, 1993.  
**Bruce Blanchard,**  
 Acting Director, U.S. Fish and Wildlife Service.  
 [FR Doc. 93-24291 Filed 10-1-93; 8:45 am]  
 BILLING CODE 4310-55-M

# Notices

Federal Register

Vol. 58, No. 190

Monday, October 4, 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.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Committee on Adjudication, Committee on Rulemaking, and the Committee on Regulation; Notice of Public Meetings

**SUMMARY:** Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of meetings of the Committee on Adjudication, Committee on Rulemaking and the Committee on Regulation of the Administrative Conference of the United States.

#### Committee on Adjudication

**DATES:** Monday, October 18, 1993 at 1:30 p.m.

**ADDRESSES:** Office of the Chairman, Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Nancy G. Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254-7020.

#### Committee on Rulemaking

**DATES:** Thursday, October 21, 1993 at 12:30 p.m.

**ADDRESSES:** Office of the Chairman, Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Nancy G. Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254-7020.

#### Committee on Regulation

**DATES:** Monday, November 1, 1993 from 9 a.m. to 1 p.m.

**ADDRESSES:** Office of the Chairman, Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** David Pritzker, Office of the Chairman,

Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254-7020.

**SUPPLEMENTARY INFORMATION:** The Committee on Adjudication will meet to discuss a project on the organization of adjudication offices in federal agencies. The project is being undertaken for the Conference by Professor Russell Weaver of the University of Louisville. The Committee on Rulemaking will meet to continue to discuss the project on improving the environment for agency rulemaking. The Committee on Regulation will meet to continue to discuss the project on federal agency use of audited self-certification as a regulatory technique. The project is being undertaken for the Conference by Professor Douglas Michael of the University of Kentucky. The Committee will also discuss a new study by Professor Donald Hornstein of the University of North Carolina School of Law, on pesticides registration and cancellation. Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: September 28, 1993.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 93-24346 Filed 10-1-93; 8:45 am]

BILLING CODE 6110-01-W

## DEPARTMENT OF AGRICULTURE

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

October 1, 1993.

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

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington DC 20250, (202) 690-2118.

### New Collection

- Farmers Home Administration. 7 CFR 1980-G, Nonprofit National Corporations Loan and Grant Program—Addendum I.

On occasion.  
State or local governments; Businesses or other for-profit; Non-profit institutions; 6 responses; 6 hours.  
Jack Holston (202) 720-9736.

- Farmers Home Administration. 7 CFR 1942-G, Rural Business Enterprise Grants and Television Demonstration Grants—Addendum II.

On occasion.  
State or local governments; Non-profit institutions; Small businesses or organizations; 10 responses; 10 hours.  
Jack Holston (202) 720-9736.

- Farmers Home Administration. 7 CFR 1942-J, Technical Assistance and Training Grants—Addendum I.

On occasion.  
Non-profit institutions; 10 responses; 10 hours.  
Jack Holston (202) 720-9736.

Donald E. Hulcher,  
Deputy Department Clearance Officer.  
[FR Doc. 93-24307 Filed 10-1-93; 8:45 am]  
BILLING CODE 3410-01-M

## Forest Service

### Exemption From Appeal; Modoc National Forest, California

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of exemption from appeal, Doublehead Ranger District, Modoc National Forest.

**SUMMARY:** The Forest Service is exempting from appeal the decision resulting from the Timber Mountain rehabilitation analysis. This environmental analysis is being prepared in response to two catastrophic events that have caused severe timber mortality in the Timber Mountain and Juniper Compartments on the Doublehead Ranger District, Modoc National Forest. The mortality has been caused by a fire, drought, related insect infestation, and pathogens.

There are currently higher than normal levels of tree mortality occurring on the Doublehead Ranger District as a result of seven consecutive years of below normal precipitation. The Doublehead Ranger District is proposing tractor harvest of 8.0 million board feet (MMBF) over 3,000 acres in the Timber Mountain Rehabilitation analysis. No new road construction is planned in any of the analysis area. There will be a minor amount of road reconstruction. As part of the rehabilitation, the Forest Service will do reforestation on an estimated 1800 acres, regeneration of bitterbrush on approximately 1000 acres, fuel treatment on approximately 1500 acres, road closure/obliteration and fence construction for bitterbrush tree and seedling protection.

The area is primarily within Management Area 64 (Mears), with a small portion within Management Area 63 (Tionesta), as delineated by the Modoc National Forest Land and Resource Management Plan.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by black pineleaf scale bark beetles and other endemic pathogens. Trees killed by insect attack and other endemic pathogens deteriorate very rapidly.

Approximately 1400 acres were burned by wild fire in June of 1992. The majority of the trees within the burned area are dead and dying.

Prompt removal of the dead and dying timber minimizes value and volume loss. Any unnecessary delays of the proposed salvage sales could delay harvesting until the 1994 logging season which could decrease the value by as much as \$3,000,000. In addition, excessive numbers of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult.

The increased threat of wildfire also increases the health and safety risks to private property owners living adjacent to the Timber Mountain Area, and threatens over \$3 million worth of

electronic site equipment and Forest Service improvements.

The decisions for the proposed projects are scheduled to be issued in October 1993. If projects are delayed because of appeals (delays can be up to 100 days, with an additional 15-20 days for discretionary review by the Chief of the Forest Service), it is likely that the projects could not be implemented this field season. This would result in the substantial monetary loss from timber values forgone. It would also continue the unacceptable threat to the health and safety of local property owners, as well as the potential loss of electronic site equipment and Forest Service improvements.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decisions relating to the harvest and restoration of lands affected by fire, drought, and pest infestation induced timber mortality, in the Timber Mountain Compartment of the Doublehead Ranger District, Modoc National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement, and will address the issues raised by the public.

Revised 36 CFR part 217 appeal regulations are currently being proposed. Project decisions made after revised regulations become effective would be subject to those revised regulations. This would mean that there is the possibility that some of the proposed projects would require a new notice in the **Federal Register**.

**EFFECTIVE DATE:** This decision is effective October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Questions about this decision should be addressed to Keith Guenther, Timber Management Appeals Coordinator, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705-2842, or to Diane K. Henderson, Forest Supervisor, Modoc National Forest, 441 N. Main St., Alturas, CA 96101, (916) 233-5811.

**SUPPLEMENTARY INFORMATION:** The environmental analyses for this proposal will be documented in the Timber Mountain Rehabilitation environmental document. A public involvement notice was published in the Modoc Record on April 23, 1992 (Alturas, CA) and in the Herald and News (Klamath Falls, OR) on April 28, 1992 to determine the issues to be addressed in the environmental analyses. Additionally, letters were mailed to representatives of various environmental groups, timber industry,

and the interested publics on the Doublehead Ranger District mailing lists in order to provide information on the projects and to generate public issues and concerns. Meetings have also been held with local property owners and interested Native American groups. The project files and related maps are available for public review at the Doublehead Ranger District, P.O. Box 369, Tulelake, CA 96134.

The mortality presently occurring in the Timber Mountain Compartment involves approximately 3,000 acres. An associated 8.0 MMBF, is presently being analyzed for the one sale. The value to the Forest Service of the salvage volume is estimated at \$3,200,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Modoc County will share 25% of the selling value for any of the timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be necessary for wildlife protection, erosion prevention and fuels reduction.

The proposals are not expected to adversely affect snag or old-growth dependent wildlife species. Post-harvest snag numbers will exceed the Forest Plan Standard and Guideline of 1.5 snags per acre. No Wild and Scenic rivers, wetlands, wilderness areas, or roadless areas are within the proposed project areas.

Dated: September 24, 1993.

**Dale N. Bosworth,**

*Deputy Regional Forester.*

[FR Doc. 93-24264 Filed 10-1-93; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF COMMERCE

### Agency Form Under Review by the Office of Management and Budget

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

*Agency:* Bureau of the Census.

*Title:* Current Population Survey—Demographic Items and Nativity and Immigration Items.

*Form Number(s):* CPS-1(R), CPS-2(R), CPS-3(R).

*Agency Approval Number:* 0607-0049.

*Type of Request:* Revision of a currently approved collection.

*Burden:* 7,745 hours.

*Number of Respondents:* 56,000.

*Avg Hours Per Response:* 1½ minutes.

**Needs and Uses:** The Current Population Survey (CPS) is a monthly survey conducted in approximately 56,000 households throughout the United States. Data on demographic and labor force characteristics are collected from a sample of households which represent the U.S. population. The basic monthly questionnaire is periodically supplemented with additional questions which address specific needs. The Bureau of the Census uses the data to compile monthly averages of household size and composition, age, education, ethnicity, marital status and various other characteristics at the U.S. level. The Bureau of Labor Statistics (BLS) sponsors and will request separate clearance for the labor force portion of the CPS. BLS uses this data in their monthly calculations of employment and unemployment. This request is for clearance of basic demographic items, items on nativity and immigration, and the reinterview portion of CPS. Beginning in January 1994, we will conduct the CPS using new, totally computerized CATI/CAPI procedures.

**Affected Public:** Individuals or households.

**Frequency:** Monthly.

**Respondent's Obligation:** Voluntary.

**OMB Desk Officer:** Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

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

Dated: September 28, 1993.

**Edward Michals,**

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

[FR Doc. 93-24329 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-07-F

## Bureau of Export Administration

[Docket Nos. 3101-01, 3101-02]

### Decision and Order

In the matter of: Reza Panjtan Amiri also known as Ray Amiri individually & doing business as Ray Amiri Computer Consultants (RACC), now also known as CCC Inc., Respondents.

On August 27, 1993, the Administrative Law Judge entered his Decision and Order in the above-

referenced matter. That Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. In his Decision and Order, the Administrative Law Judge recommended that the Respondent, Reza Panjtan Amiri, also known as Ray Amiri, individually and doing business as Ray Amiri Computer Consultants, now known as CCC Inc., and all successors, assignees, officers, partners, representatives, agents and employees be denied for a period of twenty years from this date all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Export Administration Regulations.

Based on my review of the entire record, I affirm the Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: September 25, 1993.

**Barry Carter,**

*Acting Under Secretary for Export Administration.*

### Decision and Order on Default

Appearance for Respondent: Mr. Renza Panjtan Amiri also known as Ray Amiri, appearing *pro se*<sup>1</sup> individually with an address at 13165 E. Essex Drive, Cerritos, California 90701 and doing business as Ray Amiri Computer Consultants, now also known as CCC Inc.

with addresses at: 1411 Fifth Street, Suite 303, Santa Monica, California 90401. Heinrichstrasse 9-11, D-6000 Frankfurt 1, Germany.

c/o Pars Hafezeh, Mirdamad Avenue, Mohsseni Square, Farnaz Street, Tehran, Iran.

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

### Preliminary Statement

On February 24, 1993, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (the

<sup>1</sup>In response to my June 29 Order to Show Cause issued in effort to insure that Amiri, although then abroad, might continue to be legally represented in this proceeding, Agency Counsel, by July 14 Submission for the Record, provided proof of service of the Request for Entry of a Default Order on counsel who last had appeared for the Respondent in this proceeding. However, as no response has been received to Agency Counsel's motion for default judgment, I conclude in agreement with Agency Counsel that Amiri currently is unrepresented and, accordingly, is appearing on his own behalf.

Department or Agency), issued a charging letter against Reza Panjtan Amiri, also known as Ray Amiri, individually and doing business as Ray Amiri Computer Consultants (RACC), now also known as CCC Inc. (herein collectively referred to as Amiri or the Respondent), under the authority of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420 [1991, Supp. 1992, and Pub. L. 103-10, March 27, 1993]) (the Act), and the Export Administration Regulations (currently codified at 15 CFR parts 768-799 [1992]) (the Regulations). On March 22, 1993, the Respondent, by his then-counsel, admitted having received the charging letter on March 5 and requested an extension of time in which to answer on the ground that the Respondent was in Iran. Accordingly, Amiri was granted a one-month extension—until May 5—to answer the charging letter. Nevertheless, no answer has been filed. The charging letter, in relevant part, alleges:<sup>2</sup>

That between approximately April 1, 1989, through February 28, 1991, Amiri and Danesh conspired to, and did, export U.S.-origin electronic test and measurement equipment and oscilloscopes from the United States to Iran without the validated export licenses required by § 771.2(b) of the Regulations. In connection with those exports, the conspirators filed, or caused to be filed, with the U.S. Customs Service (Customs) Shipper's Export Declarations (SEDs) that contained false

<sup>2</sup>The following charging letter allegations reflect only those which Agency Counsel has elected to presently pursue. These allegations correspond to, and are based on the same conduct, as those counts in the February 1990 indictment entered in the U.S. District Court, Central District of California, Los Angeles, to which Amiri, individually or as co-conspirator with Mohammad Danesh, also known as Don Danesh, pleaded guilty on March 30, 1992, in accordance with settlement agreements previously reached with the U.S. Attorney's Office. Danesh, who also entered guilty pleas at the same time as Amiri, is described in the record as operations manager of RACC, a company owned by Amiri as sole proprietor. In the February 1993 charging letter, the Department alleged that Amiri had committed 25 separate violations of the Regulations—specifically, that he was responsible for one violation of § 787.3(b); eight violations of § 787.4(a); eight violations of § 787.5(a); and eight violations of Section 787.6 of the Regulations, for the above total. However, since the guilty pleas did not encompass all of the 25 violations set forth in the charging letter, or all violations alleged in the indictment, the allegations that follow, consistent with the submitted evidence, relate only to charges 1-3, 10-11, 18-20, 23 and 25 of the charging letter. These correspond, although not necessarily in order, to counts 1, 2, 6, 13-17, inclusive, of the indictment to which, collectively, the guilty pleas were entered. Since Agency Counsel has chosen not to seek judgment with respect to charges 4, 5, 7-9, 12-17, 21, 22 and 24 of the charging letter, it is not relevant to set them forth. For clarity, the commodities involved in the various charges appear as more fully described in the court papers.

and misleading statements of material fact. By conspiring with Danesh to violate the Act and Regulations, Amiri violated § 787.3(b) of the Regulations.

On August 3, 1989, and July 3, 1990, respectively, Amiri, as co-conspirator with Danesh, exported one U.S. -origin I/O 29B30800 Universal Programming System and one Hewlett Packard 8112A Pulse Generator from the United States to Iran without the validated licenses Amiri knew, or had reason to know, were required by § 771.2(b) of the Regulations. For his role in exporting the above programming system and pulse generator with knowledge, actual or imputed, that such conduct was violative of the Act and Regulations, Amiri twice violated § 787.4(a) of the Regulations. By exporting the above programming system and pulse generator to Iran contrary to the requirements of the Act and Regulations, Amiri, by each act, violated § 787.6 of the Regulations.

In connection with the shipments described above, and also between approximately December 29, 1989, and October 31, 1990, with respect to 1 Tektronix 466 Oscilloscope, 1 Hewlett Packard 54504A Oscilloscope and one Hewlett Packard 16500A Logic Analyzer System/one Hewlett Packard 16530A Digitizing Oscilloscope,<sup>3</sup> Amiri, individually or as co-conspirator and principal, filed, directly or indirectly, with Customs SEDs on which were represented that the there-described goods qualified for export from the United States to Iran under a general license when, in fact, a validated export license was required for each such export. By each such action, Amiri separately violated § 787.5(a) of the Regulations by making false and misleading statements of material fact to a United States Agency in connection with the preparation, submission or of export control documents.

Now, by Request for Entry of a Default Order, dated June 24, 1993, Agency Counsel, noting that Amiri has failed to answer the February 1993 charging letter, although granted a requested time extension for that purpose, seeks judgment on default against Amiri on the aforesaid allegations of the charging letter to which he, individually or as Danesh's co-conspirator and principal, previously pleaded guilty in the U.S. District Court, and a recommended remedial order.

<sup>3</sup> The Logic Analyzer System and the Digitizing Oscilloscope were listed on the same August 1, 1990, SED.

<sup>4</sup> The facts, affirmed by the above court pleas, appear as stipulated in the appendices to the settlement agreements entered into by Amiri and Danesh, respectively, with the U.S. Attorney's

## The Stipulated Facts <sup>4</sup>

### 1. Danesh

From approximately April 1989 and continuing through approximately August 28, 1991, Danesh conspired with Amiri (i) to knowingly export from the United States to Iran electronic test and measurement equipment and oscilloscopes for which individual validated licenses for export were required, without first obtaining validated export licenses; (ii) to possess electronic test and measurement equipment with the intent to export the commodities to Iran without first obtaining validated export licenses; and (iii) to knowingly submit false SEDs to the Department and Customs in connection with the illegal export of commodities to Iran. In furtherance of this conspiracy, Danesh, who was employed by RACC and who reported to Amiri, would contact Amiri, either orally or through written fax transmissions, and would agree with Amiri to purchase commodities on RACC's behalf and to understate the value of those commodities and/or misclassify those commodities on shipping or export documents in order to circumvent United States Government export licensing requirements. Danesh then shipped the commodities to end-users in Iran. As part of this conspiracy, Danesh, on instructions from Amiri, would falsely advise U.S. manufacturers of the commodities that the commodities were destined for domestic use rather than for export.

On or about August 3, 1989, Danesh knowingly exported and caused to be exported to Sazemane Sanaye Defa (Ministry of Defense) in Tehran, Iran, one DATA/IO 29B30800 Universal Programming System without first

Office in the sequence followed in those documents rather than in strict chronological order. Although Danesh is not named as a respondent in this administrative proceeding, Agency Counsel, citing *United States v. Gold*, 743 F.2d 800, 822-823 (C.A.11 1984), cert. den. 469 U.S. 1217 (1985), and *United States v. NYNEX*, 788 F. Supp. 16, 18 fn. 3 (D.D.C. 1992), argues that, since Danesh acted herein within the scope of his employment as an agent for RACC (now also known as CCC Inc.), which company was owned as a sole proprietorship by Amiri, responsibility for all of Danesh's relevant activities should be imputed to RACC and, through RACC, to Amiri, as true principal. In accordance with *Gold*, *supra*, Danesh's status as agent for RACC/Amiri is not affected by the fact that his subject conduct benefited not just his principal, but also himself. Noting, too, that in *NYNEX*, *supra*, at 18, the U.S. District Court observed that "the courts will disregard the corporate form where the notion of legal entity is used to protect fraud or crime," and, in footnote 3, that "an *alter ego* analysis may be used to impose liability on a parent . . . for the conduct of its subsidiary, I accept Agency Counsel's authoritative position in this regard, and so find.

obtaining an individual validated license authorizing its export to Iran.

On about July 3, 1990, Danesh knowingly exported and caused to be exported to Iran Telecommunication Manufacturing Co. (ITRC) in Shiraz, Iran, one Hewlett Packard 8112A Pulse Generator without first obtaining an individual validated export license authorizing its export to Iran.

Danesh knew that the SED, dated August 3, 1989, for the export to the Ministry of Defense, Tehran, Iran, of the above-described Universal Programming System by RACC contained materially false representations to the Department and Customs in that the commodity was not authorized for export to Iran under the falsely declared export designation "GLV 1565A" and that the value of the commodity was not \$4,852.00, as declared. In actuality, the commodity required an individual validated export license for export to Iran and its true value was \$10,990.00.

### 2. Amiri

In addition to Danesh's above conduct imputed to Amiri as found in footnote 4, above, Amiri, in his settlement agreement and while entering his guilty plea before the U.S. District Court on March 30, 1992, admitted that he knew (or was aware of the high probability and deliberately avoided learning the truth) that the following SEDs submitted to the U.S. Government on behalf of RACC, as described below, were false:

(1) The SED, dated October 31, 1990, for the export to ITRC in Tehran by RACC of one Hewlett Packard 16500A Logic Analyzer System and one Hewlett Packard 16530A Digitizing Oscilloscope contained materially false statements to the Department and Customs in that the aforesaid commodities were not authorized for export to Iran under the falsely-declared export designation "GLV 1529," but, in fact, required individual validating licenses.

(2) The SED, dated August 3, 1989, for export to the Ministry of Defense in Tehran by RACC of one DATA/IO 29B30800 Universal Programming System contained materially false statements to the Department and Customs in that the above commodity was not authorized for export to Iran under the falsely-declared export designation "GLV 1565A," and the value of the commodity was not \$4,852.00, as declared. In fact the commodity required an individual validating export license for export to Iran and the its true value was \$10,900.00.

(3) The SED, dated December 19, 1989, for export to ITRC in Tehran by RACC of one Hewlett Packard 8112A

Pulse Generator contained materially false statements to the Department and Customs in that the involved commodity was not authorized for export to Iran under the falsely-declared export designation "GLV 1529," and its value was not \$3,937.00, as declared. In fact, the commodity required a validated export license for export to Iran and its true value was \$6,049.00.

(4) The SED, dated March 27, 1990, for the export to ITRC in Tehran by RACC of one Tektronix 466 oscilloscope contained materially false statements to the Department and Customs in that the listed commodity was not authorized for export to Iran under the falsely-declared export designation "GLV 1529," and the value of the commodity was not \$3,795.00, as declared. In fact the commodity required a validated export license for export to Iran and its true value was \$4,995.00.

(5) The SED, dated August 1, 1990, for export to Iran Telecommunication in Shiraz, Iran, by RACC of one Hewlett Packard 54504A Digitizing Oscilloscope contained materially false statements to the Department and Customs in that the listed commodity was not authorized for export to Iran under the falsely-declared export designation "GLV 1529," and the value of the commodity was not \$4,772.00, as declared. In fact the commodity required an individual validated license for export to Iran and its true value was \$6,450.00.

On March 30, 1992, Amiri and Danesh appeared in the U.S. District Court, Los Angeles, and changed their pleas to conform to the plea agreements they had entered into with the U.S. Attorney's Office. Although, as noted, Amiri and Danesh pleaded guilty to different counts of the indictment, except for count 14,<sup>5</sup> to which they both acceded, Agency Counsel imputes all unlawful conduct by Danesh and RACC to Amiri, as principal of both Danesh and RACC, and as Danesh's co-conspirator. Amiri failed to appear in court as scheduled for sentencing on October 19, 1992. Accordingly, the Court revoked Amiri's bond and issued a warrant for his arrest. He now is a

<sup>5</sup> Count 14 of the indictment, which corresponds to charge 18 of the charging letter, alleges that, on August 3, 1989, Amiri and Danesh deliberately misrepresented to the Department and Customs on the filed SED that the above-referenced Universal Programming System could be exported to Iran under a general license rather than the required individual validated license, and that the commodity involved had a cost materially less than the actual value. As argued, in effect, by Agency Counsel, Amiri directly violated charge 18 of the charging letter by virtue of his guilty plea to count 14 of the indictment and, again, by attribution as Danesh's principal based on the latter's guilty plea to the same indictment count.

fugitive from justice, from last information, having remained in Iran.

#### Agency Counsel's Position

Beyond moving, pursuant to § 788.8 of the Regulations, for a finding that Amiri is in default for failure to answer the charging letter, Agency Counsel contends that here, where that Respondent previously has pleaded guilty to criminal charges on the same facts as are alleged in the administrative proceeding, the charged party is estopped from contesting in the administrative proceeding any facts necessarily established at the criminal trial.<sup>6</sup> Accordingly, as the U.S. District Court, District of Columbia, held in *Spawr*, *supra*, "\* \* \* in this jurisdiction, issues determined in a criminal conviction may be accorded preclusive effect at a later administrative proceeding."<sup>7</sup> Agency Counsel asserts in this regard that the three conditions, or standards, identified by the District Court in *Spawr* that must be fulfilled in order to estop further litigation in a subsequent administrative proceeding of facts and issues necessarily established by the criminal conviction, in fact, have been met in the present case. These are: (1) That the identical issues must have been actually litigated—contested by the parties and submitted for determination by the prior tribunal; (2) that the issues must have been necessary to the prior tribunal's determination; and (3) that the party to be bound must have had an incentive to litigate the issues in the prior hearing so that preclusion in the second hearing would not be unfair.<sup>8</sup> Responding to these factors, Agency Counsel argues (1) that the same issues are involved in this administrative proceeding as in the guilty pleas in the criminal case; (2) that, since the Act provides that the same conduct may be subject to both criminal and administrative sanctions,<sup>9</sup> the elements necessary to establish civil liability here are essentially the same as had been necessary to validate responsibility in the earlier criminal case, except that the evidentiary preponderance required in this administrative proceeding constitutes a lesser burden of proof than in the criminal case where it was necessary to establish the Defendants' unlawful conduct beyond a reasonable doubt; and (3) that the Defendants in the criminal case, faced with stern

<sup>6</sup> *Spawr Optical Research v. Baldrige*, 649 F. Supp. 1366, 1369 (D.D.C. 1986) enfg. 51 Fed. Reg. 7477-7479, 7481 (March 4, 1986).

<sup>7</sup> See *Otherson v. Department of Justice*, 711 F.2d 267 (C.A.D.C. 1983).

<sup>8</sup> *Id.*

<sup>9</sup> See, e.g., 50 U.S.C.A. app. 2410(c)(1).

penalties, had ample incentive to litigate in the criminal forum.

Citing, *United States v. Real Property Located at Section 18, et al.*,<sup>10</sup> and *Ivers v. United States*,<sup>11</sup> Agency Counsel points out that even where, as here, conviction results from a plea of guilty, rather than from a trial on the merits, collateral estoppel still is applicable to prevent relitigation of the facts necessarily established by the criminal plea.

#### Discussion and Conclusions

As described by the U.S. Court of Appeals, Ninth Circuit, in *Real Property Located at Section 18, et al. v. United States*:<sup>12</sup>

\* \* \* The doctrine of collateral estoppel prevents relitigation by parties of issues actually litigated and necessarily decided in a prior action \* \* \* Collateral estoppel is applied only when the issues in the subsequent action are the same as those in the first action (citations omitted).

Also termed "issue preclusion," collateral estoppel is based on the premise that parties are entitled to but one hearing on the same set of facts,<sup>13</sup> and may become applicable when the three above standards are met.

Here, from Agency Counsel's uncontested evidence, above-cited authority and arguments, particularly noting that the Respondent, Reza Panjtan Amiri, also known as Ray Amiri, has failed to answer the February 24, 1993, charging letter although service of same is admitted and he was granted extended time for that purpose; that Amiri's criminal plea to counts 13-17 of the indictment collaterally estops him from contesting corresponding charges 1-3, 10-11, 18-20, 23 and 25 of the charging letter, based on the same conduct; that Danesh's guilty plea estops Amiri from contesting in this administrative proceeding the facts established in that plea since Danesh acted herein only as an employee of RACC (currently known as CCC Inc.), a sole proprietorship owned by Amiri which, admittedly, is not a separate

<sup>10</sup> 976 F.2d 515, 518-519 (C.A.9 1992).

<sup>11</sup> 581 F.2d 1362, 1367 (C.A.9 1978).

<sup>12</sup> 976 F.2d, *supra*, at 518.

<sup>13</sup> As noted in *Spawr*, 649 F. Supp., *supra*, at 1372, from *Blonder-Tongue Laboratories, Inc. v. University of Illinois Foundation*, 402 U.S. 313, 324-325 (1971):

[A] party who has had one fair and full opportunity to prove a claim and has failed in that effort, should not be permitted to go to trial on the merits of that claim a second time. Both orderliness and reasonable time savings in judicial administration require that this be so unless some overriding consideration of fairness to a litigant dictates a different result in the circumstances of a particular case.

entity from the proprietor;<sup>14</sup> and that, therefore, Amiri also is estopped from contesting that he violated charges 1, 2, 3, 10, 11 and 18 of the charging letter because of Danesh's guilty plea to corresponding counts 1, 2, 6 and 14 of the indictment, I conclude as follows:

(i) That, pursuant to § 788.8 of the Regulations, Amiri is in default for failure to answer the charging letter herein and, accordingly, has violated charges 1, 2, 3, 10, 11, 18, 19, 20, 23 and 25 as alleged in the charging letter. In accordance with the foregoing, it further is found

(ii) That Amiri has committed eight violations of § 787.3(b), two violations of § 787.4(a), five violations of § 787.5(a) and two violations of § 787.6, for a total of seventeen violations of the Regulations.<sup>15</sup> Each of the above violations by Amiri concerns commodities controlled for reasons of national security under section 5 of the Act.

Because of the seriousness of the violations here established, which involve concurrent criminal misconduct, I accept Agency Counsel's recommendation that Amiri be denied export privileges for twenty years. In so finding, I recognize the unlikelihood, as indicated by Agency Counsel, that in the applicable circumstances a monetary civil penalty, however warranted, could be effectively imposed. Therefore, I issue the following recommended

#### Order

It is ordered that

I. For a period of twenty years from the date of final action by the United States Department of Commerce, the Respondent

Reza Panjtan Amiri, also known as Ray Amiri, individually with an address at 13165 E. Essex Drive, Cerritos, California 90701

and doing business as: Ray Amiri Computer Consultants, now also known as CCC Inc.

with addresses at: 1411 Fifth Street, Suite 303, Santa Monica, California 90401

Heinrichstrasse 9-11, D-6000 Frankfurt 1, Germany;

c/o Pars Hafezeh, Mirdamad Avenue, Mohsseni Square, Farnaz Street, Tehran, Iran, and all successors, assignees, officers, partners, representatives, agents and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

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

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

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

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

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

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

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

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

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

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing,

shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the Respondent or any related person, or whereby the Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

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

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

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

Dated: August 27, 1993.

Robert M. Schwarzbart,  
Administrative Law Judge.

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

[FR Doc. 93-24328 Filed 10-1-93; 8:45 am]  
BILLING CODE 3510-DT-M

#### Foreign-Trade Zones Board

[Order No. 658]

#### Removal of Time Limit Foreign-Trade Zone 159, St. Paul, AK

Pursuant to the authority granted in the Foreign-Trade Zones of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order.

After consideration of the request of the City of St. Paul, Alaska, grantee of

<sup>14</sup> See footnote 4, above.

<sup>15</sup> Consistent with *Otherson*, 711 F.2d, *supra*, at 275 fn. 8, 277 fn. 11, in reaching the above conclusions, I note the existence of "a live debate \* \* \* over the preclusive effect of guilty pleas," since facts established by a guilty plea are not uniformly regarded as having been litigated so as to accord with the first of the three above standards for preclusion. Here, however, the record shows that when Amiri and Danesh entered their guilty pleas they respectively underwent detailed examination by the Court, as required, to warrant determination that the allegations against them were true beyond reasonable doubt. Accordingly, the Court's mandated precautions in so establishing the occurrence of the unlawful conduct, also relevant herein, went beyond the mere acceptance of guilty pleas. See *Otherson*, *supra*, at 275 fn. 8.

FTZ 159, filed with the Foreign-Trade Zones Board (the Board) on April 22, 1991, requesting removal of the one-year time limit (from activation) for FTZ 159, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 24th day of September 1993, pursuant to Order of the Board.

**Richard W. Moreland,**

*Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 93-24319 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 659]

#### Designation of New Grantee for Foreign-Trade Zone 60, Nogales, AZ

##### Resolution and Order

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (Docket 14-93) from the Border Industrial Development, Inc. (BID), grantee of Foreign-Trade Zone 60, Nogales, Arizona, for reissuance of the grant of authority for said zone to the Nogales-Santa Cruz County Economic Development Foundation, Inc., an Arizona non-profit corporation, which has accepted such reissuance subject to approval of the FTZ Board, the Board, finding that the requirements of the Foreign-Trade Zones Act, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Nogales-Santa Cruz County Economic Development Foundation, Inc. as the new grantee of Foreign-Trade Zone 60.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 24th day of September, 1993.

**Richard W. Moreland,**

*Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 93-24320 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-P

#### Order No. 660

#### Grant of Authority for Subzone Status, Lincoln Electric Co., (Arc Welding Equipment/Supplies) Euclid and Mentor, OH

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, for authority to establish a special-purpose subzone for the arc welding equipment and supplies manufacturing plants of Lincoln Electric Company located in Euclid and Mentor, Ohio, was filed by the Board on September 8, 1992, and notice inviting public comment was given in the *Federal Register* (FTZ Docket 29-92, 57 FR 43694, 9-22-92); and,

Whereas, the Board has found that the requirements of the Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to a restriction requiring that full Customs duties be paid on all foreign steel mill products;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 40D) at the Lincoln Electric Company plants in Euclid and Mentor, Ohio, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to a restriction requiring that privileged foreign status (19 CFR 146.41) shall be

electd on all foreign steel mill products prior to manipulation or manufacturing in the subzone if the same items are being produced by a domestic plant.

Signed at Washington, DC, this 24th day of September 1993.

**Richard W. Moreland,**

*Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 93-24321 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-P

#### International Trade Administration

[A-588-055]

#### Acrylic Sheet From Japan; Determination Not To Revoke Antidumping Finding

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

**ACTION:** Notice of determination not to revoke antidumping finding.

**SUMMARY:** The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on acrylic sheet from Japan.

**EFFECTIVE DATE:** October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Sheila Forbes or Pamela Woods, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-5253.

**SUPPLEMENTARY INFORMATION:** The Department of Commerce may revoke an antidumping finding, pursuant to § 353.25(d)(4)(iii) of the Department's regulations, if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review of the antidumping finding on acrylic sheet from Japan (41 FR 36497, August 31, 1976) for the last four consecutive annual anniversary months. Therefore, pursuant to the Department's regulations, on August 5, 1993, we published in the *Federal Register* a notice of intent to revoke the finding and served written notice of the intent to each interested party on the Department's service list.

On August 20, 1993, a domestic interested party, CYRO industries,

objected to our intent to revoke the finding. Therefore, because this domestic interested party objected to the revocation, we no longer intend to revoke this antidumping finding.

Dated: September 20, 1993.

Roland L. MacDonald,  
Acting Deputy Assistant Secretary for  
Compliance.

[FR Doc. 93-24324 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-098]

### Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review

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

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

**SUMMARY:** On August 5, 1992, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on anhydrous sodium metasilicate from France. This review covers Rhone Poulenc Chime deBase, a manufacturer/exporter of this merchandise to the United States, during the period of January 1, 1992 through December 31, 1992. The firm failed to respond to our questionnaire. As a result, we received no comments. The final results are unchanged from those presented in preliminary results of review.

**EFFECTIVE DATE:** October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Joseph A. Fargo or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4733.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 5, 1993, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping order on anhydrous sodium metasilicate (ASM) from France in the *Federal Register* (58 FR 41711). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 as amended (the Tariff Act).

##### Scope of the Review

Imports covered by the review are shipments of ASM, a crystallized silicate (Na SiO<sub>3</sub>) which is alkaline and

readily soluble in water. Applications include waste paper de-inking, ore-floatation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. This merchandise is classified under Harmonized Tariff Schedules (HTS) item numbers 2839.11.00 and 2839.19.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers Rhone Poulenc and the period January 1, 1992 through December 31, 1992.

##### Use of Best Information Available

We mailed the antidumping questionnaire to Rhone Poulenc, the only manufacturer/exporter of this merchandise to the United States. Rhone Poulenc failed to respond to our questionnaire. The Department has therefore decided to use the best information available (BIA) in determining the rate for this firm.

When a company fails to provide the information requested in a timely manner, or otherwise significantly impedes the Department's review, the Department considers the company uncooperative and generally assigns to that company the higher of: (a) the highest rate assigned to any company in a previous review or the investigation or (b) the highest rate for a responding company with shipments during the review period. See 19 CFR 353.37(b) and Final Results of Antidumping Duty Administrative Review Portable Electric Typewriters from Japan (November 4, 1991, 56 FR 56393). In this case, for BIA, we used 60 percent, the highest rate from a prior review. See Final Results of Antidumping Duty Administrative Review, Anhydrous Sodium Metasilicate from France (52 FR 33856, September 8, 1987).

##### Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. The final results are unchanged from those presented in the preliminary results of review. We determine that a margin of 60 percent exists for Rhone Poulenc during the period January 1, 1992 through December 31, 1992, based upon the last reviewed period in which there were shipments.

Furthermore, the following deposit requirements will be effective upon publication of these final results of this administrative review, for all shipments of ASM from France, entered, or withdrawn from warehouse, for

consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be 60 percent; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value investigations, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise.

On May 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council v. United States*, Slip O. 93-79, and *Federal-Mogul Corporation and the Tarrington Company v. United States*, Slip Op. 93-83, decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original "all others" rate from the less-than-fair-value (LTFV) investigation (or that rate as amended for correction of clerical error or as a result of litigation) in proceedings governed by antidumping orders. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that as amended for correction of clerical errors or as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping order, the "all others" rate for the purpose of this review will be 60 percent, the "all others" rate established in the LTFV investigation.

These deposit requirements when imposed shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of

antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 24, 1993.

**Richard W. Morland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 93-24326 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-549-601]

**Pipe Fittings From Thailand;  
Determination Not To Revoke  
Antidumping Duty Order**

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

**ACTION:** Notice of determination not to revoke antidumping duty order.

**SUMMARY:** The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on pipe fittings from Thailand.

**EFFECTIVE DATE:** October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Carlo Cavagna or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-4733.

**SUPPLEMENTARY INFORMATION:** The Department of Commerce (the Department) may revoke an antidumping duty order, pursuant to § 353.25(d)(4)(iii) of the Department's regulations, if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review of the antidumping duty order on pipe fittings from Thailand (52 FR 31440, August 20, 1987) for the last four consecutive annual anniversary months. Therefore, pursuant to the Department's regulations, on August 5, 1993, we published in the *Federal Register* a notice of intent to revoke the order and served written notice of the intent to each interested party on the Department's service list.

On August 19, 1993, several domestic interested parties, the Grinnell Corp., Stockham Valves & Fittings Co., Inc., Stanley G. Flagg & Co., Inc., and Ward Manufacturing Inc., objected to our

intent to revoke the duty order. Therefore, because domestic interested parties objected to the revocation, we no longer intend to revoke this antidumping duty order.

Dated: September 20, 1993.

**Roland L. MacDonald,**

*Acting Deputy Assistant Secretary for Compliance.*

[FR Doc. 93-24327 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-059]

**Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review**

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

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

**SUMMARY:** On July 27, 1993, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pressure sensitive plastic tape from Italy. The review covers one exporter, NAR, and the period October 1, 1991 through September 30, 1992. Since there were no shipments of the subject merchandise during the period of review, we determine that the dumping margin for NAR to be 1.24 percent, the rate NAR received in its most recent review.

**EFFECTIVE DATE:** October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:** Todd Peterson or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4195 or 482-3814, respectively.

**Background**

On July 27, 1993, the Department of Commerce (the Department) published the preliminary results (58 FR 40111) of its administrative review of the antidumping duty finding on pressure sensitive plastic tape from Italy (42 FR 56110). The Department has now completed this administrative review of the antidumping duty finding on pressure sensitive plastic tape from Italy (42 FR 56110). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

**Scope of the Review**

Imports covered by the review are shipments of pressure sensitive plastic tape measuring over 1 3/8 inches in width and not exceeding 4 mils in thickness, classifiable under item numbers 3919.90.20 and 3919.90.50 of the Harmonized Tariff Schedules (HTS). HTS item numbers are provided for convenience and for Customs purposes. The written descriptions remain dispositive.

**Final Results of Review**

The Department received no comments on its preliminary results. Therefore, we have assigned NAR the rate applicable to it from its most recent administrative review as the estimated cash deposit rate. This rate is 1.24 percent.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise.

On May 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council v. United States*, Slip Op. 93-79, and *Federal-Mogul Corporation and the Torrington Company v. United States*, Slip Op. 93-83, decided that once an "all other" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions; it is appropriate to reinstate the original "all others" rate from the less-than-fair-value (LTFV) investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purpose of establishing cash deposits in all current and future administrative reviews. In proceedings governed by antidumping findings, unless we are able to ascertain the "all other" rate from the Treasury LTFV investigation, the Department has

determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate amended for correction of clerical errors or as a result of litigation) as the "all other" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping finding and we are unable to ascertain the "all other" rate from the Treasury LTFV investigation, the "all other" rate for purposes of this review will be 12.66 percent, the "new shipper" rate established in the first notice of final results of administrative review published by the Department (48 FR 35686, August 5, 1983).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversation to judicial protective order is hereby requested. Failure to comply with regulations and the terms of APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 23, 1993.

Richard W. Moreland,  
Acting Assistant Secretary for Import Administration.

[FR Doc. 93-24325 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-801]

### Heavy-Walled Rectangular Tubing From Argentina; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of Intent to Revoke Countervailing Duty Order.

**SUMMARY:** The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on heavy-walled rectangular tubing from Argentina. Domestic interested parties who object to this revocation must submit their comments in writing not later than thirty days from the publication date of this notice.

**EFFECTIVE DATE:** October 4, 1993.

**FOR FURTHER INFORMATION CONTACT:**

Anna T. Milone, Cameron Cardozo, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-4406 or 482-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 27, 1988, the Department of Commerce ("the Department") published a countervailing duty order on heavy-walled rectangular tubing from Argentina (53 FR 37619). The Department has not received a request to conduct an administrative review of this countervailing duty order for at least four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

**Opportunity to Object**

Not later than thirty days after the publication date of this notice, domestic interested parties, as defined in § 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If no interested parties request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), or if no domestic interested parties object to the Department's intent to revoke pursuant

to this notice, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: September 23, 1993.

Roland L. MacDonald,  
Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-24323 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-P

[C-357-801]

### Light-Walled Rectangular Tubing From Argentina; Intent to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of intent to revoke countervailing duty order.

**SUMMARY:** The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on light-walled rectangular tubing from Argentina. Domestic interested parties who object to this revocation must submit their comments in writing not later than thirty days from the publication date of this notice.

**EFFECTIVE DATE:** October 1, 1993.

**FOR FURTHER INFORMATION CONTACT:**

Anna T. Milone, Cameron Cardozo, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-4406 or 482-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 27, 1988, the Department of Commerce ("the Department") published a countervailing duty order on light-walled rectangular tubing from Argentina (53 FR 37619). The Department has not received a request to conduct an administrative review of this countervailing duty order for at least four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's

regulations, we are notifying the public of our intent to revoke this order.

#### Opportunity to Object

Not later than thirty days after the publication date of this notice, domestic interested parties, as defined in § 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If no interested parties request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), or if no domestic interested parties object to the Department's intent to revoke pursuant to this notice, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: September 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93-24322 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DS-P

#### 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, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

**Docket Number: 93-113. Applicant:** University of Minnesota, Department of Mechanical Engineering, 111 Church Street, SE, Minneapolis, MN 55455. **Instrument:** Ultrafine Differential Mobility Analyzer. **Manufacturer:** Norlin & Persson AB, Sweden. **Intended Use:** The instrument will be used to

produce monodisperse ultrafine aerosols -- particles used to calibrate instrumentation that is used to measure concentrations and size distributions in the atmosphere. **Application Received by Commissioner of Customs:** August 30, 1993.

**Docket Number: 93-114. Applicant:** National Renewable Energy Laboratory, 1617 Cole Boulevard, Golden, CO 80401. **Instrument:** Automated Electron Microprobe, Model JXA-8900L/3CH/FCS. **Manufacturer:** JEOL Ltd., Japan. **Intended Use:** The instrument will be used for studies of the chemical composition and elemental distribution of semiconductor and superconductor materials in experiments accomplished by focussing a high voltage electron beam on a solid sample, generating characteristic x-rays, and measuring these x-rays quantitatively with wavelength and energy dispersive spectrometers. **Application Received by Commissioner of Customs:** August 31, 1993.

**Docket Number: 93-115. Applicant:** University of Hawaii at Manoa, Department of Biochemistry and Biophysics, 1960 East West Road, Honolulu, HI 96822. **Instrument:** Stopped Flow Accessory, Model SFA-12M. **Manufacturer:** Hi-Tech Scientific Ltd., United Kingdom. **Intended Use:** The instrument will be used to conduct biochemical enzyme kinetic experiments utilizing limited amounts of enzymes, substrates and cofactors. The objective of the experiments is to better understand the kinetic scheme of transcription termination factor rho from *Escherichia coli*, and binding studies of synthetic oligopeptides to double-stranded nucleic acids. In addition, the instrument will be used to train graduate students in the experimental techniques and interpretation of kinetic experiments utilizing the stopped flow methodology in various biochemistry courses. **Application Received by Commissioner of Customs:** September 1, 1993.

**Docket Number: 93-116. Applicant:** U.S. Geological Survey, Box 25046, MS 421, Denver Federal Center, Lakewood, CO 80225. **Instrument:** Borehole, In Situ Hydrochemical Electrode System. **Manufacturer:** Svensk Kärnbränslehantering AB, Sweden. **Intended Use:** The instrument will be used to determine the *in situ* pH, Eh, pS<sup>2-</sup>, temperature, and hydrostatic potential of ground waters at and in the vicinity of the Nevada Test Site as part of U.S. Department of Energy Yucca Mountain Project site-characterization activities. The studies will result in the assembly of a set of chemical and isotopic data that will be used to: (1)

describe spatial ground-water composition variations; (2) determine the processes that result in the variations observed; (3) provide insight as to the physical nature of the geohydrologic system; (4) develop a model of the evolution of the chemical and isotopic evolution of the ground water; and (5) estimate the performance of the Yucca Mountain site as a repository for high-level radioactive wastes. **Application Received by Commissioner of Customs:** September 1, 1993.

**Docket Number: 93-117. 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 studies of photosynthetic organisms, including algae, lichens, mosses, ferns, and higher plants to learn more about the functioning of the photosynthetic apparatus under various environmental conditions. In addition, the instrument will be used for educational purposes in the laboratory courses to accompany Plant Ecophysiology and Ecophysiology of Photosynthesis. **Application Received by Commissioner of Customs:** September 2, 1993.

**Docket Number: 93-118. Applicant:** Lehigh University, Department of Earth and Environmental Sciences, 31 Williams Drive, Bethlehem, PA 18015-3188. **Instrument:** Multi-Sensor Core Logger. **Manufacturer:** GeoTek, Inc., United Kingdom. **Intended Use:** The instrument will be used to examine sediments derived from lakes in the northeast U.S.; measuring for p-wave sonic velocity gamma-ray attenuation (bulk density) and magnetic susceptibility. In addition, the instrument will be used in the laboratory sections of two courses: EES 213 - Sedimentation and Stratigraphy and EES 415 - Quaternary Paleoclimatology. **Application Received by Commissioner of Customs:** September 2, 1993.

**Docket Number: 93-119. Applicant:** Fordham University, 441 E. Fordham Road, Bronx, NY 10458. **Instrument:** Electron Microscope, Model JEM-1010. **Manufacturer:** JEOL Ltd., Japan. **Intended Use:** The instrument will be used for the following research: (1) study of isopod structure/function relationships; (2) identification of the pathway for substance P involved in touch reflexes stimulating mucociliary transport in the frog palate; (3) study of the alterations in membrane lipids affecting a variety of cellular responses

in cultured capillary endothelial cells from the *rete mirabile* of the eel, *Anquilla rostrata*; and (4) study of the ultrastructure of molluscan hemocyanins and other invertebrate multisubunit proteins. In addition, the instrument will be used in the laboratory component of the courses: Histology, Microanatomy, Microbiology, Cell/Developmental Biology, and Cell/Molecular Biology. *Application Received by Commissioner of Customs:* September 8, 1993.

*Docket Number:* 93-120. *Applicant:* Clemson University, Department of Psychology, Brackett Hall, Clemson, SC 29634-1511. *Instrument:* Refractometer (Used), Model R-1. *Manufacturer:* Canon, Japan. *Intended Use:* The instrument will be used to study ocular accommodation in the eyes of living humans. *Application Received by Commissioner of Customs:* September 9, 1993.

**Frank W. Creel,**  
*Director, Statutory Import Programs Staff.*  
[FR Doc. 93-24318 Filed 10-1-93; 8:45 am]  
BILLING CODE 3510-DS-F

#### National Oceanic and Atmospheric Administration

[I.D. 092893A]

#### Caribbean Fishery Management Council; Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.  
**ACTION:** Notice of public meeting.

**SUMMARY:** The Caribbean Fishery Management Council's Habitat Advisory Panel will hold a public meeting on October 27, 1993, at the Travelodge Hotel, San Juan, Puerto Rico. The meeting will begin at 9:30 a.m. and will adjourn at 4 p.m.

The principal topics of this meeting are related to the habitat sections of the Reef Fish and the Coral Fishery Management Plans.

The meeting will be conducted in the English language. Fishermen and other interested persons are invited to attend. Members of the public will be allowed to submit oral or written statements regarding agenda items.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera, suite 1108, Hato Rey, Puerto Rico 00918; telephone: (809) 766-5926, at least five (5) days prior to the meeting date.

**FOR FURTHER INFORMATION CONTACT:** The Caribbean Fishery Management Council, 268 Muñoz Rivera, suite 1108, Hato Rey, Puerto Rico 00918-2577; telephone: (809) 766-5926.

Dated: September 28, 1993.

**David S. Crestin,**  
*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*  
[FR Doc. 93-24253 Filed 10-1-93; 8:45 am]  
BILLING CODE 3510-22-P

[I.D. 092893B]

#### Caribbean Fishery Management Council; Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.  
**ACTION:** Notice of public meeting.

**SUMMARY:** The Caribbean Fishery Management Council's Scientific and Statistical Committee and its Advisory Panel will hold separate public meetings on October 13 and 14, 1993, respectively. Both meetings will be held at the Pierre Hotel, San Juan, Puerto Rico, beginning at 10 a.m. and adjourning at 5 p.m.

The main topic for both meetings will be the Draft Coral Fishery Management Plan. The meetings will be conducted in the English language. However, simultaneous interpretation services (English/Spanish) will be available at the Advisory Panel meeting.

Fishermen and other interested persons are invited to attend. Members of the public will be allowed to submit oral or written statements regarding agenda items.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera, suite 1118, Hato Rey, Puerto Rico 00918; telephone: (809) 766-5926, at least five (5) days prior to the meeting date.

**FOR FURTHER INFORMATION CONTACT:** The Caribbean Fishery Management Council, 268 Muñoz Rivera, suite 1108, Hato Rey, Puerto Rico 00918-2577; telephone: (809) 766-5926.

Dated: September 28, 1993.

**David S. Crestin,**  
*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*  
[FR Doc. 93-24254 Filed 10-1-93; 8:45 am]  
BILLING CODE 3510-22-P

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Adjustment of Import Limits for Certain Wool, Man-Made Fiber and Silk Blend Textile Products Produced or Manufactured in China

September 28, 1993.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** September 28, 1993.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6703. For information on embargoes and quota re-openings, call (202) 482-3715.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 448 and 643 are being increased by application of swing, reducing the limit for Category 846 to account for the increases.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 62304, published on December 30, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Rita D. Hayes,**  
*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**  
September 28, 1993.  
Commissioner of Customs,  
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1992, by the

Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on September 28, 1993, you are directed to amend further the directive dated December 23, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit <sup>1</sup>
Levels not in a group	
448 .....	22,589 dozen.
846 .....	136,956 dozen.
Sublevel in Group II	
643 .....	503,914 numbers.

<sup>1</sup>The limits have not been adjusted to account for any imports exported after December 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
 Rita D. Hayes,  
 Chairman, Committee for the Implementation of Textile Agreements.  
 [FR Doc. 93-24332 Filed 10-1-93; 8:45 am]  
 BILLING CODE 3510-DR-F

**Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Taiwan**

September 28, 1993.  
 AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 5, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6719. For information on embargoes and quota re-openings, call (202) 482-3715.

**SUPPLEMENTARY INFORMATION:**

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryover and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53885, published on November 13, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,  
 Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements  
 September 28, 1993.  
 Commissioner of Customs,  
 Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 6, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on October 5, 1993, you are directed to amend further the directive dated November 6, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1991, as amended:

Category	Adjusted twelve-month limit <sup>1</sup>
Group I	
200-224, 225/317/326, 226, 227, 229, 300/301/607, 313-315, 360-363, 369-L/670-L/870 1, 369-S <sup>2</sup> , 369-O <sup>3</sup> , 400-414, 464-469, 600-606, 611, 613/614/615/617, 618, 619/620, 621-624, 625/626/627/628/629, 665, 666, 669-P <sup>4</sup> , 669-T <sup>5</sup> , 669-O <sup>6</sup> , 670-H <sup>7</sup> and 670-O <sup>8</sup> , as a group.	572,499,451 square meters equivalent.

Category	Adjusted twelve-month limit <sup>1</sup>
Sublevels in Group I	
218 .....	19,940,262 square meters.
619/620 .....	12,997,998 square meters.
Within Group I subgroup	
200 .....	645,767 kilograms.
219 .....	14,697,018 square meters.
361 .....	1,273,549 numbers.
Group II	
237, 239, 330-332, 333/334/335, 336, 338/339, 340-345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359-C/659-C <sup>9</sup> , 359-H/659-H <sup>10</sup> , 359-O <sup>11</sup> , 431-444, 445/446, 447/448, 459, 630-632, 633/634/635, 636, 638/639, 640, 641-644, 645/646, 647/648, 649, 651, 653, 654, 659-S <sup>12</sup> , 659-O <sup>13</sup> , 831-844 and 846-859, as a group.	735,288,121 square meters equivalent
Sublevels in Group II	
239 .....	5,542,096 kilograms.
331 .....	390,900 dozen pairs.
336 .....	125,298 dozen.
338/339 .....	905,128 dozen.
340 .....	1,217,464 dozen.
342 .....	199,188 dozen.
352/652 .....	2,878,508 dozen.
359-H/659-H <sup>14</sup> .....	4,957,954 kilograms.
435 .....	21,391 dozen.
442 .....	40,538 dozen.
443 .....	47,756 numbers.
444 .....	107,365 numbers.
445/446 .....	133,407 dozen.
631 .....	4,817,625 dozen pairs.
633/634/635 .....	1,627,240 dozen of which not more than 977,626 dozen shall be in Categories 633/634 and not more than 834,819 dozen shall be in Category 635.
638/639 .....	6,609,789 dozen.
642 .....	824,962 dozen.
647/648 .....	5,347,668 dozen of which not more than 5,346,918 dozen shall be in Categories 647-W/648-W <sup>15</sup> .
835 .....	16,978 dozen.
Group II subgroup	
333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	73,340,861 square meters equivalent.

Category	Adjusted twelve-month limit <sup>1</sup>
Within Group II sub-group	
333/334/335 .....	261,039 dozen of which not more than 141,396 dozen shall be in Category 335.
351 .....	417,762 dozen.
447/448 .....	19,366 dozen.
636 .....	343,481 dozen.
651 .....	413,478 dozen.

<sup>1</sup>Category 670; Category 369-L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090; Category 670-L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

<sup>2</sup>Category 369-S: only HTS number 6307.10.2005.

<sup>3</sup>Category 369-O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369-L); and 6307.10.2005 (Category 369-S).

<sup>4</sup>Category 669-P: only HTS numbers 6306.31.0010, 6306.31.0020 and 6306.39.0000.

<sup>5</sup>Category 669-T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

<sup>6</sup>Category 669-C: all HTS numbers except 6306.31.0010, 6306.31.0020, 6306.39.0000 (Category 669-P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669-T).

<sup>7</sup>Category 670-H: only HTS numbers 4202.22.4030 and 4202.22.8050.

<sup>8</sup>Category 670-O: all HTS numbers except 4202.22.4030, 4202.22.8050 (Category 670-H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670-L).

<sup>9</sup>Category 359-C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2060, 6203.49.1010, 6203.49.1090, 6204.69.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

<sup>10</sup>Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

<sup>11</sup>Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359-C); 6505.90.1540 and 6505.90.2060 (Category 359-H).

<sup>12</sup>Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

<sup>13</sup>Category 659-O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2060, 6203.49.1010, 6203.49.1090, 6204.69.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659-C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

<sup>14</sup>Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

<sup>15</sup>Category 647-W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.2040, 6203.49.2060, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648-W: only HTS numbers 6204.29.0040, 6204.29.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
Rita D. Hayes,  
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-24330 Filed 10-1-93; 8:45 am]

BILLING CODE 3510-DR-F

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Notice of Intent To Prepare an Environmental Impact Statement for Realignment of Travis AFB, CA

Under the 1993 Defense Base Closure and Realignment Commission recommendations the United States Air Force (Air Force) will prepare an environmental impact statement (EIS) to assess the potential environmental impacts of the realignment to Travis Air Force Base, California of the 2nd Combat Camera Squadron, 19 KC-10 aircraft, and associated support units. The aircraft will be realigned from March AFB, CA.

This EIS will also address the potential impacts of an additional eight KC-10 aircraft, for a total of 27 and associated military construction and facility siting of associated support activities.

To provide a forum for the community to make oral comments, a scoping meeting is scheduled for October 20, 1993 in the Travis AFB area. Notice of the time and location of the meeting will be made available to public officials, the community and the local news media outlets at a later date. The purpose of this meeting is to identify the environmental issues and concerns that should be analyzed to (1) support the base realignment, (2) solicit comments on the Proposed Action and (3) solicit potential alternatives for consideration in developing the Travis EIS. The Air Force will consider all reasonable alternatives offered by any Federal, state or local government agency and any federally-sponsored or private entity.

To ensure the Air Force will have sufficient time to consider public comments on environmental issues to be included in the EIS, comments should be forwarded to the address listed below at anytime during the environmental impact analysis process.

Please direct written comments or requests for further information concerning the Travis AFB Realignment EIS to: Ms. Jean Reynolds, HQ AMC/

CEVP, 507 A Street, Scott AFB, IL 62225-5022, (618) 256-8332.

Patsy J. Conner,  
Air Force Federal Register Liaison Officer.  
[FR Doc. 93-24292 Filed 10-1-93; 8:45 am]  
BILLING CODE 3910-01-F

## GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0103]

#### Clearance Request for Procurement Integrity

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000-0103).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Procurement Integrity.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501-4755.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

Public Law 100-679, the Office of Federal Procurement Policy Act Amendments of 1988, as amended by section 814 of Public Law 101-189, requires that contractors certify, prior to execution of each contract, modification or extension in excess of \$100,000 with respect to conduct prohibited by the Act.

The information obtained in the certification will be used by the contracting officer to ensure that prohibited conduct specified in the Act is identified and in determining the responsibility of the firm for contract award.

##### B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and

The Committee for the Implementation of Textile Agreements has determined that

reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 20,000; responses per respondent, 20; total annual responses, 400,000; preparation hours per response, 5 minutes; and total response burden hours, 33,333.

### C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, 20,000; hours per recordkeeper, 40 minutes; and total recordkeeping burden hours, 13,333.

### Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0103, Procurement Integrity, in all correspondence.

Dated: September 27, 1993.

Laurie Frazier,  
FAR Secretariat.

[FR Doc. 93-24228 Filed 10-1-93; 8:45 am]

BILLING CODE 8820-34-M

## DEPARTMENT OF ENERGY

### Methodology for Analyzing the Feasibility and Economic Impact of Alternative Fuel Use

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** Section 502(b) of the Energy Policy Act of 1992 requires the Secretary of Energy to conduct an analysis of the use of large volumes of replacement fuels in years 2000 and 2010. This notice summarizes work that has been completed and work that is in progress pursuant to the requirement of section 502(b). The methodology that DOE is using is described in a report prepared by Oak Ridge National Laboratory entitled, "A Methodology for Assessing the Market Benefits of Alternative Motor Fuels." DOE invites the public to comment on the methodology that is described in the

Oak Ridge report and on the material presented in this Notice.

**DATES:** To guarantee consideration, comments must be received by December 1, 1993.

**ADDRESSES:** Copies of the Oak Ridge report may be obtained from: Mr. Mark E. Bower, Department of Energy, Office of Energy Demand Policy, PO-50, Washington, DC 20585, (202) 586-3891.

Comments on the methodology described in the Oak Ridge report and in this Notice should be sent in 5 copies to the address above.

**FOR FURTHER INFORMATION CONTACT:** Dr. Benton F. Massell, Department of Energy, Office of Energy Demand Policy, PO-50, Washington, DC 20585, (202) 586-3890.

### SUPPLEMENTARY INFORMATION:

- I. Purpose
- II. Relevance
- III. Methodology

**I. Purpose.** Section 502(a) of the Energy Policy Act of 1992 requires the Secretary of Energy to establish a program to promote the development and use in light duty vehicles of domestic replacement fuels.

The Department of Energy (DOE) has begun management planning and preliminary implementation of section 502(a) as part of a comprehensive implementation program for Titles III, IV, and V of the Energy Policy Act. The program will begin in fiscal year 1994. Program emphasis will be on the role of alternative fuels, as defined in section 301 of the Energy Policy Act, as replacements for petroleum based motor fuels. On-going DOE programs to promote alternative fuel vehicle acquisitions in Federal and non-Federal fleets, such as those created under the Alternative Motor Fuel Act of 1988, will be coordinated with Energy Policy Act programs. The DOE Clean Cities Program will be used to coordinate Federal, State, and local government alternative fuel vehicle purchases, encourage the manufacture of alternative fuel vehicles, and encourage the development of alternative fuel refueling infrastructure to meet the requirements of section 502(a) and other programs.

Section 502(a) requires the DOE program to promote the use of replacement fuels to the maximum extent practicable. The DOE believes that there may be potential for alternative fuels and other replacement fuels to make a significant contribution to motor fuel supply. The DOE programs are designed to maximize that potential contribution.

Section 502(b) of the Act requires the Secretary, under the program established by section 502(a), to:

- Estimate the production capacity for replacement fuels and alternative fueled vehicles;
- Determine the feasibility of producing sufficient replacement fuels to replace 10 percent of motor fuel use by year 2000 and 30 percent by year 2010, with at least half of such replacement fuels being domestic fuels;
- Determine the most suitable means of encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles;
- Identify ways to encourage the development in the United States of replacement fuels and alternative fueled vehicle industries;
- Determine the greenhouse gas emission implications of increased use of replacement fuels and estimate the maximum feasible reduction in such emissions.

Section 502(b) also requires the Secretary to publish in the **Federal Register** the results of actions taken under that subsection and to provide for an opportunity for public comment. This Notice is intended to comply with that requirement by summarizing both work that has been completed and work that is in progress to determine the feasibility and the economic implications of meeting the targets established by section 502(b) and to address the specific issues enumerated in that section. We construe "feasibility" in this context to mean that the targets can be met without incurring undue economic cost. The analysis that the Department of Energy is conducting pursuant to section 502(b) will provide estimates of the cost of alternative programs which would meet the targets established by that section.

**II. Relevance.** The analysis required by section 502(b) has relevance for other sections of Title V of the Act. Section 504 of the Act requires the Secretary periodically to examine the goals established under section 502(b) and, taking account of the determination of feasibility made under section 502(b), to determine if the goals should be modified. If the Secretary determines that the goals described in section 502(b) are not achievable, the Secretary is required by section 504 to establish, by rule, goals that are achievable.

The analysis required by section 502(b) is relevant also to the determination by rulemaking, under section 507, of whether a fleet requirement program is necessary to ensure that the goals of section 502(b), as modified by section 504, are expected to be met by voluntary means or, if

those goals are not expected to be met, whether a fleet requirement program is necessary.

III. *Methodology.* The Department of Energy has undertaken a comprehensive analysis of alternative fuel use that is designed to address the specific issues enumerated in section 502(b) and summarized above. The Department's study includes the following tasks:

- Development of a simulation model, the Alternative Fuels Trade Model, to provide quantitative information on the implications of achieving the replacement fuel targets enumerated in section 502(b).
- Definition of alternative base-case and replacement fuel scenarios for years 2000 and 2010 for use in the analysis.
- Estimation of the incremental costs of producing alternative fuel vehicles.
- Estimation of production, distribution and retail costs for each alternative fuel.
- Estimation of greenhouse gas emissions associated with the use of conventional motor fuels and each replacement fuel.
- Estimation of substitutability in demand among conventional motor fuels and replacement fuels and among conventional vehicles and alternative fuel vehicles.

The model has been benchmarked to data for years 2000 and 2010 contained in the 1993 Annual Energy Outlook, published by the Energy Information Administration. The model will be used to examine the substitution for conventional motor fuels of ethanol from grain, ethanol from cellulosic feedstock, methanol from natural gas, compressed natural gas, liquefied petroleum gases, and electric vehicles. A number of replacement fuel scenarios will be examined and, for each scenario, estimates will be presented of:

- the difference between the cost of conventional gasoline-powered motor vehicles and of alternative fuel vehicles;
- the difference between the retail price of motor gasoline and of each replacement fuel;
- the net change in the imports of petroleum and of all fuel resulting from the substitution of replacement fuels for conventional motor fuels;
- the net effect on greenhouse gas emissions;
- the net effect on the world price of crude oil;
- the vehicle and fuel subsidies, if any, required to induce motorists to purchase the requisite number of each type of vehicle and each replacement fuel;
- the net cost of meeting the targets enumerated by section 502(b).

This work is scheduled for completion in the spring of 1994 and will be available to the public.

DOE has also contracted with Oak Ridge National Laboratory to develop and illustrate the methodology being employed in the analysis of alternative fuel use. The Oak Ridge report describes the Alternative Fuels Trade Model, which serves as the integrating framework for the section 502(b) analysis. The report uses preliminary data to generate illustrative model runs. Specifically, for the year 2010, a base case scenario is compared with a scenario in which 20 percent of projected motor fuel use in light duty vehicles is replaced by the following replacement fuels: ethanol produced from grain, compressed natural gas, methanol produced from natural gas, and electric vehicles. The study shows how the model can be used to examine the effect that such replacement fuel use has on net imports of petroleum and other fuels and on domestic prices of conventional and replacement motor fuels. The Oak Ridge report also contains an estimate of the cost of the illustrative replacement fuel program, including the incremental costs of the fuels and the alternative fuel vehicles.

Issued in Washington, DC on September 28, 1993.

Susan F. Tierney,

*Assistant Secretary, Office of Policy, Planning, and Program Evaluation.*

[FR Doc. 93-24309 Filed 10-1-93; 8:45 am]

BILLING CODE 6450-01-M

#### Floodplain/Wetlands Involvement for the Fort Morgan North 115-kilovolt Tapline Project

**AGENCY:** Western Area Administration, DOE.

**ACTION:** Notice of floodplain/wetlands involvement.

**SUMMARY:** The Department of Energy, Western Area Power Administration (Western), proposes to build 3 miles of new 115-kilovolt (kV) tapline to connect its existing Beaver Creek-Weld 115-kV transmission line with Morgan County Rural Electric Association's (MCREA) new Fort Morgan North Substation. The new transmission line may require structures in the floodplain of the South Platte River in Morgan county, Colorado. In accordance with 10 CFR part 1022, Western will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the effect floodplain and wetlands.

**DATES:** Public comments or suggestions concerning the floodplain involvement of Western's proposed actions are invited. Written comments are due no later than October 19, 1993.

**ADDRESSES:** Comments or suggestions should be sent to: Mr. Stephen A. Fausett, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539-3003 (303) 490-7200 FAX (303) 490-7213.

#### FOR FURTHER INFORMATION CONTACT:

For further information on the proposed action, contact: Mr. Rodney D. Jones, Environmental Specialist, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539-3003 (303) 490-7371 FAX (303) 490-7213.

For further information on general DOE floodplain/wetlands environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight, EH-25, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-4600 or (800) 472-2756.

**SUPPLEMENTARY INFORMATION:** The construction of a new 115-kV tapline is necessary to deliver electric power to MCREA's new Fort Morgan North Substation, near Fort Morgan, Colorado. MCREA's new substation and Western's existing Beaver Creek-Weld 115-kV transmission line are located on opposite sides of the South Platte River, approximately 3 miles apart. The proposed tapline must cross the South Platte River and floodplain to connect the two facilities. Because of the width of the floodplain, it may be necessary to locate some transmission line structures within the South Platte River floodplain. The Fort Morgan North Tapline would be designed and constructed by MCREA, but would be owned, operated, and maintained by Western.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), Western will prepare a floodplain and wetlands assessment for this proposed action. After Western issues the assessment, a floodplain statement of findings will be published in the Federal Register.

Issued at Golden, Colorado, September 21, 1993.

William H. Clagett,  
*Administrator.*

[FR Doc. 93-24312 Filed 10-1-93; 8:45 am]

BILLING CODE 6450-01-M

**Notice of Floodplain/Wetlands Involvement for Environmental Restoration and Waste Management Activities at the Department of Energy's Oak Ridge Reservation; Oak Ridge, TN**

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of floodplain and wetlands involvement.

**SUMMARY:** DOE proposes to perform environmental monitoring and site characterization, as well as extensive remedial action activities at the Oak Ridge Reservation (ORR) in Oak Ridge, Tennessee. Some areas of the approximately 50,000-acre reservation, as well as areas where baseline information is sought, are within floodplains or include wetlands, and some proposed environmental monitoring and environmental restoration and waste management activities would take place in floodplains or wetlands. Site characterization and remedial actions would be undertaken pursuant to the applicable provisions of the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of the proposed actions could affect wetlands on or around the site or be located in the floodplains of Poplar Creek, East Fork Poplar Creek, Bear Creek, Scarborough Creek, White Oak Creek and its tributaries, and the Clinch River and its tributaries. In accordance with 10 CFR part 1022, DOE will prepare a floodplain and wetlands assessment and will perform the proposed actions in a manner so as to avoid or minimize potential harm to or within the affected floodplains and wetlands. Maps and further information on the proposed actions are available from DOE at the address below.

**DATES:** Comments on the proposed action are due to the address below no later than October 18, 1993.

**ADDRESSES:** Comments should be addressed to: Ms. Nancy K. Hendrix-Ward, National Environmental Policy Act, Program Manager, Environmental Restoration Division, U.S. Department of Energy, Information Resource Center, Post Office Box 2001, Oak Ridge, Tennessee 37831-8541. FAX comments to: (615) 576-6074.

**FOR FURTHER INFORMATION CONTACT:** Information on general DOE floodplain/wetlands environmental review requirements is available from: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000

Independence Avenue, SW., Washington, DC 20585 (202) 586-4600 or (800) 472-2756.

**SUPPLEMENTARY INFORMATION:** DOE proposes to carry out site characterization, as well as remedial/corrective activities at the ORR, some of which would be located with floodplains or wetlands. The proposed actions include:

1. Collection of Samples—Collection of samples for environmental monitoring, site characterization, and treatability studies will be conducted to better understand the nature of the environment around the ORR and to identify possible releases of contaminants or movement of contaminants already released to the environment. Environmental monitoring would occur throughout the site and would continue for the continue for the foreseeable future. Site characterization is tied chiefly to Remedial Investigations/RCRA Facility Investigations (RI/RFI) under CERCLA and RCRA and would be performed for each of the operable units (OUs).

The following types of activities could occur in a floodplain or wetland: (a) Sampling of air, surface water, ground water, sediments, surface and deeper soils; sampling, assessment, and evaluation of terrestrial and aquatic biota, and measurement of meteorological characteristics; (b) drilling of boreholes to obtain soil/geological samples (some of the boreholes would be completed as ground-water monitoring wells); (c) digging soil test pits by hand or backhoe; (d) taking a variety of noninvasive surveys (such as radiological surveys); (e) taking invasive surveys (such as with soil penetrometers and similar devices); and (f) conducting underground tests (such as aquifer pump, tracer geophysical log, vertical seismic profile, and seismic tests). The majority of the remaining RI/RFI field work to be done at ORR is in OUs that are comprised of predominantly upland areas. Only a few sampling locations, such as those needed for surface waste, sediment, and a very few boreholes or wells and soil test pits, are expected to be in floodplains or wetlands.

2. Drilling or abandonment of boreholes and monitoring wells—Drilling new boreholes and monitoring wells involves driving a drilling rig to the designated site and drilling a hole, usually within a 1-day time-frame. It is possible that one of the wells be drilled in wetlands. Drilling sites would be located outside of wetlands whenever possible.

When relocation is not possible, measures will be taken to minimize

disturbance of wetlands, as appropriate. Travel within floodplains will be restricted to established roads and tracks where available; if unavailable, measures will be taken to minimize the disturbance to the floodplain, as appropriate.

Abandoning a well typically involves removal of all foreign material from the well, including the existing bentonite grout, the bentonite seal, the silica-sand filter, and the well casing. The casing can be removed by one of several different methods—pulling it out of the well, destroying the casing in the hole and removing the pieces, over-drilling, or over-coring. Each of these methods involves driving a drilling rig to the well site. Once in the field, it may be determined that some casings are not removable due to well depth, casing condition, or other factors. In these situations, the well casing and possibly the protective surface casing (a larger diameter pipe surrounding the upper portion of the well casing) will be left in place. Abandonment will be accomplished in this manner only when necessary. If the casing is removed, regardless of the removal method used, the resulting hole is reamed to the original construction depth and diameter to remove any remaining annular material and debris. The borehole is then filled with bentonite grout. For wells whose casing is not removed, abandonment would be accomplished by filling the casing with bentonite grout. The well casing and protective casing would be cut off below the ground surface. A concrete pad would be poured at all well abandonment locations to provide a surface seal. A metal cap showing the well identification number and the date of abandonment would be anchored to the concrete slab. Abandonment of a well would typically take 1 to 2 days, depending on the method used and the depth of the well.

3. Construction and Operation—Construction and operation of interim and final remedial/corrective actions and the construction and operation of buildings to implement or facilitate these actions will be based on the results of the RI/RFI being conducted or planned. These proposed actions may consist of in-situ treatment, bioremediation, ground-water treatment, surface water treatment, soil treatments, and soil excavation. While remedial actions are expected to be constructed outside floodplains or wetlands, portions of such projects (particularly activities such as water collection, sampling, and installation of monitoring or similar devices) could be located

within floodplains or could affect wetlands.

4. Upgrading sanitary sewer or existing collection and transfer pipelines—This would typically involve replacement and hook-up of previously existing pipelines with improved materials; removal of old, unused and/or contaminated lines; or redirection of existing lines to improve the collection of wastes. The process would involve: (a) exposing the existing pipe by hand or backhoe or some other manual means; (b) obtaining a variety of noninvasive and invasive surveys; (c) removal or movement of existing lines, and (d) installation of new pipelines.

5. Placement of small-scale treatment units—This process normally involves the acquisition of required permits, siting and construction of buildings or renovations to existing buildings, and installation of treatment systems. Operation of such a treatment unit normally includes the transportation of stored wastes between storage facilities—and treatment areas. Decommissioning and dismantlement of the treatment system is completed at the end of its useful life or previously-defined time-frame. Handling, storage, and disposal of any residual wastes from the use and shutdown of such a facility would complete the activities surrounding the placement of small-scale treatment units.

6. Siting, construction and upgrades of waste management facilities—This process is usually done to maintain compliance with the Administrative Consent Order and Federal Facility Compliance Agreement between the particular facility, DOE, and EPA. Various measures are normally taken during construction activities to mitigate potential impacts of all areas of the existing environment and minimize the possibility of allowing a release. Site work would consist of construction or upgrade of driveways from existing streets to the facility, and establishment or extension of utilities from existing distribution systems. In addition, buildings would have all applicable permits; their design and operation would be in accordance with all environmental, safety and health regulations.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetland assessment for the proposed actions. For an action involving floodplains or wetlands, a Statement of Findings, as required by 10 CFR part 1022, will be issued separately or included in a NEPA document when the floodplain and

wetland assessment has been completed and prior to taking the action. The Statement would be published in the *Federal Register* if an Environmental Assessment or Environmental Impact Statement is not prepared.

Clyde W. Frank,

*Acting Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.*

[FR Doc. 93-24310 Filed 10-1-93; 8:45 am]

BILLING CODE 6450-01-M

### Federal Energy Regulatory Commission

[Docket No. RP93-198-000]

#### Alabama-Tennessee Natural Gas Co.; Proposed Change in FERC Gas Tariff

September 28, 1993.

Take notice that on September 21, 1993, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Third Revised Sheet No. 4, with a proposed effective date of October 1, 1993.

According to Alabama-Tennessee, this filing reflects a Transportation Cost Rate Adjustment pursuant to Section 33.4 of the General Terms and Conditions of its FERC Gas Tariff resulting from the elections made by Alabama-Tennessee's former bundled firm sales customers in connection with the implementation by Alabama-Tennessee of the Commission's Order No. 636. According to Alabama-Tennessee, 3,693 dekatherms of upstream firm capacity formerly held by Alabama-Tennessee on Tennessee Gas Pipeline Company were stranded.

Alabama-Tennessee has requested a waiver of § 154.22 of the Commission's Regulations and any such other waivers of the Commission's Regulations as may be necessary to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that because of the numerous additional tasks required in connection with the implementation of the Commission's Order No. 636 on September 1, 1993 on its system, as well as the normal day-to-day duties that required the attention of its limited staff, this filing was inadvertently not prepared in time to file within the Commission's 30 day notice requirements under 18 CFR 154.22 (1993). According to Alabama-Tennessee, however, this filing reflects costs regarding which all of its customers were aware. Alabama-Tennessee further states, that if it is not allowed to recover these costs through this filing, these costs could be deferred

and charged to future ratepayers. For this reason, Alabama-Tennessee states that good cause exists for granting waiver of the Commission's 30 day filing requirements under § 154.22 of the Commission's Regulations.

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 Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 5, 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 93-29249 Filed 10-1-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-178-005]

#### Colorado Interstate Gas Co.; Refund Report

September 28, 1993.

Take notice that on September 20, 1993, Colorado Interstate Gas Company (CIG) filed with the Federal Energy Regulatory Commission (Commission) a report of refunds totaling \$1,529,693.73 it made on August 20, 1993 to its jurisdictional customers which it received from Northwest Pipeline Corporation pursuant to Ordering Paragraph (B) of Commission order issued September 24, 1992 in Docket No. RP89-137-000, *et al.* CIG states that it made a lump-sum cash refund to its jurisdictional customers equal to the jurisdictional portion of the refunded principal amount plus applicable interest.

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 October 5, 1993. Protest 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. 93-24245 Filed 10-1-93; 8:45 am]

BILLING CODE 5717-01-M

[Docket No. RP93-187-002]

**Equitrans, Inc.; Proposed Change in FERC Gas Tariff**

September 28, 1993.

Take notice that on September 24, 1993, Equitrans, Inc. (Equitrans), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following proposed tariff sheets, with a proposed effective date of October 1, 1993:

Second Revised Sheet No. 5  
Second Revised Sheet No. 6  
Second Revised Sheet No. 8

On September 2, 1993, Equitrans filed for a general rate increase under section 4 to the Natural Gas Act in the above-captioned docket. Equitrans has discovered that certain tariff sheets were incorrectly paginated.

Accordingly, Equitrans requests that the enclosed sheets reflecting these pagination corrections be accepted for filing, and that the sheets be given an effective date of October 1, 1993, to correspond with the proposed effective date of the rate filing.

Equitrans states that a copy of its filing has been served upon its purchasers 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 of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 5, 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. 93-24246 Filed 10-1-93; 8:45 am]

BILLING CODE 5717-01-M

[Docket No. RP93-195-000]

**Florida Gas Transmission Co.; Petition for Waiver of Tariff Provisions**

September 28, 1993.

Take notice that on September 22, 1993, Florida Gas Transmission Company (FGT), petitioned the Commission for a waiver of Section 13.7 of the General Terms and Conditions of its FERC Gas Tariff, Section Revised Volume No. 1, to permit FGT to waive the seventy-five percent reduction of demand or reservation charges for temporary relinquishments of less than two-months in duration, and instead reduce such charges by one-hundred percent.

FGT requests that the Commission grant FGT a waiver of Section 13.7 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, to allow FGT to waive the above referenced 75% demand or reservation charge reduction to the Relinquishing Shipper applicable to temporary releases of less than 2 months in duration. FGT further requests that the Commission allow FGT to replace the 75% reduction of reservation or demand charges with the same 100% reservation or demand charge reduction applicable to the relinquishments of at least 60 days in duration and requested with at least 60 days prior notice.

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 October 5, 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. 93-24247 Filed 10-1-93; 8:45 am]

BILLING CODE 5717-01-M

[Docket No. CP93-742-000]

**Koch Gateway Pipeline Co.; Request Under Blanket Authorization**

September 28, 1993.

Take notice that on September 28, 1993, Koch Gateway Pipeline Company

(Koch Gateway), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP93-742-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a ten-inch tap and related facilities to enable Koch Gateway to provide a delivery point in Ascension Parish, Louisiana to Enron Storage Company on behalf of Koch Gas Services (KGS), under the blanket certificate issued in Docket No. CP82-430, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Koch Gateway and KGS would execute a new interruptible transportation agreement which would contain the delivery point proposed herein prior to the commencement of service. Koch Gateway states that this interruptible transportation service would be provided under Koch Gateway's blanket transportation certificate and under its Rate Schedule ITS. It is also indicated that once gas flow commences, Koch Gateway would make all appropriate transportation filings as required by §§ 284.106 and 284.223 of the Commission's regulations.

Koch Gateway states that its tap, which would cost an estimated \$23,000, would connect with facilities constructed by Enron Louisiana Transportation Company, an intrastate company. It is indicated that the proposed installation of facilities would not have an impact on Koch Gateway's curtailment plan because the proposed service is interruptible in nature. Koch Gateway also states that the service provided through the proposed facilities would remain within current certificated levels. It is also stated that Koch Gateway has sufficient capacity to render the proposed service without detriment or disadvantage to its other customers and that its tariff does not prohibit the proposed modification of facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a

protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-24244 Filed 10-1-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-25-001]

**Mississippi River Transmission Corp.;  
Proposed Change in FERC Gas Tariff**

September 28, 1993.

Take notice that on September 8, 1993, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1-A, the following tariff sheets:

Substitute Thirteenth Revised Sheet No. 2  
Substitute Thirteenth Revised Sheet No. 3  
Substitute Eighth Revised Sheet No. 4

MRT states that the purpose of the instant filing is to correct the transportation rates filed on August 31, 1993 in Docket No. TM94-1-25-000. MRT states that the aforementioned sheets reflect the currently approved base rates and adjust the ACA charge in its transportation rates to the new FERC approved surcharge of \$.0025 per MMBtu effective October 1, 1993.

MRT states that a copy of the revised sheets is being mailed to each of its jurisdictional customers and to the State Commissions of Arkansas, Illinois and Missouri.

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 of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before October 5, 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. 93-24250 Filed 10-1-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-459-003]

**Texas Eastern Transmission Corp.;  
Tariff Corrections**

September 28, 1993.

Take notice that on September 16, 1993 Texas Eastern Transmission Corporation (Texas Eastern), tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets:

*Proposed to be Effective October 1, 1993*

Sub Original Sheet No. 253  
Sub First Revised Sheet No. 463  
Sub First Revised Sheet No. 471  
Sub First Revised Sheet No. 938

Texas Eastern states that on August 31, 1993, pursuant to and in compliance with the Commission's July 20, 1993, Order Approving Abandonment, Authorizing Acquisition, and Granting Motion for Waiver in Docket Nos. CP92-459-000 and CP92-460-000, Texas Eastern submitted as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, tariff sheets to establish new incremental, open-access transportation rate schedules for transportation on new pipeline facilities, known as the Lebanon Lateral (August 31 Filing). The August 31 Filing is currently under review.

Texas Eastern states that it has discovered an error, unrelated to the substantive issues in Docket No. CP92-459 addressed in the August 31 Filing, on Original Sheet No. 253, First Revised Sheet No. 463, First Revised Sheet No. 471 and First Revised Sheet No. 938. Such errors are more specifically defined on Appendix A attached to the filing.

Accordingly, to correct such errors, Texas Eastern states that it submits, as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the above captioned tariff sheets.

Texas Eastern respectfully requests that the Commission waive all necessary rules and regulations to permit the above referenced tariff sheets to become effective on the October 1, 1993, which is the same date proposed in the August 31 Filing.

Texas Eastern states that copies of the filing were served on Texas Eastern's 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 Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 5, 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. 93-24241 Filed 10-1-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-731-000]

**Transwestern Pipeline Co.; Petition for  
Declaratory Order**

September 28, 1993.

Take notice that on September 17, 1993, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP93-731-000 a Petition for Declaratory Order, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, and the Commission's December 31, 1992 Order in Docket No. RP93-34-000, requesting that the Commission find that approximately \$20.7 million of production and gathering plant, which was refunctionalized to transmission plant in Transwestern's rate case filing in Docket No. RP93-34-000, is properly functionalized as transmission plant. Transwestern explains that such refunctionalized facilities were previously certificated and that their functionalization as transmission plant brings them into line with their certificated status.

Transwestern states that such facilities include Compressor Station Structures, Compressor Station Equipment, Field Lines and related appurtenances and rights-of-way. Transwestern submitted detailed information showing the certificated status of the facilities, a description of the facilities, (e.g., line length and diameter), the location of the facilities and detailed maps in order to provide a sufficient basis on which the Commission can make its determination on the proper functionalization.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 19, 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 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,  
Secretary.

[FR Doc. 93-24242 Filed 10-1-93; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. CP93-737-000]

**Transcontinental Gas Pipe Line Corp.;  
Motion for Waiver or, in the Alternative  
Petition for Declaratory Order**

September 28, 1993.

Take notice that on September 22, 1993, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP93-737-000 a motion for waiver of § 157.202(b)(2)(ii) of the Commission's regulations (blanket certificate for installation of facilities) in order to install a turbocharger on one of the engines at TGPL's Compressor Station No. 180 in Orange County, Virginia; or, in the alternative, TGPL requests a declaratory order that Section 2.55(a) of the Commission's regulations ("auxiliary installations") applies to TGPL's proposed installation of the turbocharger at Station No. 180.

TGPL states that it has been communicating with the Virginia Department of Environmental Quality (the "VDEQ") concerning reduction of the level of NO<sub>x</sub> (oxides of nitrogen) air emissions at TGPL's Compressor Station No. 180 in Orange County, Virginia in order to ensure compliance with the federal Clean Air Act and regulations thereunder. TGPL states that it has advised the VDEQ that TGPL would like to undertake a pilot project which would involve installing a turbocharger on one of the engines at Station No. 180 to determine the effectiveness of such technique in reducing NO<sub>x</sub> emissions. TGPL advises that NO<sub>x</sub> emissions will be reduced because of an increase in the air-to-fuel ratio. TGPL states that depending on the result of the pilot project, TGPL may proceed to install turbochargers on other engines at Station No. 180 in order to further reduce NO<sub>x</sub> emissions. Also, TGPL states that if the initial turbocharger and/or additional turbochargers at Station No. 180 prove effective in reducing NO<sub>x</sub> emissions, TGPL may install turbochargers at some of its other compressor stations to reduce NO<sub>x</sub> emissions at those stations. TGPL asserts that it is important for it to be

able to install the pilot turbocharger at Station 180 on an expeditious basis in order to determine its effectiveness in reducing NO<sub>x</sub>.

TGPL has attached to its filing a letter from the VDEQ stating that the VDEQ has no objection to TGPL undertaking the pilot project.

TGPL states that installation of a turbocharger on an engine will create the potential of the engine being capable of performing at above the engine's current operating horsepower. TGPL states that it has the ability to shut down other engines or reduce their load to ensure that the station will not operate above the station's total certificated horsepower. TGPL states that since TGPL would install the turbocharger at Station No. 180 solely to address the environmental matter, i.e., NO<sub>x</sub> emissions, TGPL has no intent or need to operate the station above its certificated horsepower, and that, therefore, if TGPL installs the turbocharger at Station No. 180 it will adjust the automation program at the station so the station will not operate above its certificated horsepower. TGPL states that, there will be no increase in the capacity on TGPL's system in the vicinity of the station.

TGPL states that because installation of the turbocharger will create the potential (as distinguished from actuality) of the engine being capable of performing at above the engine's current operating horsepower and in order to take a cautious approach, TGPL is requesting that the Commission grant to TGPL a waiver of § 157.202(b)(2)(ii) so there will be no doubt that TGPL can install the turbocharger on the engine at Station No. 180 as a pilot project to reduce the level of NO<sub>x</sub> air emissions at the station.

TGPL states that in the event the Commission concludes that it would not be appropriate to install the turbocharger at Station No. 180 pursuant to TGPL's blanket certificate, TGPL requests, in the alternative, that the Commission issue a declaratory order that § 2.55(a) of the Commission's regulations ("auxiliary installations") applies to TGPL's proposed installation of the turbocharger at Station No. 180.

TGPL states that the installation of the turbocharger at Station No. 180 will be for an auxiliary purpose only, i.e., only for the environmental purpose of reducing NO<sub>x</sub> emissions. TGPL states that such reduction of emissions will reduce the annual air emission fees payable to TGPL to the VDEQ and make Station No. 180 more environmentally efficient and that the public interest will also benefit from the expeditious installation of the turbocharger because

of the resulting improvement in air quality.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before October 19, 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.

Lois D. Cashell,  
Secretary.

[FR Doc. 93-24243 Filed 10-1-93; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP93-197-000]

**Union Pacific Fuels, Inc., et al. v.  
Southern California Gas Co.;  
Complaint and Request for Expedited  
Relief**

September 28, 1993.

Take notice that on September 22, 1993, Union Pacific Fuels, Inc., Amoco Energy Trading Corporation, Meridian Oil Inc., and Petro-Canada Hydrocarbons, Inc., (jointly referred to as Complainants) tendered for filing a complaint against Southern California Gas Company (SoCalGas).

The Complainants argue that SoCalGas has implemented an illegal and discriminatory incremental access fee, which it is charging to interstate transportation shippers who deliver gas to SoCalGas at the Wheeler Ridge interconnection, where the facilities of SoCalGas interconnect with those of Kern River Gas Transmission Company, Mojave Pipeline Company, and the pipeline expansion project of Pacific Gas & Electric Company.

The Complainants assert that the access fee is an intrastate rate designed to recover costs associated with certain downstream compression facilities of SoCalGas and approved by the Public Utilities Commission of the State of California. The Complainants argue that SoCalGas is charging this rate, not to its own intrastate shippers, but rather to upstream interstate shippers who deliver the gas at a point upstream of the intrastate facilities. Complainants state that if the upstream interstate

shippers refuse to pay the fee, SoCalGas has threatened to disallow deliveries into its system.

The Complainants argue that SoCalGas' efforts to collect this fee from interstate transportation shippers, who are not even intrastate transportation customers of SoCalGas, who are not even permitted to become intrastate transportation customers of SoCalGas under state law, and who have no contract privity with SoCalGas, is an impermissible burden on interstate commerce in violation of the Supremacy Clause, the Commerce Clause, the NGA, and the Commission's rules and regulations thereunder, including the Commission's open access regulations under Order No. 436, *et seq.*, and the Commission's requirement of transportation equality under Order No. 636.

The Complainants request that the Commission immediately exercise its jurisdiction over SoCalGas and over interstate transportation, and (1) declare the Wheeler Ridge access fee null and void, and (2) require SoCalGas to refund any amounts collected, with interest.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before October 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. 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. Answers to this complaint shall be due on or before October 28, 1993.

Lois D. Cashell,  
Secretary.

[FR Doc. 93-24248 Filed 10-1-93; 8:45 am]  
BILLING CODE 6717-01-M

#### Office of Fossil Energy

##### Coal Policy Committee, National Coal Council; Meeting

An open meeting of the Coal Policy Committee of the National Coal Council, which was scheduled to be held on Wednesday, October 6, from 11 a.m. to 3 p.m. at the Ritz-Carlton Hotel, St. Louis, 100 Carondelet Plaza, Clayton, Missouri, has been postponed. This meeting was announced in the Federal Register on Monday, September 20, 1993 (58 FR 48886).

Issued in Washington, DC, on September 29, 1993.

J. Robert Franklin,

Acting Advisory Committee Management Officer.

[FR Doc. 93-24333 Filed 9-30-93; 8:45 am]  
BILLING CODE 6450-01-M

#### Office of Hearings and Appeals

##### Cases Filed During the Week of August 27 Through September 3, 1993

During the Week of August 27 through September 3, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: September 28, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

#### LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[During the Week of August 27 through September 3, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 24, 1993	Charter/Texas, Austin, TX .....	RM23-263	Request for modification/rescission in the charter refund proceeding. If granted: The July 17, 1990 Decision and Order (Case No. RM23-184) issued to Texas would be modified regarding the state's Application for Refund submitted in the Charter second stage refund proceeding.
Aug. 27, 1993	Espanola, NM, Paris, TN .....	RR272-115	Request for modification/rescission in the crude oil refund proceeding. If granted: The August 20, 1993 Dismissal Letter (Case No. RF272-83908) issued to Espanola, NM would be modified regarding its Application for Refund submitted in the Crude Oil Refund proceeding.
Aug. 30, 1993	Etowah County, Gadsden, AL .....	RR272-114	Request for modification/rescission in the crude oil refund proceeding. If granted: The August 12, 1993 Dismissal Letter (Case No. RF272-87039) issued to Etowah County would be modified regarding the county's Application for Refund submitted in the crude oil refund proceeding.
Aug. 30, 1993	Gary Lekvold, Seattle, WA .....	LFA-0317	Appeal of an information request denial. If granted: Gary Lekvold would receive access to records denied under the Freedom of Information and Privacy Acts.
Aug. 31, 1993	James W. Simpkin, Seattle, WA .....	LFA-0318	Appeal of an information request denial. If granted: James W. Simpkin would receive access to records denied under the Freedom of Information and Privacy Acts.

## LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[During the Week of August 27 through September 3, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 31, 1993	Native Americans for a Clean Environment, Washington, DC.	LFA-0319	Appeal of an information request denial. If granted: Native Americans for a Clean Environment would receive access to DOE information.
Sept. 1, 1993	ARCO/The Wemett Corp., Washington, DC	RS304-14224	Request for Stay. If granted: The August 4, 1993 Decision and Order issued to The Wemett Corp. by the Office of Hearings and Appeals in the Atlantic Richfield Company Special Refund Proceeding would be stayed.
Sept. 2, 1993	Norm Poole Oil, Inc., Ontario, Oregon .....	LEE-0052	Exception to the reporting requirements. If granted: Norm Poole, Inc. would not be required to file Form 782B, Resellers'/Retailers' Monthly Petroleum Product Sales Report.

REFUND APPLICATIONS RECEIVED  
[Week of August 27 to September 3, 1993]

Date received	Name of firm	Case No.
8/26/93	Bird Gas .....	RF349-6
8/27/93	Cuyahoga Landmark, Inc.	RF272-94872
8/27/93 thru 9/3/93.	Atlantic Richfield, applications received.	RF304-14454 thru RF304-14481
8/27/93 thru 9/3/93.	Texaco Refund, applications received.	RF321-19854 thru RF321-19877
8/27/93 thru 9/3/93.	Anchor Refund, applications received.	RF346-84 thru RF346-92
8/30/93	Paul's Clark Service.	RF342-324
8/30/93	Farmer's Cooperative Elev Assoc.	RF272-94877
8/31/93	Hedlin Dairy .....	RF272-94878
8/31/93	Arivec Chemical, Inc.	RF351-8

[FR Doc. 93-24311 Filed 10-1-93; 8:45 am]

BILLING CODE 6450-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-4784-2]

Contract Evidence Audit Team-Techlaw, TRC Environmental Corporation, CDM Federal Programs Corporation, and Techlaw Inc.; Transfer of Data to Contractors and Subcontractor

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to the United States Environmental Protection Agency (EPA) under section 104 of the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA has contracted with Contract Evidence Audit Team-TechLaw (CEAT-Techlaw), TRC Environmental Corporation (TRC) and CDM Federal Programs Corporation (FPC) to perform work for the EPA Region I Waste Management Division. TRC and FPC have subcontracted with TechLaw Inc. CEAT-TechLaw, TRC, FPC, and TechLaw Inc., as subcontractor to TRC and FPC, will be provided access to certain information submitted to EPA under CERCLA section 104. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CEAT-TechLaw, TRC, FPC, and TechLaw Inc., consistent with the requirements of 40 CFR 2.310(h)(2). Access to this information is necessary for the performance of this contract.

**DATES:** Comments should be submitted to EPA within 5 working days after publication of this notice in the **Federal Register**.

**ADDRESSES:** Comments should be addressed to Christopher O'Connor, Waste Management Division, Superfund Enforcement Support Section (HES-CAN6), Environmental Protection Agency, J.F.K. Federal Building, Boston, MA 02203.

**FOR FURTHER INFORMATION CONTACT:** Christopher O'Connor, Waste Management Division, Superfund Enforcement Support Section (HES-CAN6), Environmental Protection Agency, J.F.K. Federal Building, Boston, MA 02203. Telephone number: (617) 573-9688.

**SUPPLEMENTARY INFORMATION:** CEAT-TechLaw (Contract No. 68-W0-0001), TRC Environmental Services (Contract No. 68-W9-0003), CDM FPC (Contract No. 68-W9-0002) and TechLaw Inc., as subcontractor to TRC and FPC, will assist the EPA Region I Waste

Management Division in preparing cost documentation packages pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). The cost documentation packages will be used to support the recovery of past costs during the negotiation/litigation process under CERCLA and for responding to Freedom of Information Act (FOIA) requests. The information used to compile the cost documentation packages has been submitted to EPA under section 104 of CERCLA and consists of contractor invoices and contractor work performance documents. Some of this information may be entitled to confidential treatment. EPA Region I Waste Management Division has determined that access by these contractors and subcontractor to this information is necessary for the performance of these contracts.

In accordance with the requirements of 40 CFR 2.310(h)(2), EPA's contract with CEAT-TechLaw, TRC, FPC, and the subcontract with TechLaw Inc., prohibits the use of the confidential information for any purpose not specified in the contract, prohibits disclosure of the information in any form to a third party without prior written approval from EPA, and requires the return to EPA of all copies of the information upon request by EPA, whenever the information is no longer required by the contractor for the performance of the contract, or upon completion of the contract. Each employee of the contractors and subcontractor who will have access to the information has been or will be required to sign a written agreement honoring the terms specified in the contract, before they have access to any confidential information.

Some data submitted to EPA under section 104 of the Act and claimed to be confidential has previously been transmitted to these contractors and

subcontractor for cases which are or have already been the subject of cost recovery negotiations. Other data held by EPA and not already transferred to the contractors and subcontractor will be transferred no sooner than 10 working days after publication of this notice in the **Federal Register**.

Affected parties may submit comments to EPA within 5 working days of the publication of this Notice.

Dated: September 8, 1993.

Paul Keough,

Acting Regional Administrator.

[FR Doc. 93-24299 Filed 10-1-93; 8:45 am]

BILLING CODE 6560-50-P

[FRL-4784-3]

**Underground Injection Control Program Land Disposal Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Disposal Systems, Incorporated**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Final Decision on WDW-249.

**SUMMARY:** Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Disposal Systems, Incorporated, for the new Class I injection well, WDW-249, located at Deer Park, Texas. DSI received an exemption to the land disposal restrictions for its original well, WDW-169, on April 23, 1990. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Disposal Systems, Incorporated, of the specific restricted hazardous waste into the Class I hazardous waste injection well WDW-249 at the Deer Park, Texas facility specifically identified in the petition, for as long as the basis for granting an approval of this petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued July 19, 1993. The public comment period ended on September 7, 1993. No public comments were received during the public comment period. This decision

constitutes final Agency action and there is no Administrative appeal.

**DATES:** This action is effective as of September 24, 1993.

**ADDRESSES:** Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Mac A. Weaver, Chief UIC State Programs, EPA—Region 6, telephone (214) 655-7160.

Myron O. Knudson, P.E.,

Director, Water Management Division (6W).

[FR Doc. 93-24298 Filed 10-1-93; 8:45 am]

BILLING CODE 6565-50-P

**FEDERAL MARITIME COMMISSION**

**Ocean Freight Forwarder License; Reissuance of License**

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License No.	Name/address	Date reissued
3095R ..	Flamingo International, Inc., 7350 NW. 12th Street, suite 200, Miami, FL 33126.	Aug. 10, 1993.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 93-24262 Filed 10-1-93; 8:45 am]

BILLING CODE 6730-01-M

**Ocean Freight Forwarder License Revocations**

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

**License Number:** 3364

**Name:** Shipping Connection International, Inc.

**Address:** Dixie Highway, ste. 2, Lake Worth, FL 33460

**Dated Revoked:** July 28, 1993

**Reason:** Surrendered license voluntarily.

**License Number:** 3234

**Name:** Alps International Customs

Broker and Forwarding, Incorporated  
Address: 1105 Grandview Drive, So. San Francisco, CA 94080

**Date Revoked:** August 13, 1993

**Reason:** Surrendered license voluntarily.

**License Number:** 1329

**Name:** Thomas L. Watkins

Address: 2080 Talleyrand Ave.,  
Jacksonville, FL 32206

**Date Revoked:** August 21, 1993

**Reason:** Failed to maintain a valid surety bond.

**License Number:** 1910

**Name:** Vene-Embarques, Inc.

Address: 2539 N.W. 72nd Ave., Miami, FL 33122

**Date Revoked:** September 11, 1993

**Reason:** Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 93-24263 Filed 10-1-93; 8:45 am]

BILLING CODE 6730-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. 93F-0318]

**Ciba-Geigy Corp.; Filing of Food Additive Petition**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-[[2, 4, 8, 10-tetrakis (1,1-dimethylethyl) dibenzo[d, f][1, 3, 2]-dioxaphosphin-6-yl]oxy]-N, N-bis [[2, 4, 8, 10-tetrakis (1,1-dimethylethyl) dibenzo[d, f][1, 3, 2] dioxaphosphin-6-yl]oxy]ethylethyl]ethanamine as a process stabilizer in high density polyethylene and polypropylene polymers intended for use in contact with food.

**DATES:** Written comments on petitioner's environmental assessment by November 3, 1993.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Vir Anand, 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 a petition (FAP 3B4398) has been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532, proposing that the food additive regulations be amended in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 2-[[2, 4, 8, 10-tetrakis(1,1-dimethylethyl) dibenzo[d,f][1,3,2]-dioxaphosphepin-6-yl]oxy]-N,N-bis[[2, 4, 8, 10-tetrakis(1,1-dimethylethyl) dibenzo[d,f][1,3,2]-dioxaphosphepin-6-yl]oxy]ethylethanamine as a process stabilizer in high density polyethylene and polypropylene polymers complying with 21 CFR 177.1520 intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 3, 1993, submit to the Dockets Management Branch (address above) written comments. 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. FDA will also place on public display any amendments to, or comments on, the petitioners environmental assessment without further announcement in the *Federal Register*. If, based on its review, 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: September 22, 1993.

**Fred R. Shank,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 93-24281 Filed 10-1-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93F-0319]

**Zeon Chemicals, Inc.; Filing of Food Additive Petition**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Zeon Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acrylonitrile-butadiene copolymer, hydrogenated, intended for contact with food in repeated use applications.

**DATES:** Written comments on the petitioner's environmental assessment by November 3, 1993.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Zajac, 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 a food additive petition (FAP 3B4377) has been filed by Zeon Chemicals, Inc., Three Continental Towers, suite 1012, 1701 Golf Rd., Rolling Meadows, IL 60008. The petition proposes to amend the food additive regulations to provide for the safe use of acrylonitrile-butadiene copolymer, hydrogenated, intended for contact with food in repeated use applications.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 3, 1993, submit to the Dockets Management Branch (address above) written comments. 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. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the *Federal Register*. If, based on its review, 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: September 22, 1993.

**Fred R. Shank,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 93-24280 Filed 10-1-93; 8:45 am]

BILLING CODE 4160-01-F

**Health Care Financing Administration**  
[OCC-033-N]

**Health Maintenance Organizations; Exclusion of Gamete Intrafallopian Transfer and Zygote Intrafallopian Transfer as Basic Health Services**

**AGENCY:** Health Care Financing Administration, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** This notice informs the public of the determination by the Administrator of the Health Care Financing Administration that gamete intrafallopian transfer and zygote intrafallopian transfer are unusual, infrequently provided, and not necessary for the protection of individual health. This determination permits Federally qualified health maintenance organizations to exclude these services from the basic health services they must provide to their members.

**FOR FURTHER INFORMATION CONTACT:** Maureen Miller, (202) 619-0129.

**SUPPLEMENTARY INFORMATION:** Federally qualified health maintenance organizations (HMOs) are required, under section 1302 of the Public Health Service (PHS) Act (42 U.S.C. 300e), to provide basic health services. Section 1302(1) of the PHS Act defines these services and authorizes the Secretary to exclude those health services that she

determines are unusual, infrequently provided, and not necessary for the protection of individual health. The authority for these determinations has been delegated to the Administrator of the Health Care Financing Administration (HCFA).

On October 3, 1984, the Department published a notice in the *Federal Register* announcing the decision that Federally qualified HMOs could exclude in-vitro fertilization (IVF) as a basic health service as it met the criteria for "unusual, infrequently provided, and not necessary for the protection of individual health." HCFA has received a request from several Federally qualified HMOs to evaluate gamete intrafallopian transfer (GIFT) and zygote intrafallopian transfer (ZIFT) to determine if they qualify for exclusion.

In-vitro fertilization is a highly sophisticated infertility treatment that involves obtaining mature oocytes (eggs) by surgical or nonsurgical procedures and combining the oocytes with sperm in a laboratory setting. If fertilization and cell division occur, the resulting embryos are transferred to the uterine cavity where implantation and pregnancy may occur.

Gamete intrafallopian transfer is an infertility treatment that involves obtaining oocytes (through medical and surgical procedures) and sperm, loading the oocytes and sperm into a catheter, then emptying the contents of the catheter into the fallopian tube. The intent of this procedure is to have fertilization occur in the fallopian tube as it would in a fertile woman.

Zygote intrafallopian transfer is an infertility treatment that involves obtaining mature oocytes by surgical or nonsurgical procedures and combining the oocytes with sperm in a laboratory setting. The fertilized oocytes, or zygotes, are transferred to the fallopian tube before cell division occurs. The intent of this procedure is to have the zygote travel to the uterus via the fallopian tube as it would in a fertile woman.

As a result of the above-mentioned request by Federally qualified HMOs, HCFA evaluated the two additional infertility services. HCFA's Administrator has determined that GIFT and ZIFT are "unusual, infrequently provided, and not necessary for the protection of individual health." In reviewing GIFT and ZIFT for exclusion, the criteria were evaluated as follows:

#### Unusual

For this exclusion, we interpret "unusual" to mean not usually covered by indemnity health insurance plans. This is consistent with the congressional intent of this exclusion as indicated by the House committee report language that accompanied the Health Maintenance Organization Amendments of 1978 (Public Law 95-559). It is stated in the report that one purpose of title XIII of the Public Health Service Act is to encourage the development of HMOs that will compete with service and indemnity health insurance plans on the basis of price. The report further stated that, to promote these competitive aspects, the committee had included a provision to permit certain limited exclusions from the required HMO benefit package for those services customarily not covered in the health benefit packages of service and indemnity health insurance plans (House Rpt. No. 95-1479, 95th Cong., 2d Sess. (1978)).

Available information supports a conclusion that indemnity insurers customarily do not cover IVF, GIFT, or ZIFT. The Health Insurance Association of America (HIAA) surveys public and private employers concerning employer-sponsored health benefit plans. For the 1990 report, over 3000 small, medium-sized, and large employers were surveyed regarding the conventional (indemnity) health insurance plans, HMOs, and preferred provider organizations (PPOs) offered to employees. Unpublished data from this survey provides information on benefits covered by each plan type, including coverage of IVF. Although the survey questionnaire did not specifically identify GIFT and ZIFT, coverage of IVF may include or extend to these two procedures. However, it is unlikely that an employer would provide coverage of GIFT and ZIFT and not IVF.

Survey results indicate that 23 percent of employees enrolled in conventional (indemnity) health insurance plans are covered for IVF. Nineteen percent of enrollees in PPOs, a type of health plan that has been highly competitive with HMOs in recent years, are covered for IVF. These low percentages indicate that coverage of IVF is unusual.

In considering the implications of these survey results, we reviewed State-mandated coverage of infertility services. Six states (Arkansas, Hawaii, Illinois, Maryland, Massachusetts, and Rhode Island) mandate coverage of

infertility services, including various levels of coverage for the procedures under review. Two states (Connecticut and Texas) require health plans to offer coverage of infertility services to employers, but employers are not mandated to include the coverage in their health benefit offering to employees.

It is difficult to assess the impact of State-mandated coverage of infertility services on the availability of coverage for IVF. The legislative provisions vary among the six States, and many employers are self-insured and need not cover mandated benefits. (Under the Employee Retirement Income Security Act of 1974, Public Law 93-406, employers that self-insure their employees' health care benefits are exempt from most State regulation, including mandated benefits.) However, because the HIAA survey sample is nationally representative and includes self-insured employers, we believe coverage of IVF is low, or unusual, even with mandated coverage in six States and mandates to offer coverage in two States.

The available evidence indicates that GIFT and ZIFT are less commonly covered than IVF. Specifically, only two States mandate coverage of GIFT and only one mandates coverage of ZIFT. In addition, these procedures were developed more recently than IVF and, as discussed below, are used significantly less often than IVF in the treatment of infertility. Therefore, we conclude that IVF, GIFT, and ZIFT meet the criterion for unusual services.

#### Infrequently provided

The best data for assessing frequency are available from the in-vitro fertilization-embryo transfer (IVF-ET) registry and a report entitled "Fecundity and Infertility in the United States, 1965-88." The IVF-ET registry was established by The Society of Reproductive Technology of the American Fertility Society and Medical Research International to track information on assisted reproductive technologies (ARTs), that is, IVF, GIFT, ZIFT, and other related procedures. The registry claims to monitor most of the ART practiced in the United States. The IVF-ET registry relies on voluntary reporting by its member clinics. In 1990, 180 out of 207 member clinics reported information. The registry reported the following number of attempted and successful ART services for calendar year 1990:

	Services Initiated	Clinical pregnancies	Deliveries
IVF .....	19,079	3,057	2,345
GIFT .....	4,439	1,093	842
ZIFT .....	1,642	292	215
GIFT/IVF .....	602	166	136
<b>TOTAL .....</b>	<b>25,762</b>	<b>4,608</b>	<b>3,538</b>

Approximately 19,000 women received these services, indicating that some women underwent an ART more than once during the reporting year.

The fecundity and infertility report, published in 1990, was drawn from the National Survey of Family Growth conducted by the National Center for Health Statistics of the Public Health Service. This survey found 8.5 percent of childbearing-age couples in 1982 were infertile and 7.9 percent in 1988, indicating that infertility among married couples has been relatively stable. In 1988, 9.1 percent of childbearing-age women had impaired fecundity or infertility (impaired fecundity meaning that they had difficulty in getting pregnant or carrying a pregnancy to term). Among this group (childbearing-age women with impaired fecundity or infertility) only 1.8 percent (less than 100,000 women) had received IVF services at any time in their life.

Considering the findings of these reports and the fact that data on GIFT and ZIFT services includes repeated attempts by specific couples, we conclude that these services are infrequently provided.

#### Not Necessary for the Protection of Individual Health

We consider a service "not necessary for the protection of individual health" if it does not correct or improve the underlying anatomical or physiological medical problem or prevent the deterioration of health. We evaluated these infertility procedures in this context. There is no evidence these procedures correct or improve the underlying problem. For each additional pregnancy, the couple must undergo the procedure again. In addition, couples who do not undergo these procedures do not experience deterioration of health as a result.

Based on the above analysis, HCFA's Administrator has determined that GIFT and ZIFT are unusual, infrequently provided, and not necessary for the protection of individual health. Based on this decision, Federally qualified HMOs may exclude GIFT and ZIFT from coverage as basic health services.

This notice informs the public of HCFA's Administrator's determination that GIFT and ZIFT services may be

excluded from the basic health services that Federally qualified HMOs must provide to their members. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulation or policy. Therefore, we have determined that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612) or section 1102(b) of the Social Security Act.

**Authority:** Section 1302(l) of the Public Health Service Act (42 U.S.C. 300e-1).

Dated: June 14, 1993.

**Bruce C. Vladeck,**  
Administrator, Health Care Financing Administration.

[FR Doc. 93-24236 Filed 10-1-93; 8:45 am]  
BILLING CODE 4120-03-P

#### National Institutes of Health

##### Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, October 18-19, 1993, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 18 from 8 am to approximately 6:15 pm, and again on October 19 from 10:45 am until adjournment, to review program plans, concepts of contract recompletions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on October 19 from 8 am to approximately 10:30 am, for the review, discussion and evaluation of individual programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly

unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management Officer, National Cancer Institute, Executive Plaza North Building, room 630, National Institutes of Health, Bethesda, Maryland 20892 (301-496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A44, National Institutes of Health, Bethesda, Maryland 20892 (301-496-4291) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Bruce Chabner (301-496-4291) in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: September 24, 1993.

**Susan K. Feldman,**  
Committee Management Officer, NIH.  
[FR Doc. 93-24221 Filed 10-1-93; 8:45 am]  
BILLING CODE 4140-01-M

#### National Center for Research Resources; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the National Center for Research Resources (NCRR) for October 1993. These meetings will be open to the public to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice.

These meetings will be closed to the public as indicated below in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or

commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Maureen Mylander, Information Officer, NCRR, Westwood Building, room 10A15, National Institutes of Health, Bethesda, Maryland 20892, (301) 594-7938, will provide summaries of meetings and rosters of committee members. Other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific Review Administrator listed below, in advance of the meeting.

*Name of Committee:* General Clinical Research Centers Committee

*Scientific Review Administrator:* Dr. Bela J. Guylas, National Institutes of Health, Westwood Building, room 10A16, Bethesda, MD 20892, Telephone: (301) 594-7903

*Dates of Meeting:* October 19-20, 1993

*Place of Meeting:* Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815

*Open:* October 19, 8 a.m.-9:30 a.m.

*Closed:* October 19, 9 a.m.-until adjournment

*Name of Committee:* Comparative Medicine Review Committee

*Scientific Review Administrator:* Dr. Bernadette Tyree, National Institutes of Health, Westwood Building, room 10A16, Bethesda, MD 20892, Telephone: (301) 594-7932

*Dates of Meeting:* October 24-26, 1993

*Place of Meeting:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814

*Closed:* October 24, 6:30 p.m.-until recess

*Open:* October 25, 8:30 a.m.-10 a.m.

*Closed:* October 25, 10 a.m.-until adjournment

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory Animal Sciences and Primate Research, and 93.333, Clinical Research National Institutes of Health.)

Dated: September 27, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93-24219 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### National Institute on Deafness and Other Communication Disorders Board of Scientific Counselors; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIDCD, October 28, 1993. The meeting will be conducted as a telephone conference call in Building 31C, room 3C-05, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 1 p.m. to 2 p.m. for reports by the Director, NIDCD, and the Director, Division of Intramural Research, NIDCD. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public from 2 p.m. to adjournment at approximately 2:30 p.m. The closed portions of the meeting will be for the review, discussion, and evaluation of areas of the Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

David J. Lim, M.D., Executive Secretary of the Board of Scientific Counselors, NIDCD, 5 Research Court, room 2B26A, National Institutes of Health, Bethesda, Maryland 20892, 301-402-2829, will provide a summary of the meeting, roster of committee members, and substantive program information upon request. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Lim two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: September 27, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93-24217 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### National Heart, Lung, and Blood Special Emphasis Panel; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of

the following Heart, Lung, and Blood Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Panel:* NHLBI SEP on Cellular Initiation of Thrombosis (Telephone Conference Call)

*Dates of Meeting:* October 19, 1993

*Time of Meeting:* 1 p.m.

*Place of Meeting:* Westwood Building, room 552, Bethesda, Maryland

*Agenda:* IRG Review of Program Project Grant (PO1)

*Contact Person:* Dr. Louis M. Ouellette, NHLBI Review Branch, 5333 Westbard Avenue, room 552, Bethesda, Maryland 20892, (301) 594-7474

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: September 27, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93-24220 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the

disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Panel:** NHLBI SEP on Respiratory Afferents and the Control of Breathing

**Dates of Meeting:** October 13-15, 1993

**Time of Meeting:** 7:30 p.m.

**Place of Meeting:** The Clarion Hotel, Rockville, Maryland

**Agenda:** To evaluate and review grant applications.

**Contact Person:** Dr. Jon Ranhand, 5333 Westbard Avenue, room 554, Bethesda, Maryland 20892. (301) 594-7439

**Name of Panel:** NHLBI SEP on Vasoactive Hormones: Receptor and Signaling Mechanisms

**Dates of Meeting:** October 31—November 2, 1993

**Time of Meeting:** 7:30 p.m.

**Place of Meeting:** Marriott Suites Bethesda, Bethesda, Maryland

**Agenda:** To evaluate and review grant applications.

**Contact Person:** Dr. Jon Ranhand, 5333 Westbard Avenue, room 554, Bethesda, Maryland 20892. (301) 594-7439

**Name of Panel:** NHLBI SEP for the Review of Minority Training Applications

**Dates of Meeting:** November 18-19, 1993

**Time of Meeting:** 8:30 a.m.

**Place of Meeting:** Holiday Inn Chevy Chase, Chevy Chase, Maryland

**Agenda:** To evaluate and review grant applications.

**Contact Person:** Dr. Kathryn Ballard, 5333 Westbard Avenue, Room 550, Bethesda, Maryland 20892. (301) 594-7450.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 27, 1993.

**Susan K. Feldman,**

*Committee Management Officer, NIH.*

[FR Doc. 93-24222 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### Warren Grant Magnuson Clinical Center Board of Scientific Counselors; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Warren Grant Magnuson Clinical Center (CC), October 21-22 1993, in Building 10, room 2C-124.

The meeting will be open to the public from 9 a.m. to 5 p.m. on October

21 for review of the activities of the Clinical Center Diagnostic Radiology, Nuclear Medicine, and Positron Emission Tomography Departments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on October 22 from 1 p.m. to adjournment for the review, discussion, and evaluation of individual programs and projects, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

Dr. Martin I. Goldenberg, Executive Secretary of the Board of Scientific Counselors, CC, Building 10, room 1C-121, National Institutes of Health, Bethesda, Maryland 20892 (Telephone: (301) 496-5939) will provide a summary of the meeting, a Roster of Board Members, and substantive program information upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Goldenberg in advance of the meeting.

Dated: September 27, 1993.

**Susan K. Feldman,**

*Committee Management Officer, NIH.*

[FR Doc. 93-24218 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### Public Health Service

#### National Toxicology Program; Board of Scientific Counselors Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Science (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on November 2, 1993.

The meeting will be open to the public from 8:30 a.m. to adjournment with attendance limited only by space available. The preliminary agenda topics with approximate times are as follows:

8:30 a.m.-8:45 a.m.—Report of the Director, NTP

8:45 a.m.-9:15 a.m.—Meeting Reports:—Update on Activities of the Technical Reports Review Subcommittee

—Workshops on Predicting Chemical

Carcinogenesis in Rodents, and Trihalomethanes and Other Environmental Factors that Contribute to Colorectal Cancer  
9:15 a.m.-9:45 a.m.—Upcoming or Proposed Meetings

#### NTP FY 1994 Program Plans

9:45 a.m.-10:05 a.m.—Plans for Contracts, Interagency Agreements, and Grants

10:20 a.m.-11:20 a.m.—Chemical Studies (By Toxicity Endpoint): Completed or Ongoing Planned

Nominated—Twelve chemicals approved for study by the Interagency Committee for Chemical Evaluation and Coordination (formerly Chemical Evaluation Committee) on September 1, 1993, will be presented for discussion, and are (with CAS Nos. in parentheses): (1) Allyl Acetate (591-87-7); (2) Allyl Alcohol (107-18-6); (3) p-tert-Butyl-catechol (98-29-3); (4) Cyclohexene Oxide (286-20-4); (5) 2, 4-Decadienal (25152-84-5); (6) Decalin (91-17-8); (7) Dicyclohexylcarbodiimide (538-75-0); (8) Diisopropyl-carbodiimide (593-13-0); (9) Ecdysterone (5298-74-7); (10) 2,4-Hexadienal (142-83-6); (11) Malachite Green (Chloride): 569-64-2 (Oxalate: 18015-76-4); and (12) Tetralin (119-64-2). Brief time will be allowed for public comment on these nominations.

11:20 a.m.-12 Noon—Formation of New Toxicology Review Teams:

—Fumonisin B1

—Riddelliine

Update on Ongoing Review Teams

12:50 p.m.-1:50 p.m.—Selected Ongoing Research Programs: Ecotoxicology Initiative—Aquatic Models

1:50 p.m.-2:20 p.m.—Workshop on Diet for F344 Rats in Long-Term Studies: Meeting report and recommendations

2:35 p.m.-3:05 p.m.—NIH Revitalization Act of 1993, Establishment of the Applied Toxicological Research and Testing Program (ATRTP) at NIEHS and activities to be conducted under the ATRTP

3:05 p.m.-4:05 p.m.—Concept Reviews:

A. Role of Glycine in Toxicity of Chemicals

B. Germ Cell Mutations and Cancer

C. Rodent Disease Diagnostic Laboratories

D. Genetic Monitoring of Inbred Rodents

#### Adjournment

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O.

Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541-3971, will have available a roster of Board members and other program information prior to the meeting and summary minutes subsequent to the meeting.

Dated: September 27, 1993.

**Kenneth Olden,**

Director, National Toxicology Program.

[FR Doc. 93-24223 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### National Toxicology Program; Chemicals (12) Nominated for Toxicological Studies; Request for Comments

**SUMMARY:** The National Toxicology Program (NTP) is soliciting public comments on 12 chemicals nominated for toxicological studies. These comments will assist the NTP in making informed decisions about whether to perform toxicological studies on these chemicals.

#### FOR FURTHER INFORMATION CONTACT:

Dr. Errol Zeiger, A0-01, National Toxicology Program, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541-4482.

**SUPPLEMENTARY INFORMATION:** The NTP was established in 1978 as a cooperative effort within the Public Health Service of the Department of Health and Human Services to coordinate toxicology research and testing activities within the Department, to provide information about potentially toxic chemicals to regulatory and research agencies and the public, and to strengthen the science base in toxicology. The chemical nomination and selection process remains integral to the effective operation and success of the NTP with respect to the testing of chemicals using current methodologies, the validation of new testing methodologies, and the evaluation of mechanisms of toxicity.

As part of the nomination and selection process, the NTP Interagency Committee for Chemical Evaluation and Coordination (ICCEC) (formerly the Chemical Evaluation Committee [CEC]), composed of representatives from Federal agencies participating in the NTP, evaluates chemicals nominated to the Program and makes recommendations for study. Nominated chemicals which have been reviewed by the ICCEC are published in the Federal Register with request for comment. The purpose is to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject

chemicals for toxicology study. Comments and data submitted in response to this announcement will be reviewed by NTP technical staff for use in the further evaluation of the nominated chemicals. The NTP chemical nomination and selection process is summarized in the NTP FY 1991 Annual Plan, pages 17-19.

On September 1, 1993, the ICCEC met to evaluate chemicals nominated to the NTP for toxicological studies. The attached table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the ICCEC.

Interested parties are requested to submit pertinent information on all of the nominated chemicals. The following types of data are of particular relevance:

- (1) Modes of production, present production levels, and occupational exposure potential;
- (2) Uses and resulting exposure levels, where known;
- (3) Completed, ongoing and/or planned toxicologic studies in the public or private sector including detailed experimental protocols and results; and
- (4) Results of toxicological studies of structurally related compounds.

Please submit all information in written form by November 1, 1993, to Dr. Zeiger by mail or by FAX, (919) 541-4704. Any submissions received after the above date will be accepted and utilized if possible.

Dated: September 27, 1993.

**Kenneth Olden,**

Director, National Toxicology Program.

TABLE

Chemical name, CAS No.	Nominating agency	Recommended testing
Allyl acetate (591-87-7).	NCI	Short-term toxicity; chemical disposition.
Allyl alcohol (107-18-6).	NCI	Carcinogenicity.
p-tert-Butylcatechol (98-29-3).	NCI	Metabolism; short-term toxicity; skin tumor promotion; class study.
Cyclohexane oxide (286-20-4).	NCI	Mechanistic studies; limited carcinogenicity studies.

TABLE—Continued

Chemical name, CAS No.	Nominating agency	Recommended testing
2,4-Decadienal (25152-84-5).	NCI	Full toxicological evaluation; possible carcinogenicity studies.
Decalin (91-17-8).	NCI	Carcinogenicity; chemical disposition.
Dicyclohexylcarbodiimide (538-75-0).	NCI	General toxicity studies.
Diisopropylcarbodiimide (693-13-0).	NCI	General toxicity studies.
Ecdysterone (5298-74-7).	NCI	Full toxicological evaluation; carcinogenicity.
2,4-Hexadienal (142-83-6).	NCI	Full toxicological evaluation; possible carcinogenicity studies.
Malachite green (569-64-2/18015-76-4).	FDA	Carcinogenicity; mechanistic studies.
Tetralin (119-64-2).	NCI	Carcinogenicity; chemical disposition.

[FR Doc. 93-24224 Filed 10-1-93; 8:45 am]

BILLING CODE 4140-01-M

### Substance Abuse and Mental Health Services Administration

#### Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or

revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

**FOR FURTHER INFORMATION CONTACT:**

Denise L. Goss, Program Assistant, Division of Workplace Programs, room 9-A-54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443-6014.

**SUPPLEMENTARY INFORMATION:**

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, suite 21, Nashville, TN 37211, 615-331-5300  
 Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800-541-4931/205-263-5745  
 Allied Clinical Laboratories, 201 Plaza Boulevard, Hurst, TX 76053, 817-282-2257  
 American Medical Laboratories, Inc., 14225 Newbrook Drive, Chantilly, VA 22021, 703-802-6900  
 Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, suite 250, Las Vegas, NV 89119-5412, 702-733-7866  
 Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801-583-2787

Baptist Medical Center—Toxicology Laboratory, 9601 I-630, Exit 7, Little Rock, AR 72205-7299, 501-227-2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)  
 Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414-355-4444/800-877-7016  
 Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617-547-8900  
 Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305-325-5810  
 Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310-215-6020  
 Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412-488-7500  
 Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800-445-6917  
 CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919-549-8263/800-833-3984  
 CompuChem Laboratories, Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919-549-8263  
 Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800-876-3652/417-836-3093  
 CPF MetPath Laboratories, 21007 Southgate Park Boulevard, Cleveland, OH 44137-3054, 800-338-0166 (outside OH)/800-362-8913 (inside OH) (name changed: formerly Southgate Medical Laboratory; Southgate Medical Services, Inc.)  
 Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800-638-1100 (name changed: formerly Chem-Bio Corporation; CBC Clinilab)  
 Damon Clinical Laboratories, 8300 Esters Blvd., suite 900, Irving, TX 75063, 214-929-0535  
 Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38-H, Great Lakes, IL 60088-5223, 708-688-2045/708-688-4171  
 Dept. of the Navy, Navy Drug Screening Laboratory, Norfolk, VA, 1321 Gilbert Street, Norfolk, VA 23511-2597, 804-444-8089 ext. 317  
 Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Drive, Valdosta, GA 31604, 912-244-4468  
 Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904-787-9006  
 Drug Labs of Texas, 15201 I-10 East, suite 125, Channelview, TX 77530, 713-457-3784

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215-674-9310  
 ElSohly Laboratories, Inc., 1215-1/2 Jackson Ave., Oxford, MS 38655, 601-236-2609  
 Employee Health Assurance Group, 405 Alderson Street, Schofield, WI 54476, 800-627-8200 (name change: formerly Alpha Medical Laboratory, Inc.)  
 General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608-267-6267  
 Harrison & Associates Forensic Laboratories, 606 N. Weatherford, P.O. Box 2788, Midland, TX 79702, 800-725-3784/915-687-6877  
 HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800-328-4142 (inside MI)/800-225-9414 (outside MI)  
 Hermann Hospital Toxicology Laboratory, Hermann Professional Building, 6410 Fannin, suite 354, Houston, TX 77030, 713-793-6080  
 IHC Laboratory Services Forensic Toxicology, 930 North 500 West, suite E, Provo, UT 84604, 800-967-9766  
 Jewish Hospital of Cincinnati, Inc., 3200 Burnet Avenue, Cincinnati, OH 45229, 513-569-2051  
 Laboratory of Pathology of Seattle, Inc., 1229 Madison St., suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206-386-2672  
 Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504-392-7961  
 Marshfield Laboratories, 1000 North Oak Avenue, Marshfield, WI 54449, 715-389-3734/800-222-5835  
 Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 507-284-3631  
 Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412-931-7200  
 MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901-795-1515  
 Medical Science Laboratories, 11020 W. Plank Court, Wauwatosa, WI 53226, 414-476-3400  
 MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 6160 Variel Avenue, Woodland Hills, CA 91367, 818-226-4373 (name changed: formerly Laboratory Specialists, Inc.; Abused Drug Laboratories; moved 12/21/92)  
 MEDTOX Bio-Analytical, 8600 West Catalpa Avenue, Chicago, IL 60656, 800-872-5221/312-714-9191 (address, phone, and name changed on 5/17/93: formerly MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.; Bio-Analytical Technologies)

- MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 800-832-3244/612-636-7466
- Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Boulevard, Indianapolis, IN 46202, 317-929-3587
- Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 800-752-1835/309-671-5199
- MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708-595-3888
- MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201-393-5000
- MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800-492-0800/818-343-8191
- National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 410-536-1485 (name changed: formerly Maryland Medical Laboratory, Inc.)
- National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800-749-3784 (name changed: formerly Med Arts Lab)
- National Health Laboratories Incorporated, 5601 Oberlin Drive, suite 100, San Diego, CA 92121, 619-455-1221
- National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103-6710, 919-760-4620/800-334-8627 (outside NC)/800-642-0894 (inside NC)
- National Health Laboratories Incorporated, 75 Rod Smith Place, Cranford, NJ 07016-2843, 908-272-2511
- National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, suite A-15, Nashville, TN 37217, 615-360-3992/800-800-4522
- National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703-742-3100
- National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800-251-9492
- National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805-322-4250
- Nichols Institute Substance Abuse Testing (NISAT), 7470-A Mission Valley Road, San Diego, CA 92108-4406, 800-446-4728/619-686-3200 (name changed: formerly Nichols Institute)
- Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800-322-3361
- Occupational Toxicology Laboratories, Inc., 2002 20th Street, suite 204A, Kenner, LA 70062, 504-465-0751
- Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440-0972, 503-687-2134
- Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708-480-4680
- Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509-926-2400
- PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908-769-8500/800-237-7352
- PharmChem Laboratories, Inc., 1505-A O'Brien Drive, Menlo Park, CA 94025, 415-328-6200/800-446-5177
- PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Drive, Fort Worth, TX 76118, 817-595-0294 (Formerly: Harris Medical Laboratory)
- Physicians Reference Laboratory, 7800 West 110th Street, Overland Park, KS 66210, 913-338-4070/800-821-3627 (Formerly: Physicians Reference Laboratory Toxicology Laboratory)
- Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619-279-2600/800-882-7272
- Precision Analytical Laboratories, Inc., 13300 Blanco Road, suite #150, San Antonio, TX 78216, 210-493-3211
- Puckett Laboratory, 4200 Mamie Street, Hattiesburgh, MS 39402, 601-264-3856/800-844-8378
- Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206-882-3400
- Resource One, Inc., Seven Pointe Circle, Greenville, SC 29615, 803-233-5639
- Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205-581-4170
- Roche Biomedical Laboratories, 1957 Lakeside Parkway, suite 542, Tucker, GA 30084, 404-939-4811
- Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601-342-1286
- Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800-437-4986
- Saint Joseph Hospital Toxicology Laboratory, 601 N. 30th Street, Omaha, NE 68131-2197, 402-449-4940
- Scott & White Drug Testing Laboratory, 600 S. 25th Street, Temple, TX 76504, 800-749-3788
- S.E.D. Medical Laboratories, 500 Walter NE, suite 500, Albuquerque, NM 87102, 505-848-8800
- Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800-648-5472
- SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818-376-2520
- SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404-934-9205 (name changed: formerly SmithKline Bio-Science Laboratories)
- SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708-885-2010 (name changed: formerly International Toxicology Laboratories)
- SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314-567-3905
- SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800-523-5447 (name changed: formerly SmithKline Bio-Science Laboratories)
- SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301 (name changed: formerly SmithKline Bio-Science Laboratories)
- South Bend Medical Foundation, Inc., 530 N. Lafayette Boulevard, South Bend, IN 46601, 219-234-4176
- Southwest Laboratories, 2727 W. Baseline Road, suite 6, Tempe, AZ 85283, 602-438-8507
- St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee Street, Oklahoma City, OK 73102, 405-272-7052
- St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314-577-8628
- Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, suite 208, Columbia, MO 65203, 314-882-1273
- Toxicology Testing Service, Inc., 5426 NW. 79th Avenue, Miami, FL 33166, 305-593-2260
- No laboratories withdrew from the National Laboratory Certification Program during September 1993.
- Richard Kopanda,**  
*Acting Executive Officer, Substance Abuse and Mental Health Services Administration.*  
[FR Doc. 93-24198 Filed 10-1-93; 8:45 am]

BILLING CODE 4160-20-P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****Office of the Assistant Secretary for Housing-Federal Housing Commissioner**

[Docket No. N-93-3487; FR-3092-N-05]

**Announcement of Funding Awards for the Congregate Housing Services Program**

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department as a result of competitions for funding under the Congregate Housing Services Program. The announcement contains the names and addresses of the award winners for the competition and the amounts of the awards.

**DATES:** October 7, 1993.

**FOR FURTHER INFORMATION CONTACT:** Margaret Milner, Acting Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-4542. The TDD number for the

hearing impaired is (202) 708-4594. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** The Congregate Housing Services Program (CHSP) is a HUD program that provides direct grants to States, Indian tribes, local governments, and non-profit sponsors to provide meals and other supportive services to frail elderly and non-elderly disabled residents of HUD and Farmers Home Administration (FmHA) projects. Under the CHSP program, grants are used to provide funding for service coordinators, case management, meal programs, personal care and housekeeping services, and for local transportation for residents living in HUD and FmHA projects.

The awards announced in this Notice were selected for funding in competitions announced in **Federal Register Notices** published on December 8, 1992, at 57 FR 58056.

Grants totaling over \$13.8 million in supportive services for the elderly were awarded for 46 projects in 19 states by the Department. A total of \$1,283,646 was awarded to six FmHA projects in Connecticut. The remaining grants for \$12,605,165 were for the 40 other HUD projects in 18 states. The CHSP grants awarded by HUD are for five years and can be renewed if funding is available.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards, as set out at the end of this Notice.

Dated: September 29, 1993.

**Nicolas P. Retsinas,**  
*Assistant Secretary for Housing-Federal  
Housing Commissioner.*

**BILLING CODE 4210-27-M**

09/20/93

U. S. Department of Housing and Urban Development  
 Congregate Housing Services Program

LIST OF SELECTED GRANT RECIPIENTS

Region	Applicant Name Address City	St	Zip	CD *	Project Name Address City	St	CD *	Project No. Section 8 No. OPC Grant No.	1st Year CHSP \$	5 Year CHSP Total \$
FmHA	State of CT, Dept. 175 Main Street Hartford	CT	06106	05	Spruce Bank Farm Woodbury	CT	05	012 DU100G000018270	27,923	193,854
FmHA	State of CT, Dept. 175 Main Street Hartford	CT	06106	05	Little River Acres Putnam	CT	02	033 DU100G000018270	33,082	231,718
FmHA	State of CT, Dept. 175 Main Street Hartford	CT	06106	05	Moosup Manor Moosup	CT	02	013 DU100G000018270	19,113	124,827
FmHA	State of CT, Dept. 175 Main Street Hartford	CT	06106	05	Moosup Eastwind Village I	CT	02	014 DU100G000018270	23,530	155,253
FmHA	State of CT, Dept. 175 Main Street Hartford	CT	06106	05	Plainfield Nunnawauk 175 Main Street Hartford	CT	02	036 DU100G000018270	42,978	300,036
FmHA	State of CT, Dept. 175 Main Street Hartford	CT	06106	05	Cedar View Village II Plainfield	CT	02	012 DU100G000018270	40,336	277,958
Total:									186,962	1,283,646

\* CD = Congressional District Number

09/20/93

U. S. Department of Housing and Urban Development  
Congregate Housing Services Program

## LIST OF SELECTED GRANT RECIPIENTS

Region	Applicant Name Address City	St	Zip	CD *	Project Name Address City	St	CD *	Project No. Section 8 No. OPC Grant No.	1st Year CHSP \$	5 Year CHSP Total \$	
01	Cambridge Housing Authority 270 Green Street Cambridge	MA	02139	08	Lyndon B. Johnson Apts 150 Erie Street Cambridge	MA	08	MA0003011 DU100G000018287	34,600	391,000	
01	Jewish Community Housing 30 Wallingford Rd. Brighton	MA	02135	08	Ulin House 40 Wallingford Rd Brighton	MA	08	023-SH012 MA06-L000-040 DU100G000018295	138,728	766,560	
01	Manchester HA 198 Hanover St. Manchester	NH	03104	01	Thomas B. O'Malley Highrise 175 Chestnut St Manchester	NH	01	NH 1-5 DU100G000018273	58,888	325,394	
01	Laconia HRA 25 Union Avenue Laconia	NH	03246	02	Sunrise Towers 25 Union Avenue Laconia	NH	02	NH007-001 DU100G000018271	40,799	240,507	
01	Summer Street Hsg Pres. Inc. 39 Summer Street Rockland	ME	04841	01	Rankin Center 1 Rankin Street Rockland	ME	01	ME36-H017-194 DU100G000018297	30,100	165,149	
01	United Methodist Ret. Center 40 Irving Avenue East Providence	RI	02914	01	United Methodist Ret. Center 40 Irving Avenue East Providence	RI	01	SH-RI1202 DU100G000018309	40,043	221,263	
									Total:	343,158	2,109,873
02	Schenectady Municipal HA 375 Broadway Schenectady	NY	12305	23	Tenecky Apt/Schonowee Village 375 Broadway Schenectady	NY	23	NY28-1/NY28-11C DU100G000018283	50,000	380,000	
									Total:	50,000	380,000
03	Riverview Apts. Phase II, Inc. 52 Garetta Street Pittsburgh	PA	15217	14	Riverview Apts. Phase II 52 Garetta Street Pittsburgh	PA	14	033-44052 DU100G000018293	21,280	104,758	
03	Riverview Towers, Phase I Inc. 52 Garetta Street Pittsburgh	PA	15217	14	Riverview Apts, Phase I Inc. 52 Garetta Street Pittsburgh	PA	14	033-SH014 DU100G000018292	12,480	65,520	

\* CD = Congressional District Number

09/20/93

U. S. Department of Housing and Urban Development  
 Congregate Housing Services Program

LIST OF SELECTED GRANT RECIPIENTS

Region	Applicant Name Address City	St	Zip	CD *	Project Name Address City	St	CD *	Project No. Section 8 No. OPC Grant No.	1st Year CHSP \$	5 Year CHSP Total \$
03	HA of the County of Elk P.O. Box 100 Johnsonburg	PA	15845	05	Dickinson Apts. 101 N. Mill Ave Ridgeway	PA	05	42PA-054-01 DU100G000018294	7,124	39,364
Total:									40,884	209,642
04	Winston-Salem Hsg Foundation 8 W. 3rd Street Winston-Salem	NC	27101	05	Koerner Place Birch Lane Kernersville	NC	05	053-EH060 NC19-T801-003 DU100G000018291	16,156	107,337
04	Carolina Christ. Vill. Homes Ingram Road King	NC	27021	05	Carolina Christ. Vill. Homes Ingram Drive King	NC	05	053-EH355 NC19-T851-026 DU100G000018288	11,895	91,810
04	NC Dept. of Human Resources 693 Palmer Drive Raleigh	NC	27626	04	Meadow Oaks Jacksonville	NC	07	0535227 NC19-H148-020 DU100G000018302	109,821	674,712
04	Mississippi Regional HA P.O. Box 419 Newton	MS	39345	03	Mississippi Reg HA No. V P.O. Box 419 Newton	MS	03	MS3022 DU100G000018289	46,497	256,925
04	Dowling Park Home, Inc. P.O. Box 4307 Dowling Park	FL	32060	02	Dowling House Route 5, Box 66 Dowling Park	FL	02	063-440 DU100G000018301	44,020	238,745
04	Dowling Park Apartments, Inc. P.O. Box 4307 Dowling Park	FL	32060	02	Dowling Park Apartments, Inc. P.O. Box 4307 Dowling Park	FL	02	063-EH025 FL29-T781-008 DU100G000018290	47,260	256,629
04	VOA Elderly Hsg., Inc. NW 25th Ave. Miami	FL	33125	18	Hialeah Residence 1280 West 46th Street Hialeah	FL	21	066-EH152 FL29-T821-044 DU100G000018278	131,128	698,049
04	Kinneret Inc. & Kinneret II 515 S. Delaney Ave Orlando	FL	32801	08	Kinneret Inc. & Kinneret II 515 South Delaney Ave Orlando	FL	08	067-SH30 DU100G000018272	31,997	176,795
04	Orange Grove Center, Inc. P.O. Box 3249 Chattanooga	TN	37404	03	Orange Grove Center 615 Derby Street Chattanooga	TN	03	087-EH156 TN37-T871-001 DU100G000018303	23,083	127,547

\* CD = Congressional District Number

09/20/93

U. S. Department of Housing and Urban Development  
Congregate Housing Services Program

LIST OF SELECTED GRANT RECIPIENTS

Region	Applicant Name Address City	St	Zip	CD *	Project Name Address City	St	CD *	Project No. Section 8 No. OPC Grant No.	1st Year CHSP \$	5 Year CHSP Total \$
05	Columbus Rec. & Parks Dept. 272 South Gift Street Columbus	OH	43215	15	Jaycee Arms North 5905 Beechcraft Road Columbus	OH	12	043-EH021 OH16-T781-022 DU100G000018281	40,526	285,536
05	Columbus Rec. & Parks Dept. 272 South Gift Street Columbus	OH	43215	15	Jaycee Arms 266 East Main Street Columbus	OH	15	043-4401 DU100G000018281	64,889	469,520
05	Columbus Rec. & Parks Dept. 272 South Gift Street Columbus	OH	43215	15	Sunshine Terrace & Annex 272 South Gift Street Columbus	OH	15	OH106/OH115 DU100G000018284	62,236	447,679
05	Columbus Rec. & Parks Dept. 272 South Gift Street Columbus	OH	43215	15	Nazareth Towers, Inc. 300 East Rich Street Columbus	OH	15	04355004 OH16-M002-56 DU100G000018281	73,126	524,352
05	Moore Non-Profit Hsg Corp. 401 W. Jolly Road Lansing	MI	48910	08	Moore Non-Profit Hsg Corp. 1401&1409 Georgetown Blv Lansing	MI	08	04738N1 DU100G000018298	50,472	253,970
05	Plymouth Opp. N-Profit Hsg. 593 Deer Street Plymouth	MI	48170	13	Qualitative Living Project 593 Deer Street Plymouth	MI	13	NI044-83-NI DU100G000018307	3,500	19,000
05	Jewish Fed. Apts., Inc. 15100 W. Ten Mile Rd Oak Park	MI	48237	12	Federation Apartments 15100 West Ten Mile Rd Oak Park	MI	12	043-SH-MICH-35 MI28-M000-180 DU100G000018276	26,689	147,477
05	Jewish Fed. Apts., Inc. 15100 W. Ten Mile Rd Oak Park	MI	48237	12	Prentis Fed. Apts. Phase II 15100 West Ten Mile Rd Oak Park	MI	12	044-EH005 MI28-1245-201 DU100G000018277	26,689	147,475
05	Jewish Fed. Apts., Inc. 15100 W. Ten Mile Rd Oak Park	MI	48237	12	Teitel Fed. Apts. Phase IV 15100 W. Ten Mile Rd Oak Park	MI	12	044-EH167 MI28-T851-007 DU100G000018275	26,689	147,477
05	Jewish Fed. Apts., Inc. 15100 W. Ten Mile Rd Oak Park	MI	48237	12	Hechtman Fed. Apt. Phase III 6700 West Maple Road West Bloomfield	MI	11	044-EH043 MI28-T801-005 DU100G000018274	26,691	147,477
Total:									461,857	2,628,549

\* CD = Congressional District Number

09/20/93

U. S. Department of Housing and Urban Development  
 Congregate Housing Services Program

LIST OF SELECTED GRANT RECIPIENTS

Region	Applicant Name Address City	St	Zip	CD *	Project Name Address City	St	CD *	Project No. Section 8 No. OPC Grant No.	1st Year CHSP \$	5 Year CHSP Total \$
05	HRA City of So. St. Paul 125 Third Avenue North South St. Paul MN 55075	MN	55075	03	So. St. Paul Hi/Rise	MN	03	MN01001-MN01002 DU100G000018304	77,115	447,503
								Total:	478,622	3,037,466
07	Waterloo Housing Authority P.O. Box 1587 Waterloo IA 50704	IA	50704	03	Ridgeway Towers 225 Ridgeway Waterloo	IA	03	IA05P050003 DU100G000018282	39,129	216,218
								Total:	39,129	216,218
08	Francis Heights, Inc. 2626 Osceola Street Denver CO 80212	CO	80212	01	Francis Heights, Inc. 2626 Osceola Street Denver	CO	01	10144017-NP C099-M000-154 DU100G000018299	60,000	331,540
08	South Dakota HDA P.O. Box 1237 Pierre SD 57501	SD	57501	01	West Park 1018 11th Street Rapid City	SD	01	SD99-H001-126 DU100G000018300	31,997	175,000
08	Sunset Towers, Inc. 3813 North Causeway Blvd Metairie LA 70002	LA	70002	01	Sunset Towers 1925 Larimen Street Denver	CO	01	101-EH009 C099-T781-009 DU100G000018305	156,252	731,258
								Total:	248,249	1,237,798
09	VOA Elderly Housing 3813 N. Causeway Blvd. Metairie LA 70002	LA	70002	01	BuFns Manor, Inc. 8155 Foothill Los Angeles	CA	27	122-EH092 CA16-T791-010 DU100G000018296	141,405	750,730
09	Comm. Dev. Commission 2525 Corporate Place Monterey Park CA 91754	CA	91754	21	South Bay Gardens 230 E. 130th Street Los Angeles	CA	20	CA16P002032 DU100G000018286	37,632	209,313
09	Comm. Dev. Commission 2525 Corporate Place Monterey Park CA 91754	CA	91754	21	Marina Manor 3401 Via Dolce Marina Delrey	CA	21	CA16-P002-013 DU100G000018285	54,040	298,606

\* CD = Congressional District Number

09/23/93

U. S. Department of Housing and Urban Development  
 Congregate Housing Services Program

LIST OF SELECTED GRANT RECIPIENTS

Region	Applicant Name Address City	St	Zip	CD *	Project Name Address City	St	CD *	Project No. Section & No. OPC Grant No.	1st Year CHSP \$	5 Year CHSP Total \$
10	Housing Authority of Portland 135 SW Ash Street Portland	OR	97204	01	Unthank Plaza 2500 N. Williams Portland	OR	01	OR16-0017-005 DU100G000018279	70,272	508,990
10	Housing Authority of Portland 135 SW Ash Street Portland	OR	97204	01	Holgate House 4601 SE 39th Portland	OR	01	OR16-P-002-015 DU100G000018306	70,272	508,990
10	Housing Authority of Portland 135 SW Ash Street Portland	OR	97204	01	Dahlke Manor 915 N.E. Schuyler Portland	OR	03	OR16-P-002-014 DU100G000018280	70,272	508,990
Total:									233,077	1,258,649
Total:									210,816	1,526,970

HUD Regional Totals: 2,105,792 12,605,165

\* CD = Congressional District Number

[FR Doc. 93-24335 Filed 10-1-93; 8:45 am]  
 BILLING CODE 4210-27-C

**Office of the Assistant Secretary for  
Community Planning and  
Development**

[Docket No. N-93-3659; FR-3540-N-02]

**Notice of Funding Availability for  
Historically Black Colleges and  
Universities Program Technical  
Correction**

**AGENCY:** Office of the Assistant  
Secretary for Community Planning and  
Development, HUD.

**ACTION:** Notice of Funding Availability  
(NOFA) for Fiscal Year (FY) 1993—  
technical correction.

**SUMMARY:** On September 17, 1993, HUD  
published a Notice of Funding  
Availability for the Historically Black  
Colleges and Universities (HBCU)  
Program containing two application due  
dates. This notice clarifies that  
December 1, 1993 is the application due  
date.

**DATES:** The application due date for the  
FY 1993 Historically Black Colleges and  
Universities (HBCU) Program NOFA is  
4:30 p.m. on December 1, 1993.

**FOR FURTHER INFORMATION CONTACT:**

Dr. James Turk, Office of Technical  
Assistance, Department of Housing and  
Urban Development, 451 7th Street,  
SW., room 7253, Washington, DC 20410.  
Telephone Number: (202) 708-3176.  
The TDD number for the hearing  
impaired is (202) 708-2565. (These are  
not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** A FY 1993  
Historically Black Colleges and  
Universities (HBCU) Program NOFA  
was published on September 17, 1993  
(58 FR 48716). The NOFA provided an  
application due date of December 1,  
1993 on page 48716, but an incorrect  
application deadline of November 16,  
1993 was listed on page 48718. This  
notice corrects that error, and affirms  
that all FY 1993 Historically Black  
Colleges and Universities (HBCU)  
Program NOFA applications are due at  
4:30 PM on December 1, 1993.

Dated: September 29, 1993.

Andrew Cuomo,

*Assistant Secretary for Community Planning  
and Development.*

[FR Doc. 93-24334 Filed 10-1-93; 8:45 am]

BILLING CODE 4210-29-M

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[NV-930-4210-05; N-56884]

**Corrected Notice of Realty Action:  
Conveyance of Federally-Owned  
Mineral Interests, Nevada**

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

**ACTION:** Amended legal description.

**SUMMARY:** The Notice of Realty Action  
published in the *Federal Register* on  
August 19, 1993, (58 FR 44193, FR Doc.  
93-20087) listed private lands for which  
the federal government does not own  
the mineral interests. Therefore, the  
original Notice of Realty Action is  
corrected to delete the following lands:

**Mount Diablo Meridian, Nevada**

T. 16 S., R. 48 E.,  
Section 24: E $\frac{1}{2}$   
T. 16 S., R. 49 E.,  
Section 19: S $\frac{1}{2}$

**FOR FURTHER INFORMATION CONTACT:**  
Anna Wharton, Realty Specialist, Las  
Vegas District Office, 4765 W. Vegas Dr.,  
P.O. Box 26569, Las Vegas, Nevada  
89126, 702-647-5000, for more  
information concerning this application.

Dated: September 20, 1993.

Gary Ryan,

*District Manager, Las Vegas, NV.*

[FR Doc. 93-24227 Filed 10-1-93; 8:45 am]

BILLING CODE 4310-HC-M

[UT-040-03-4212-11, UTU-40541, UTU-  
46835]

**Realty Action; Washington and Kane  
Counties, UT**

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

**ACTION:** Notice of realty action,  
recreation and public purpose  
conveyance.

**SUMMARY:** The following public lands in  
Washington and Kane Counties, Utah  
have been examined and found suitable  
for classification and conveyance under  
provisions of the Recreation and Public  
Purposes Amendment Act of 1988  
(Public Law 100-648). The lands to be  
conveyed and the proposed patentees  
are as follows:

**Patentee:** Washington County Solid  
Waste District #1

**Location:** Salt Lake Meridian, T. 42 S.,  
R. 14 W., Sec. 8, SESENE, SESESW,  
NESE, S2SE, SENWSE, SENWNW;  
Sec. 9, SWNW, NWSW, N2SWSW,  
SWSWSW; Sec. 17, N2NENE,  
SWNENE, NWNE, NWSWNE, E2NW,

E2W2NW, SWNWNW, W2SWNW;  
containing 500.00 acres.

**Patentee:** Kane County Special Service  
District #1

**Location:** Salt Lake Meridian, T. 44 S.,  
R. 6 W., Sec. 11, Lots 1-5, NWNE;  
containing 227.79 acres.

The lands described have previously  
been leased under the Recreation and  
Purposes Act for use as sanitary  
landfills and are segregated from all  
forms of appropriation under the public  
land laws, including the mining laws.

The purpose of this action is to place  
primary responsibility for management  
of these landfills with the local  
government, state, and the EPA, and to  
reduce Federal liabilities associated  
with leased sites. The leases will be  
converted to patents without a reverter  
provision. Terms and conditions to  
indemnify the United States and its  
officers, agents, representatives, and  
employees from claims, loss, damage,  
actions, causes of action, expense, and  
liability attributable to the disposal of  
solid waste on, or the release of  
hazardous substances from the above  
described land will be included in the  
patents. All minerals in the land  
described will be reserved to the United  
States. A right-of-way thereon will be  
reserved for ditches and canals  
constructed by authority of the United  
States, Act of August 30, 1890 (26 Stat.  
391; 43 USC 945).

**DATES:** Interested parties may submit  
comments to the address listed below.  
Comments will be accepted until  
November 18, 1993.

**ADDRESSES:** Detailed information  
concerning this action is available at the  
Cedar City District, Bureau of Land  
Management, 176 East D.L. Sargent Dr.,  
Cedar City, Utah 84720.

Any adverse comments received  
during the comment period will be  
reviewed by the State Director who may  
vacate or modify this realty action. In  
the absence of timely adverse  
comments, this notice will become the  
final determination of the Department of  
the Interior on December 3, 1993.

Dated: September 28, 1993.

Gordon R. Staker,

*District Manager.*

[FR Doc. 93-24306 Filed 10-1-93; 8:45 am]

BILLING CODE 4310-DQ-M

[CO-930-4214-10; COC-55779]

**Proposed Withdrawal: Opportunity for  
Public Meeting; Colorado**

September 23, 1993.

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

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 640 acres of National Forest System lands for 20 years to protect recreation values and constructed facilities associated with the Bakerville to Loveland Pass Bicycle Trail. This notice closes these lands to location and entry under the mining laws for up to two years. The lands remain open to mineral leasing.

**DATES:** Comments on this proposed withdrawal or requests for public meeting must be received on or before January 3, 1993.

**ADDRESSES:** Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

**FOR FURTHER INFORMATION CONTACT:** Doris E. Chelius, 303-239-3706.

**SUPPLEMENTARY INFORMATION:** On August 19, 1993, the Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. ch. 2):

**Arapaho National Forest***Sixth Principal Meridian*

T. 4 S., R. 75 W.,  
Sec. 19, E $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$ , exclusive of patented lands, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

T. 4 S., R. 76 W.,  
Sec. 13, NW $\frac{1}{4}$ SW $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 14, NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 22, NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

T. 4 S., R. 75 W.,  
A strip 100 ft. in width, 50 ft. either side of the centerline running through the following described lands;

Sec. 18, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 19, NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 20, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

T. 4 S., R. 76 W.,  
A strip 100 ft. in width, 50 ft. either side of the centerline running through the following described lands;

Sec. 13, NE $\frac{1}{4}$ SW $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

The areas described aggregate approximately 640 acres of National Forest System lands in Clear Creek County. Maps showing more accurate descriptions of centerline of trail are available in the Colorado State Office at the address shown above.

The purpose of this withdrawal is to protect recreational values associated with the Bakerville to Loveland Pass Bicycle Trail and improvements associated with this trail.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed withdrawal, or to request a public meeting, may present their views in writing to the Colorado State Director. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with 43 CFR 2310.3-1(c)(2).

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period of two years from the date of publication in the **Federal Register**, these lands will be segregated from the mining laws as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period, the Forest Service will continue to manage these lands.

**Robert S. Schmidt,**  
Chief, Branch of Realty Programs.

[FR Doc. 93-24226 Filed 10-1-93; 8:45 am]

BILLING CODE 4310-JB-M

[CO-932-4214-10; COC-55323]

**Proposed Withdrawal; Opportunity for Public Meeting; Colorado**

September 24, 1993.

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

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management proposes to withdraw 4,156.23 acres of public lands near Grand Junction, Colorado, to protect paleontological and archaeological values. This notice closes these lands for up to 2 years from surface entry and mining. The lands will remain open to mineral leasing.

**DATES:** Comments on the proposed withdrawal or request for public meeting must be received on or before January 3, 1993.

**ADDRESSES:** Comments and meeting requests should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado, 80215-7076.

**FOR FURTHER INFORMATION CONTACT:** Doris E. Chelius, BLM Colorado State Office, (303) 239-3706.

**SUPPLEMENTARY INFORMATION:** On September 20, 1993, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from settlement, sale, location or entry under the general land

laws, including the mining laws, subject to valid existing rights:

**Grand Junction Archaeological Sites***Sixth Principal Meridian**Rabbit Valley Research Natural Area*

T. 10 S., R. 104 W.,  
Sec. 8, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 9, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 16, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 17, N $\frac{1}{2}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

*Sixth Principal Meridian**Sieber Canyon*

T. 11 S., R. 103 W.,  
Sec. 33, lot 1, E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 34, lots 2, 3, 4, 5, 6, and 8, and N $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 12 S., R. 103 W.,  
Sec. 3, SW $\frac{1}{4}$ NW $\frac{1}{4}$  and W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 4, lots 5, 6, and 7, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;  
Sec. 5, lots 5 and 6, S $\frac{1}{2}$ NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
Sec. 6, lots 13 through 24, inclusive;  
Sec. 7, lots 5 through 9, inclusive, and W $\frac{1}{2}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 12 S., R. 104 W.,  
Sec. 1, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 12, lots 1, 2, and 3 inclusive, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

*Dinosaur Hill Paleontological Area**Ute Principal Meridian*

T. 1 N., R. 2 W.,  
Sec. 29, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

*McDonald Creek Cultural Resource Area**Sixth Principal Meridian*

T. 10 S., R. 104 W.,  
Sec. 19, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 20, SW $\frac{1}{4}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 29, W $\frac{1}{2}$ ;  
Sec. 30, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 31, East 10 chains of lot 11, E $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

*Split Rock Paleontological Area**Sixth Principal Meridian*

T. 10 S., R. 104 W.,  
Sec. 11, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ .

The areas described aggregate approximately 4,156.23 acres of public lands in Mesa County.

The purpose of this withdrawal is to protect sites containing archaeological, paleontological, and cultural values.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed withdrawal. If the authorized officer determines that a meeting should be held, the meeting will be scheduled

in accordance with 43 CFR 2310.3-1(c)(2).

All persons who desire to submit comments, suggestions, or objections or who desire a public meeting for the purpose of being heard on this proposed action must submit a written request with the Colorado State Director within 90 days of the date of publication of this notice.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated from operation of the public land laws as specified above unless the application is denied or cancelled or the withdrawal is made prior to that date.

During this period, these lands will continue to be managed by the Bureau of Land Management.

Andrew J. Senti,

Acting Chief, Branch of Realty Programs.

[FR Doc. 93-24225 Filed 10-1-93; 8:45 am]

BILLING CODE 4310-JB-M

## INTERSTATE COMMERCE COMMISSION

[Directed Service Order No. 1513]

### Delaware-Lackawanna Railroad Company Inc.—Directed Service—Pocono Northeast Railway, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Directed service order.

**SUMMARY:** Pursuant to 49 U.S.C. 11125(a), the Commission is authorizing the Delaware-Lackawanna Railroad Company Inc. (DLRR) to operate as a "Directed Rail Carrier" (DRC)—without Federal compensation or subsidy under 49 U.S.C. 11125(b)(5)—over the Pocono Northeast Railway, Inc. (PNER) for a period of 60 days.

This unsubsidized and uncompensated directed service order is based on the cessation of operations by PNER, without requisite Commission authority, and a determination based on PNER's representations that the railroad's cash position does not permit it to continue operations at this time. To assure continued service to shippers that are affected by the discontinuance of operations, the Commission is authorizing DLRR to provide interim uncompensated directed service over PNER's lines in the Scranton/Wilkes-Barre area of northeastern Pennsylvania. See 49 U.S.C. 11125(a) (1) and (3).

**DATES:** *Effective Date:* Directed Service Order No. 1513 shall become effective at

12:01 a.m., EDT, September 29, 1993. DLRR shall notify PNER and the Commission of the date on which it commences operations under this authority.

*Expiration Date:* Unless otherwise modified by order of the Commission, Directed Service Order No. 1513 will expire at 11:59 p.m., November 27, 1993.

**FOR FURTHER INFORMATION CONTACT:** Bernard Gaillard, (202) 927-5500 or Melvin F. Clemens, Jr., (202) 927-5538, [FAX (202) 927-5529]. [TDD for hearing impaired: (202) 927-5721]

**SUPPLEMENTARY INFORMATION:** On September 17, 1993, at 3:00 p.m., PNER issued Embargo No. 10-93 to be effective immediately and at 5:01 p.m., ceased operations over its entire 93 mile system in the Scranton/Wilkes-Barre area of northeastern Pennsylvania. PNER President Robert McNichols stated that he made the decision to cease operations because traffic levels had dropped so low (approximately 800 carloads per year) that he did not have sufficient money to operate the railroad. PNER provides local freight service to approximately 17 shippers. PNER shippers were notified of the cessation of operations on September 20, 1993. On September 20, 1993 the Commission assigned personnel from its field staff of the Office of Compliance and Consumer Assistance (OCCA) to conduct an inquiry into PNER's actions and to determine the circumstances of shippers on the line.

On September 22, 1993, the Commission began to receive inquiries from shippers as to the status of PNER and any emergency alternatives the Commission may invoke to ameliorate the situation. Also on September 22, 1993, the Commission was contacted separately by the Lackawanna Valley Railroad Corporation (LVAL) and the Delaware-Lackawanna Railroad Co. Inc. (DLRR) regarding their willingness to conduct uncompensated directed service operations over the lines of the PNER as "Directed Rail Carrier" (DRC) if authorized by the Commission to do so. The Commission was also contacted on September 22 and 23, 1993, by numerous State and Federal Congressional representatives, the Pennsylvania Department of Transportation (PDOT), the Monroe County Railroad Authority, the Luzerne County Commissioners, The Greater Wilkes-Barre Chamber of Commerce (Chamber), and the Economic Development Council of Northeastern Pennsylvania (EDCNP), emphasizing the urgency of the situation and requesting the Commission to act in any way

possible to relieve the emergency and avert a transportation crisis in the area.

Pursuant to 49 U.S.C. 11125(a), the Commission may issue a directed service order for up to 60 days when it finds that a rail carrier "cannot transport traffic offered to it because—(1) its cash position makes its continuing operation impossible; (2) transportation has been discontinued under court order; or (3) it has discontinued transportation without obtaining a required certificate under 49 U.S.C. 10903[.]" (emphasis added). Any Commission order under these provisions also requires Federal compensation to the DRC for those operations. However, this provision also allows the Commission to authorize a carrier to provide unsubsidized directed service if the directed carrier is willing to accept that responsibility under those terms.

The Commission has determined, from shipper statements and statements by PNER, and through the inquiry conducted by OCCA, that it appears unlikely that PNER's operations will be restored by PNER in the foreseeable future. As contemplated by the statute, this cessation of service without authority meets the requisite criteria for directed service. Moreover, both carriers offering to provide service propose to do so without Federal compensation and are amenable to serving as DRC for an initial period of 60 days as provided by the statute.

As to the issue of competing offers by LVAL and DLRR to provide uncompensated directed service as DRC's, we find that LVAL and DLRR have somewhat different circumstances and varying support for their proposals, even though the scope of the operations each proposes over PNER is essentially the same. LVAL was previously authorized to operate a 58 mile segment of track belonging to the Lackawanna County Railroad Authority (LCRA).<sup>1</sup> That operation ceased on August 26, 1993, and LVAL currently has no rail operations. It contends, however, that it continues to have authority to conduct such operations and that it has sufficient equipment and personnel immediately to commence operations and provide service to the entire PNER system. LVAL is supported by four of the 11 shippers that have filed requests for Commission action. DLRR, pursuant to Finance Docket No. 32334, The Delaware-Lackawanna Railroad Co., Inc.—Operation Exemption—Line of Lackawanna County Railroad Authority,

<sup>1</sup> LCRA is a public rail authority and political subdivision established in 1985 under the laws of the Commonwealth of Pennsylvania for the purpose of preserving railroad branch lines.

(decided August 27, 1993 and served September 13, 1993), assumed the operations previously performed by LVAL over lines of LCRA. DLRR has current operating and interchange agreements in effect with Delaware and Hudson Railway Company/CP Rail (DH/CPR) and Consolidated Rail Corporation (Conrail), PNER's Class I connections. In addition, based on its existing operational relationship with DLRR, DH/CPR supports DLRR's request to become DRC, as do two of the shippers, five of the Congressional representatives commenting, the PDOT and the Monroe County Railroad Authority. The remaining five shippers, two Congressional representatives, the Chamber, the Luzerne County Commissioners, and the EDCNP support emergency action by the Commission authorizing either carrier able to provide interim operations.

Under a directed service order, a DRC may voluntarily provide directed service without any compensation from the Federal Government or the Commission. See *St. Louis S.W. Ry. Co.—Directed Service—Chicago*, 363 I.C.C. 1 (1980), and *Directed Service Order No. 1504, The New York, Susquehanna and Western Railway Corporation—Directed Service—The Delaware and Hudson Railway Company*, (not printed) served June 22, 1988.<sup>2</sup>

Considering PNER's apparent inability to continue providing rail service, and its cessation of operations without providing a suitable alternative, we find that PNER's current situation meets the standards of 49 U.S.C. 11125(a) (1) and (3).

In view of the urgent need for continued rail service over lines of the PNER, this decision grants the requests of interested parties for interim service authority and authorizes DLRR to provide uncompensated directed service on the grounds that selection of a carrier with ongoing operations and current relationships with connecting carriers enhances the DRC's ability to effectively perform its responsibilities and best serves the public interest at this time.

The emergency nature of this situation compels us to conclude that advance public notice and hearings would be impractical and contrary to the immediate public interest in assuring the immediate resumption of essential rail transportation services. Accordingly, we exercise our authority under 49 U.S.C. 11125(a) to waive

advance public notice and hearings in the present circumstances.

Section 11125 allows the Commission to direct service for an initial period of not more than 60 days, with an option to extend the directed service period for an additional 180 days, if cause exists. We believe directed service authority to be necessary here at least for an initial 60 day period. Any interested person may file comments on this action during this 60 day period, to assist us in determining whether to extend the period of directed service beyond the 60 days herein provided, and to raise any other pertinent issues.

#### Terms and Conditions

**Effective Date.** Directed Service Order No. 1513 shall become effective at 12:01 a.m., September 29, 1993. DLRR shall be authorized to commence operations on this date and shall notify the Commission and PNER immediately that it has done so.

**Expiration Date.** Unless otherwise modified by the Commission, Directed Service Order No. 1513 will expire at 11:59 p.m., November 27, 1993.

**Compensation.** DLRR's authority under Directed Service Order No. 1513 is expressly conditioned upon its waiver of all compensation under 49 U.S.C. 11125(b)(5).

**Track Safety.** In accordance with 49 U.S.C. 11125(b)(2)(a), DLRR need not operate over any PNER line segment certified by the Federal Railroad Administration as being unsafe or that DLRR believes is unsafe for its operations.

**Cars and operating equipment.** In operating PNER's line, DLRR shall use its own cars and operating equipment unless otherwise authorized in subsequent orders of the Commission to use equipment of PNER.

**Employees.** In providing service under this directed service order DLRR shall comply with the requirements of 49 U.S.C. 11125(b)(4) with respect to PNER operating employees.

**Preservation of the PNER property.** During the period of its operation of the PNER lines, DLRR shall be responsible for performing that degree of maintenance necessary to avoid further deterioration of the PNER lines and related facilities.

**Rates.** DLRR is authorized to act on behalf of PNER in all matters of transportation. Rates and charges applicable to the line shall be those in effect at the time DLRR commences operations over the PNER lines. Inasmuch as the rates charged to PNER shippers generally are for switching services and may be also contained in the tariffs of its connecting carriers,

DLRR may not seek changes in those rates and charges except by application to the Commission under this authority. During the effective period of directed service, all revenues from such charges shall accrue to the account of DLRR, based on their operations as DRC, and shall not constitute assets of the PNER.

**Liability for expenses.** Any rehabilitation, operational, or other cost related to the operations authorized by this order shall be the sole responsibility and liability of DLRR. Any such costs or expenditures shall not be deemed in any way an obligation or liability of the United States Government. DLRR shall hold the United States Government harmless from any and all claims arising out of the authorized operations. However, DLRR shall not be liable for any payments, obligations, fines, fees, or other encumbrances or obligations assessed or assessable against PNER at the time directed service operations commence or during the period of directed service. Also, DLRR shall not be responsible to compensate PNER or any other party of interest for the use of PNER lines during the period of directed service or to satisfy any other condition sought to be imposed by PNER or a party in interest with respect to the use of PNER lines during directed service.

**Operational difficulties.** Any operational difficulties associated with the authorized operations of a specific PNER line segment shall be resolved between DLRR and the other railroad entity through negotiated agreement, or, failing agreement, by the Commission. Any resumption of operations by PNER during the effective period of this order may occur only after notice to the Commission and thirty (30) days' notice to the DRC.

#### We find:

1. PNER has discontinued service over its lines without authority, and has indicated to the Commission that it lacks the ability to restore full operations.

2. In order to prevent further transportation and economic disruptions due to PNER's cessation of operations, it is necessary for the Commission to authorize DLRR to operate PNER's lines under 49 U.S.C. 11125 with a waiver of any compensation from the Federal Government.

3. Our action in this decision will not substantially impair the ability of DLRR to serve its own patrons adequately, or to meet its outstanding common carrier obligations, see 49 U.S.C. 11125(b)(2)(B), and will ensure

<sup>2</sup> The Commission's authorization of directed rail service does not require compensation to the carrier over whose lines service is directed. See *Kansas City Terminal Ry. Co.—Operate—Chicago R.I.&P.*, 360 I.C.C. 289 (1979).

continued rail service to affected shippers on the PNER.

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

*It is ordered:*

1. Based upon the Commission's determination that DLRR is best suited to be DRC and its agreement to do so without any form of compensation from the Federal Government, DLRR is authorized to enter upon and operate PNER's lines pursuant to this voluntary directed service order under 49 U.S.C. 11125.

(a) Entry by DLRR shall occur on the date this order is effective, or as soon thereafter as may be practicable, and shall continue until no later than the sixtieth day after the effective date of this decision.

(b) DLRR shall immediately notify the Commission and the parties to this proceeding, in writing, of the date on which it commences operations under this order.

(c) Operations under this order shall conform to the directions and conditions prescribed above and contained herein.

2. All submissions filed in this proceeding should refer to DSO No. 1513 and be sent to the Commission's headquarters at 12th Street and Constitution Avenue, NW., Washington, DC 20423. An original and 10 copies should be submitted.

3. The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

4. The Commission retains jurisdiction to modify, supplement, or reconsider this decision at any time.

5. Notice of this decision shall be given to the general public by publication in the *Federal Register*. This decision will also be served on the Federal Railroad Administration, the Association of American Railroads, the American Short Line Railroad Association, The Railway Labor Executives' Association, Conrail, DH/CPR, PNER, LVAL, and DLRR.

6. This decision and order shall become effective at 12:01 a.m., September 29, 1993.

7. Unless otherwise modified by the Commission, this order will expire at 11:59 p.m., November 27, 1993.

Decided: September 28, 1993.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc 93-24290 Filed 10-1-93; 8:45 am]

BILLING CODE 7035-01-P

## DEPARTMENT OF JUSTICE

### Extension of Comment Period for Amended Partial Consent Decree; *United States v. Pacific Hide and Fur Depot, Inc., et al.*

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that the period for public comments on the Amended Partial Consent Decree in *United States v. Pacific Hide and Fur Depot, Inc., et al.* Civil Action No. 83-4052 lodged with the United States District Court for the District of Idaho on August 17, 1993, has been extended to and including October 21, 1993. This action was brought under sections 106 and 107 of Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9606 and 9607. The Amended Partial Consent Decree resolves the United States' claims against Idaho Power Company, (IPCO) for clean-up of the McCarty's/Pacific Hide & Fur Superfund Site located at 3575 Highway 30 West, Pocatello, Idaho, in consideration of approximately \$6.7 million in work already performed by IPCO under the Original Partial Consent Decree and a Unilateral Administrative Order plus IPCO's earlier payment of \$200,000 towards EPA's past costs.

The United States published notice of the lodging of the Amended Partial Consent Decree on August 30, 1993. 58 FR 45,531 (1993). In response to inquiries by interested parties, and in view of the potential for confusion caused by a fact sheet giving an erroneous date for receipt of comments on this Decree, the United States has elected to extend the comment period and to accept comments on the Amended Partial Consent Decree received no later than October 21, 1993. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Pacific Hide & Fur Depot, Inc., et al.*, DOJ No. 90-11-2-47.

The Amended Partial Consent Decree may be examined at the Offices of the United States Attorney for the District of Idaho, 550 West Fort Street, Boise, Idaho 83724, at the Region 10 Office of the United States Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (telephone number (202) 624-0892).

A copy of the Amended Partial Consent Decree may be obtained in person or by mail from the Consent

Decree Library. The proposed Amended Partial Consent Decree consists of a twenty-nine page consent decree and thirty-nine pages of appendices. You may request a copy of the Amended Partial Consent Decree with or without appendices. Please specify in the request whether or not the appendices are requested. A request for a copy of the proposed Amended Partial Consent Decree with appendices should be accompanied by a check in the amount \$17.00 (25 cents per page reproduction charge) made payable to "Consent Decree Library." A request for a copy of the proposed Amended Partial Consent Decree without appendices should be accompanied by a check in the amount of \$7.25.

John C. Cruden,

Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.

[FR Doc. 93-24288 Filed 10-1-93; 8:45 am]

BILLING CODE 4410-01-M

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993; Center for Manufacturing Competitiveness, Inc.

Notice is hereby given that, on August 4, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Center for Manufacturing Competitiveness, Inc. ("CMC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new participants in the Application Enabler Project, Phase III are: Cycle Software, Inc., Cambridge, MA; Measurex Corporation, Cincinnati, OH; Metra Instruments, Inc., San Jose, CA; and NASA/JET Propulsion Laboratory, Pasadena, CA. The following companies were identified as participants in the initial notification but have chosen not to participate in the Project: Allied-Signal, Inc.; Bresson, Rupp, Lipa & Co.; E.I. Dupont de Nemours Co.; Oracle, Inc.; and Texas Instruments, Inc.

On June 30, 1993, CMC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal

Register pursuant to section 6(b) of the Act on August 30, 1993, 58 FR 45531.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-24287 Filed 10-1-93; 8:45 am]

BILLING CODE 4410-01-M

### Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and section 122 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622, notice is hereby given that on September 15, 1993, a proposed consent decree in *United States v. Apache Energy & Mineral Company, et al.*, Civil Action No. 86-C-1675, was lodged with the United States District Court for the District of Colorado.

The proposed consent decree with defendant Denver & Rio Grande Western Railroad Company ("D&RG") resolves the company's alleged liability to the United States based on its property ownership/operations, and "arrangement for disposal", pursuant to section 107(a)(1) and (3) of CERCLA, 42 U.S.C. 9607(a)(1) and (3), at the California Gulch Superfund Site ("Site"). The decree requires D&RG to: (1) Pay \$1,125,293.52 to the United States in reimbursement of past response costs, as defined by the decree; (2) undertake work at the site in its designated "work area", more specifically, D&RG will address approximately 5 slag piles, some of which it owns, the D&RG owned railroad easement which traverses the town of Leadville, the D&RG owned portion of the railyard, and the D&RG property adjacent to the Harrison Street slag pile; and, (3) reimburse the United States for all future response costs, as defined in the decree. In consideration of the work that will be performed and the payments that will be made by D&RG under the terms of the decree, the United States covenants not to sue or take any other civil or administrative action against D&RG for reimbursement of response costs incurred by the United States or for injunctive relief, pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and section 7003 of RCRA, 42 U.S.C. 6973, subject to particular exclusions and reservations of rights identified in the decree.

The Department of Justice will receive comments relating to the proposed consent decree with D&RG for a period of thirty (30) days from the date of this publication. Comments on the decree

should be addressed to the Assistant Attorney General, Environment & Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Apache Energy & Mineral Company, et al.* DOJ Ref. 90-11-3-138.

A copy of the proposed consent decree may be examined at the Office of the United States Attorney, District of Colorado, 633 17th Street, Suite 1600, Denver, Colorado 80202; the Region VIII office of the Environmental Protection Agency, 999 18th Street, Denver, Colorado, 80202; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202-624-0892). A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. When requesting a copy of the proposed consent decree, please enclose a check in the amount of \$25.25 (includes the Statement of Work) (Twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 93-23905 Filed 10-1-93; 8:45 am]

BILLING CODE 4410-01-M

### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

#### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Request for copies must be received in writing on or before November 18, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**ADDRESSES:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

#### Schedules Pending

1. Department of Health and Human Services, Centers for Disease Control and Prevention (N1-442-93-1). Comprehensive schedule of the agency

for Toxic Substances and Disease Registry.

2. Department of Labor, Office of Economic Opportunity (N1-381-93-1). Job Corps financial cost reports, budget planning and expenditure records, 1965-1968.

3. Department of the Treasury, Office of Thrift Supervision (N1-483-93-14). Confidential Individual Information system.

4. Department of the Treasury, Office of Thrift Supervision (N1-483-93-19). Qualified Thrift Lender Test System data.

5. Department of the Treasury, Office of Thrift Supervision (N1-483-93-23). Federal Home Loan Bank case marketing files.

6. Bureau of Labor Statistics, Office of Occupational Safety and Health Statistics (N1-257-90-2). Periodic fatality data disk and tape survey files.

7. National Archives and Records Administration (N2-255-93-2). One 7-track tape of TEKTITE II data from the National Aeronautics and Space Administration.

8. Office of the Secretary of Defense (N1-330-93-7). Routine records relating to safety and occupational health.

9. President's Committee on Consumer Interests (N1-220-93-13). Consumer Correspondence Files.

10. U.S. Office of Personnel Management, Federal Prevailing Rate Advisory Committee (N1-478-93-1). Transcribed audio cassettes of Committee meetings, and general administrative and financial records.

Dated: September 27, 1993.

**Trudy Huskamp Peterson,**

*Acting Archivist of the United States.*

[FR Doc. 93-24282 Filed 10-1-93; 8:45 am]

BILLING CODE 7515-01-M

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other

value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Request for copies must be received in writing on or before November 18, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**ADDRESSES:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about

the disposition process will be furnished to each requester.

### Schedules Pending

1. Department of the Air Force (N1-AFU-93-16). Mobilization Augmentee Management folders.

2. Department of the Air Force (N1-AFU-93-17). Officer and Enlisted Personnel Manning Statistics.

3. Department of the Air Force (N1-AFU-93-18). Routine records of closing bases.

4. Department of Interior, Indian Arts and Crafts Board (N1-435-93-1). Comprehensive agency records schedule.

5. Department of Justice, Civil Division (N1-60-93-5). Letters rogatory case files.

6. Department of Labor, Office of Inspector General (N1-174-93-1). Office of Labor Racketeering case files.

7. Environmental Protection Agency, Office of Solid Waste (N1-412-92-2). Records relating to special surveys of hazardous waste generator, storage and treatment facilities.

8. Executive Office of the President, National Advisory Committee on Semiconductors (N1-429-93-1). Comprehensive schedule.

9. National Archives and Records Administration (N2-12-93-1). Duplicate electronic statistical data from the Department of Education, Anchor Test Study and accompanying documentation.

10. National Commission on Judicial Discipline and Removal (N1-220-93-11). Drafts of interim and final reports.

11. Panama Canal Commission, Office of General Counsel (N1-185-93-2). Routine litigation case files.

12. Tennessee Valley Authority, Resource Group (N1-142-92-16). DC and QL Chemical Facility Contract Project File.

13. Tennessee Valley Authority, Resource Group (N1-142-92-22). Daily log sheets covering operations of the Muscle Shoals Water Plant.

Dated: September 27, 1993.

**Trudy Huskamp Peterson,**

*Acting Archivist of the United States.*

[FR Doc. 93-24283 Filed 10-1-93; 8:45 am]

BILLING CODE 7515-01-M

### NATIONAL SCIENCE FOUNDATION

#### Permit Application Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95-541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 28, 1993. Permit applications may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, room 627, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

**FOR FURTHER INFORMATION CONTACT:** Thomas F. Forhan at the above address or (202) 357-7817.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

#### 1. Applicant

Dr. John L. Bengtson, National Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., Seattle, WA 98115.

#### Activity for Which Permit Requested

Taking. Import into USA.

Authorization is sought to conduct research and monitoring activities on selected seabirds as part of the CCAMLR Ecosystem Monitoring Program. In addition to these studies, authorization is requested to investigate the ecology and population biology of American sheathbills. Parameters to be monitored include reproductive success, growth rates and condition, foraging effort, diet, and demography. All taking will be by capture and release. Permission is also requested to import into the United States seabird specimen material

salvaged from individuals that are found dead. Specimen material will be collected and imported according to the provisions of Section 670.5 of the Antarctic Conservation Act of 1978.

#### Location

Antarctic Peninsula, South Shetland Islands.

Dates: January 1, 1994–December 31, 1995.

Thomas F. Forhan,

Permit Office, Office of Polar Programs.

[FR Doc. 93-24275 Filed 10-1-93; 8:45 am]

BILLING CODE 7555-01-M

### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-47]

#### Environmental Assessment and Finding of No Significant Impact Regarding Termination of Amended Facility License No. R-65 U.S. Army Materials Technology Laboratory Research Reactor

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an order terminating Amended Facility License No. R-65 for the U.S. Army Materials Technology Laboratory (AMTL or the licensee) research reactor located in Watertown, Massachusetts, in accordance with the application dated October 8, 1991, as supplemented on March 30, May 24, and July 14, 1993. This termination applies to Reactor Building 100 and the reactor yard. Building 97 is not part of this termination.

#### Environmental Assessment

##### Identification of Proposed Action

By application dated October 8, 1991, as supplemented on March 16 and March 31, 1992, the licensee requested authorization to dismantle the AMTL research reactor and dispose of its component parts in accordance with the proposed decommissioning plan. The application also requested authorization to terminate Amended Facility License No. R-65. Following an "Order Authorizing Dismantling of Facility and Disposition of Component Parts," dated June 3, 1992 (57 FR 24834), the licensee completed the dismantlement and submitted a final survey report dated March 30, 1993, as supplemented on May 24 and July 14, 1993. Representatives of the Oak Ridge Institute for Science and Education (ORISE), under contract to NRC, conducted a survey of the facility on April 26 through 29, 1993. The survey is documented in an ORISE report, "Confirmatory Survey of the U.S. Army

Materials Technology Laboratory Research Reactor Facility, Watertown, Massachusetts," dated June 1993. NRC Region I, in a memorandum dated July 9, 1993, found that the ORISE report findings support the data developed in the licensee final survey report.

#### The Need for Proposed Action

In order to release the facility for unrestricted access and use, Amended Facility License No. R-65 must be terminated.

#### Environmental Impact of License Termination

The licensee indicates that the residual contamination and dose exposures comply with the criteria of Regulatory Guide 1.86, Table 1, which establishes acceptable residual surface contamination levels, and the exposure limit, established by the NRC staff, of less than 5 microR/hr above background at 1 meter. These measurements have been verified by the NRC. The NRC finds that, because these criteria have been met, there is no significant impact on the environment and the facility can be released for unrestricted use.

#### Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts and would deny release of the site for unrestricted use and require continuance of the facility license. The environmental impacts of the proposed action and the alternative action are similar. Because the reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no alternative to termination of Amended Facility License No. R-65.

#### Agencies and Persons Consulted

Personnel from the Oak Ridge Institute of Science and Education (an NRC contractor) assisted the Region I staff in the conduct of the termination survey for the AMTL research reactor. The staff consulted with the State of Massachusetts regarding the environmental impact of the proposed action.

#### Finding of No Significant Impact

The NRC has determined not to prepare an environmental impact statement for the proposed action. Based on the foregoing environmental assessment, the NRC has concluded that the issuance of the order will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Amended Facility License No. R-65, dated October 8, 1991, as supplemented March 30, 1993, May 24, and July 14, 1993. These documents are available for public inspection at the Commission Public Document Room, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland this 27th day of September 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. 93-24274 Filed 10-1-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-148]

**Environmental Assessment and Finding of No Significant Impact Regarding Termination of Facility License No. R-78 University of Kansas Research Reactor**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an order terminating Facility License No. R-78 for the University of Kansas (UK or the licensee) research reactor located in Lawrence, Kansas, in accordance with the application dated December 17, 1990, as supplemented on January 4, 1993.

**Environmental Assessment**

*Identification of Proposed Action*

By application dated December 17, 1990, the licensee requested authorization to dismantle the UK research reactor and dispose of its component parts in accordance with the proposed decommissioning plan. The December 17, 1990, application also requested authorization to terminate Facility License No. R-78. Following an "Order Authorizing Dismantling of Facility and Disposition of Component Parts," dated September 19, 1991 (56 FR 49215), the licensee completed the dismantlement and submitted a final survey report dated January 4, 1993. Representatives of the Oak Ridge Institute for Science and Education, (ORISE), under contract to NRC, conducted a survey of the facility on April 8 and 9, 1993. The survey is documented in an ORISE report, "Confirmatory Survey of the University of Kansas Training Reactor, University of Kansas, Lawrence, Kansas," dated July 1993. NRC Region IV, in a memorandum dated July 28, 1993, found that the ORISE report findings

support the data developed in the licensee final survey report.

*The Need for Proposed Action*

In order to release the facility for unrestricted access and use, Facility License No. R-78 must be terminated.

*Environmental Impact of License Termination*

The licensee indicates that the residual contamination and dose exposures comply with the criteria of Regulatory Guide 1.86, Table 1, which establishes acceptable residual surface contamination levels, and the exposure limit, established by the NRC staff, of less than 5 micro R/hr above background at 1 meter. These measurements have been verified by the NRC. The NRC finds that since these criteria have been met, there is no significant impact on the environment and the facility can be released for unrestricted use.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts and would deny release of the site for unrestricted use and require continuance of the facility license. The environmental impacts of the proposed action and the alternative action are similar. Because the reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no alternative to termination of Facility License No. R-78.

*Agencies and Persons Consulted*

Personnel from the Oak Ridge Institute of Science and Education (an NRC contractor) assisted Region IV staff in the termination survey for the UK research reactor. The staff consulted with the State of Kansas regarding the environmental impact of the proposed action.

**Finding of No Significant Impact**

The NRC has determined not to prepare an environmental impact statement for the proposed action. On the basis of the foregoing environmental assessment, the NRC has concluded that the issuance of the order will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Facility License No. R-78, dated December 17, 1990, as supplemented on January 4, 1993. These documents are available for public

inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 28th day of September 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. 93-24272 Filed 10-1-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

**Entergy Operations, Inc.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-6, issued to Entergy Operations, Inc. (the licensee), for operation of Arkansas Nuclear One, Unit No. 2 (ANO-2), located in Pope County, Arkansas.

The proposed amendment would modify the operability requirements specified by Technical Specification (TS) 3.3.3.2 for the incore detection system by reducing the minimum number of required incore detectors and detector locations from the currently specified 75 percent to a proposed 50 percent for the remainder of the current operating cycle.

The licensee's statement of exigent circumstances is as follows:

This situation could not have been avoided. The detector failure rate during the current cycle could not have been predicted because (1) only 6 detectors failed during the previous cycle of operation with the existing core detectors (all 6 detectors have been returned to service during the current cycle and are currently operable), (2) the previous batch of incores had only 13 detectors failed after 2 cycles of operations, and (3) the batch of incores prior to that had only 10 detectors failed after 2 cycles of operation. The incore detector failure mechanism has not been identified at this time, although an evaluation of the incore detector failure indications is still in progress. Due to a recent increase in the incore detector failure rate, failure to act quickly to reduce the incore detector requirements for ANO-2 could lead to a plant shutdown. Any 10 detector failures would exceed the TS 3.3.3.2a limit on the percentage of operable detectors. Furthermore, should three selected detectors fail (i.e., those occurring in strings that already have 2 failed detectors), the TS 3.3.3.2b limit on the percentage of operable string locations would be exceeded. It is impossible to predict when, or if, additional

detector failures will occur. The time between failures has varied considerably, but based on the failure history, ANO believes that there is insufficient time to allow for the normal 30 day public comment period. Therefore, given the need to act quickly and the determination that this change does not represent a significant hazard, we request that this change request be considered under exigent circumstances, as described in 10 CFR 50.91(a)(6).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. 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 ANO-2 incore detection system is not required for plant safety since it does not initiate any direct safety-related function during anticipated operational occurrences or postulated accidents. The primary function of the incore detectors is to verify that the core power distribution is consistent with the assumptions in the safety analysis. Although the requirements for the number and distribution of operable incore detectors is relaxed, sufficient measurements will be required to adequately verify compliance with power distribution Technical Specification (TS) limits. Penalty factors will be applied to the Core Operation Limits Supervisory System (COLSS) and Core Protection Calculators (CPCs) to account for the increased uncertainties of values measured by the incore detectors with the number of operable detectors below the current TS requirements. This will ensure that all current TS and fuel design limits are protected and the core power distribution assumptions in the Safety Analysis Report (SAR) analyses remain valid. Therefore, this condition does not involve a significant increase in the probability or consequences of an accident previously evaluated.

**Criterion 2—Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.**

This condition does not represent a change in the configuration or operation of the plant. The current TS limits on power distribution as verified by the incore detectors will still be met. Reducing the minimum number of operable incore detectors does not introduce any new failure modes. Therefore, this condition does not create the possibility of a new or different kind of accident from any accident previously evaluated.

**Criterion 3—Does not Involve a Significant Reduction in the Margin of Safety.**

The ANO-2 incore detection system is not required for plant safety since it does not initiate any direct safety-related function during anticipated operational occurrences or postulated accidents. Sufficient measurements will be required to adequately verify compliance with power distribution TS limits. Use of increased measurement uncertainty factors are [sic] required commensurate with a reduction in the minimum number of incore detector locations. The increased measurement uncertainty factors assure that power distribution calculations based on the incore detection system will continue to be conservative and that the existing Limiting Conditions for Operation specified for Axial Shape Index, Azimuthal Power Tilt, Radial Peaking Factors, Local Power Density, and Departure from Nucleate Boiling Ratio will not be exceeded. Therefore, this condition does not result in a reduction in the margin of safety.

Therefore, based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations has determined that the requested change does not involve a significant hazards consideration.

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.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should

the Commission take this action, it will publish in the *Federal Register* a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

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 hearing and petitions for leave to intervene is discussed below.

By November 3, 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 located at Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted

with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 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 the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no

significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves 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 Directorate IV-1: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of 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 Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 24, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at Tomlinson Library, Arkansas

Tech University, Russellville, Arkansas 72801.

Dated at the Rockville, Maryland, this 28th day of September 1993.

For the Nuclear Regulatory Commission.

**Roby B. Bevan,**

*Project Manager, Project Directorate, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*

[FR Doc. 93-24270 Filed 10-1-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

**Northeast Nuclear Energy Company, et al.; Correction to Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

In notice document 93-23174 beginning on page 49333, in the issue of Wednesday, September 22, 1993, make the following correction.

In the third column on page 49334, second paragraph beginning "By October 7, 1993, \* \* \*" should be corrected to read "By October 22, 1993, \* \* \*".

Dated at Rockville, Maryland, this 27th day of September 1993.

For the Nuclear Regulatory Commission.

**Vernon L. Rooney,**

*Senior Project Manager, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 93-24273 Filed 10-1-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

**Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Exemption**

**I.**

The Sacramento Municipal Utility District (the licensee), is the holder of Facility Operating (Possession Only) License No. DPR-54 which authorizes possession and maintenance of the Rancho Seco Nuclear Generating Station (Rancho Seco or the plant). The license provides, among other things, that the plant is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The plant is a permanently shut down light water reactor, currently in the process of being decommissioned, and is located at the licensee site in Sacramento County, California.

**II.**

The Rancho Seco Nuclear Generating Station permanently ceased power

operations in June 1989, fuel was removed from the reactor and placed into the spent fuel pool, and detailed plans to decommission the facility were developed. By amendment dated March 17, 1992, License No. DPR-54 was modified to a possession only status. This license prohibits operation of the reactor and also prohibits movement of nuclear fuel into the reactor building without prior NRC approval. In order to reflect the permanently shutdown and defueled status of the plant, the NRC, on its own initiative, is granting a full exemption from the requirements of 10 CFR 50.120. This rule states the following:

" \* \* \* each nuclear power plant licensee, by November 22, 1993, shall establish, implement, and maintain a training program derived from a systems approach to training as defined in 10 CFR 55.4."

This exemption will relieve the licensee from all training program requirements of 10 CFR 50.120. However, it does not relieve the licensee from previous requirements or commitments to train and qualify facility personnel.

### III.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances.

Section 50.12(a)(2)(ii) of 10 CFR part 50 provides that special circumstances exist when application of the regulations in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The purpose of 10 CFR 50.120 is to ensure that civilian nuclear power plant operating personnel are trained and qualified to safely operate and maintain the facility commensurate with the safety status of the facility.

The licensee in its letters dated July 19 and July 29, 1993, addressed the special circumstances related to the NRC requiring the Rancho Seco training programs to comply with 10 CFR 50.120. The reactor has been defueled and the fuel removed from the containment to the spent fuel pool. The reactor cannot be returned to operation because of the March 1992 license amendment.

The licensee has stated that the training requirements necessary to assure adequate protection of the public health and safety in a permanently

shutdown and defueled facility are significantly less than the training requirements necessary to assure the public health and safety at an operating facility. Each member of the Rancho Seco plant staff meets or exceeds the minimum qualifications of ANSI N18.1-1971 for comparable positions, except for the radiation protection manager who meets or exceeds the recommendations and qualifications of Regulatory Guide 1.8, September 1975. The current Rancho Seco training programs for the personnel categories required by 10 CFR 50.120 is as follows:

#### Non-Licensed Operators

For certified fuel handlers, the licensee provides training in accordance with the March 19, 1992, NRC-approved certified fuel handler training program. This program provides both initial and continuing training in nuclear theory, heat transfer and fluid flow, radiation control and safety operation of spent fuel handling and storage equipment, auxiliary and support systems, normal and casualty procedures, and administrative controls. Training for non-certified operators is similar to that for certified fuel handlers except that the non-certified operators do not receive training on nuclear theory.

#### Shift Supervisor

The Rancho Seco shift supervisors are no longer senior reactor operators. They are certified fuel handlers who are accountable for safe and efficient plan operation in the permanently defueled mode. In addition to certified fuel handler training, individuals designated as shift supervisors receive supervisor training consistent with the licensee training policy.

#### Shift Technical Advisor (STA)

There are no longer any STA positions at Rancho Seco based on license Amendment No. 117, dated March 17, 1992.

#### Instrumentation and Control, Electrical, and Mechanical Maintenance

The licensee stated that it uses only qualified, journey-level individuals in these job categories. Therefore, initial technical training is not necessary. Further, the licensee provides training on the administrative skills and knowledge required to accomplish tasks specific to Rancho Seco (e.g., work permits, clearance/test tags, plant drawing system, etc.).

#### Radiation Protection and Chemistry Technician

The licensee uses only ANSI qualified radiation protection and chemistry

technicians. Training consists of task oriented on-the-job training, procedure training, industry events, and selected technical training.

#### Engineering Support

This training consists of applicable procedure training, and the supervisor/manager training.

In addition to the above training, all individuals having unescorted access to Rancho Seco receive general employee training annually.

Thus, for all categories of training described above, the licensee indicates that the existing training requirements and commitments provide the protection necessary to ensure public health and safety given the current shutdown and defueled status of the facility. With all of the Rancho Seco spent fuel stored in the spent fuel pool, the principal tasks and activities performed on the site are those necessary to monitor and maintain the spent fuel pool and associated support equipment. The tasks and activities associated with maintaining the fuel are relatively simple compared to the tasks and activities required to maintain an operating nuclear power plant. Therefore, requiring Rancho Seco to comply with the literal training requirements specified in 10 CFR 50.120 is not necessary to achieve the underlying purpose of the rule.

Further, the licensee has also stated that compliance with the requirements of 10 CFR 50.120 would present an undue financial and administrative hardship. Because the plant is permanently shut down, the licensee is dedicating its resources to safely decommissioning the plant once the NRC approves the decommissioning plan. The licensee no longer has instructors to develop and maintain a systems approach to training (SAT) program, as defined in 10 CFR 55.4. The licensee states that to require it to comply fully with the requirements of the SAT process would result in extreme hardship. Further, the licensee contends that the regulation was established for power operation conditions because such conditions could result in the potential for an accident with significant offsite consequences. Since there now is no credible event at Rancho Seco that could result in exceeding the dose limits of 10 CFR part 100, requiring Rancho Seco to comply with the training requirements specified in 10 CFR 50.120 would not materially contribute to increasing public health and safety.

The NRC staff reviewed and agrees with the licensee analysis described above. In addition, the NRC has

previously analyzed<sup>1</sup> the limiting design basis accident for Rancho Seco in this permanently shut down condition. This design basis accident is the fuel handling accident. The results of this analysis indicated that if a fuel handling accident were to occur at Rancho Seco, the resulting offsite dose to the maximally exposed individual would be 0.14 rem, significantly less than the criteria provided in 10 CFR part 100. The staff has also determined that the tasks that remain to be performed by the Rancho Seco plant staff are fewer in number and significantly less complicated than the tasks performed by the staff of an operating nuclear plant. Thus, the NRC staff concludes the licensee justification for exemption is reasonable based on (1) the significantly reduced risk to the public health and safety due to Rancho Seco being permanently shut down, and (2) the reduced number and complexity of tasks to be performed by the Rancho Seco site staff.

#### IV.

Based on the analyses presented in Section III above, the staff concludes that sufficient bases exist for approval of this exemption. In addition, the staff finds that the special circumstance present satisfies the requirement of 10 CFR 50.12(a)(2)(ii) in that requiring compliance with 10 CFR 50.120 is not necessary to achieve the underlying purpose of the rule.

#### V.

Based on the above evaluation, the Commission had determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission, on its own motion, hereby grants a full exemption to 10 CFR 50.120. This exemption does not relieve the licensee of any other training requirements or commitments which they have made to the NRC.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (58 FR 47481).

This exemption is effective on November 22, 1993, the implementation date of the rule.

Dated at Rockville, Maryland this 27th day of September 1993.

<sup>1</sup>NRC Emergency Preparedness exemption to the Sacramento Municipal Utility District dated November 30, 1990.

For the Nuclear Regulatory Commission.  
**Brian K. Grimes,**  
*Director, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.*  
 [FR Doc. 93-24271 Filed 10-1-93; 8:45 am]  
 BILLING CODE 7590-01-M

### POSTAL SERVICE

#### Privacy Act of 1974; Systems of Records

**AGENCY:** Postal Service.

**ACTION:** Final notice of system of records changes.

**SUMMARY:** The purpose of this notice is to publish editorial changes to the Postal Service's Privacy Act system of records "Personnel Records—Preemployment Investigation Records, 120.110." The changes reflect that records will not be kept at a contractor site as well as at postal facilities, correction of the "System Manager" title due to restructuring, and other changes that simply enhance the system description, but do not alter the character or use of information collected.

**EFFECTIVE DATE:** October 4, 1993.

**ADDRESSES:** USPS Records Officer, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260-5240.

**FOR FURTHER INFORMATION CONTACT:** Rubenia Carter, Records Office, (202) 268-4872.

**SUPPLEMENTARY INFORMATION:** The Postal Service recently awarded a contract for preemployment investigation services for the Postal Service. In its performance of duties, the contractor will keep limited information at its site and be subject to the provisions at section (m) of the Privacy Act. Consequently, the "System Location" segment of the system notice is being expanded to include "a contractor site of the Postal Service." The title of the "System Manager" has been changed to reflect organizational restructuring. Other editorial changes supplement the "Categories of Records" and "Record Source Categories" with additional examples within the same category now contained in the notice. None of the above changes alter the character or use of information contained in the system.

The Postal Service published the complete text of its systems of records on October 26, 1989 (54 FR 43652). That publication included USPS 120.110. Accordingly, the Postal Service is amending the system location, categories of records, system manager and records source categories sections to USPS 120.110 as shown below:

### USPS 120.110

#### SYSTEM NAME:

Personnel Records—Preemployment Investigation Records.

\* \* \* \* \*

#### SYSTEM LOCATION:

Change to Read "USPS Facilities, District Offices, Area Offices and National Headquarters; and site of USPS contractor (all records except laboratory reports containing drug test results and related medical records which are maintained in Postal Service medical facilities and designee offices)."

\* \* \* \* \*

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Change to Read "Replies from former employers, local police records, military records, driving records, drug screening records including laboratory results, drug history records and other investigative reports used to determine suitability for employment. Other records filed with these are: Office of Personnel Management records (privacy system—OPM CENTRAL-9) compiled through a National Agency Check and Inquiry (NACI) and forwarded to the USPS for assistance in making a hiring decision."

\* \* \* \* \*

#### SYSTEM MANAGER(S) AND ADDRESS:

Change to Read: "Vice President, Employee Relations, United States Postal Service, Washington, DC 20260-4200."

\* \* \* \* \*

#### RECORD SOURCE CATEGORIES:

Change to Read "Information is obtained primarily from local police records, state driving records, military records, former employers and drug test laboratory."

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 93-24314 Filed 10-1-93; 8:45 am]

BILLING CODE 7710-12-M

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32971]

#### Deferral of Financial Data Schedules

September 28, 1993.

The staff of the Office of Information Technology announced today that the Commission will not begin accepting Financial Data Schedules in the operational EDGAR system on November 1, 1993, as planned. Financial Data Schedules will be

accepted when full system functionality is available, which the staff currently anticipates will be in the second quarter of 1994. Further notice will be provided to afford filers sufficient time to submit test filings before the start of live electronic submissions of Financial Data Schedules. For further information contact: David T. Copenhafer, Office of Information Technology at (202) 272-3900 ext. 3005; Sylvia J. Reis, Division of Corporation Finance at (202) 272-7569; Anthony A. Vertuno, Division of Investment Management at (202) 272-7716.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-24302 Filed 10-1-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32977; File No. SR-CBOE-93-33]

**Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to FLEX Option Designated in Foreign Currencies**

September 28, 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 August 24, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 to trade and settle Flexible Exchange Options ("FLEX Options") in specified foreign currencies. The text of the proposed rule change is available at the Office of the Secretary, the 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 the Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to permit the introduction of trading on the CBOE in FLEX Options denominated for trading and settlement in specific foreign currencies. Currently, FLEX Options listed on the CBOE are traded and settled only in U.S. Dollars. Under this proposal, FLEX Options would also be traded, and the premiums and exercises would also be settled, in British Pounds, Canadian Dollars, Japanese Yen, Deutsche Marks, Swiss Francs, French Francs, or European Currency Units. The CBOE believes that this change will increase the utility and thus the attractiveness, of FLEX Options, which in turn should broaden the base of institutional investors that use FLEX Options to manage their trading and investment risk.

To implement this enhancement, the CBOE proposes, among other things, that Rule 24A.4 ("Terms of FLEX Contracts") be changed in three respects. First, Rule 24A.4(c) would be amended to require parties to any FLEX Option contract to designate a specific settlement currency for the contract. Second, Rule 24A.4(d) would be amended to make it clear that bids and offers responsive to FLEX Requests for Quotes must be stated in terms of the designated currency and may be expressed only as a specific currency amount or as a percentage of the Underlying Equivalent Value (and thus not in the form of a fractional price). Third, Rule 24A.4(f) would be amended to list the various currencies in which FLEX Options may be quoted, traded, and settled.

Minor changes to certain other FLEX Options rules would also be made. A new paragraph (g) would be added to Rule 24A.5 ("FLEX Trading Procedures and Principles") to specify for each currency the minimum permissible increments of change in currency amounts for successive FLEX Quotes. Also, an amendment to Rule 24A.9 respecting appointment of FLEX Market-Makers would clarify that the CBOE will appoint market makers to FLEX Options in respect of particular settlement currencies as well as particular indices. Finally, new definitions, as well as changes to certain existing definitions, are proposed. Specifically, a definition of the term "Index Multiplier" is proposed to be

added to Rule 24A.1 that would identify the applicable Index Multiplier for each settlement currency. Also, the term "Underlying Equivalent Value," would be amended to make it clear that underlying values will be computed in terms of U.S. Dollars for all FLEX Option contracts, including those designated for settlement in non-U.S. currencies. Such computations will simplify the administration of FLEX Option rules that refer to Underlying Equivalent Values. In addition, the proposed rule change defines the term "Series of FLEX Options," which is used in the current FLEX Options rules without being specifically defined.

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 accommodate, within the existing FLEX Option program, FLEX Options that are designated for settlement in various currencies, thereby fostering coordination with persons engaged in clearing, settling, and processing information with respect to securities transactions, promoting just and equitable principles of trade, and protecting investors and 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 inappropriate 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 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 submission 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 CBOE. All submissions should refer to File No. SR-CBOE-93-33 and should be submitted by October 25, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 93-24303 Filed 10-1-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32958; File No. SR-PSE-93-19]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to a Proposal To Extend Market-Maker Margin and Capital Treatment to Certain Market-Maker Orders Entered From Off the Trading Floor

September 24, 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 August 13, 1993, the Pacific Stock Exchange Inc. ("PSE") or ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>1</sup> 17 CFR 200.30-3(a)(12) (1993).

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE has submitted a proposal to amend its rules to extend market-maker capital and margin treatment to transactions resulting from orders entered from off the floor by PSE market-makers who are subject to a requirement that at least 75% of their total transactions on the Exchange must be executed in person and not through the use of orders. The text of the proposed rule change is available at the Office of the Secretary, PSE, and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. 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 on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to accommodate the occasional need of PSE market-makers to adjust or hedge options positions in their market-maker accounts at times when they are not physically present on the trading floor, without diluting the requirement that the trading activity of market-makers must be in fulfillment of their market-making obligations and must contribute to the maintenance of fair and orderly markets on the Exchange. Under current PSE Rule 6.35 and Commentary .03 thereunder, all PSE market-makers are required to effect not less than 60% of their total transactions in person on the trading floor and not by entry of orders. Moreover, Rule 6.32 currently provides that only those transactions that are initiated on the floor of the Exchange qualify for market-maker treatment under the PSE's rules. The effect of this last requirement is to disallow market-maker treatment for opening transactions of a market-maker resulting from orders entered from off the floor, even if such orders are entered to adjust or hedge the risk of positions of the market-maker that result from his on-floor market-making activity.

The PSE believes that limiting market-maker treatment to on-floor orders is contrary to the practical reality that market-makers cannot reasonably be expected to be physically present on the trading floor every minute of every day that the market is open. Yet, the PSE believes that, as a practical matter, current PSE Rule 6.32 imposes such a requirement. Since a market-maker cannot effectively adjust his positions or engage in hedging or other risk-limiting opening transactions from off the Exchange floor without, according to the PSE, incurring a significant economic penalty, PSE market-makers must either be physically present on the floor at all times while the market is open, or face significant risks of adverse market movements during those times when they are absent from the trading floor. Further, current PSE Rule 6.32 imposes a blanket disallowance of market-maker treatment for all opening transactions resulting from off-floor orders without regard to the overall level of commitment of the individual market-maker toward meeting his market-making responsibilities as evidenced by his record of engaging in in-person transactions. The PSE believes that current PSE Rule 6.32 not only disallows market-maker treatment in circumstances where the market-maker is more than adequately meeting his obligations, but by imposing costs on certain hedging or risk-adjusting transactions of market-makers, current PSE Rule 6.32 may actually prevent PSE market-makers from effectively discharging their market-making obligations and may expose them to unacceptable levels of risk.

The PSE believes the proposed rule change would remedy this situation by imposing a more stringent in-person requirement on those market-makers who choose to receive market-maker treatment for transactions executed as a result of off-floor orders. As to these market-makers, in place of the existing 60% in-person requirement of Commentary .07 under PSE Rule 6.37, they would be required to satisfy the more stringent requirement that 75% of their total transactions must be executed in person and not through the use of orders. This would be in addition to their having to satisfy all of the other existing obligations imposed on market-makers, including the requirement that 75% of their total contract volume in each quarter must be in appointed classes.

The Exchange believes that this approach, as reflected in the proposed rule change, represents a more appropriate and realistic treatment of market-maker transactions initiated

from off the trading floor than what is provided for under current PSE Rule 6.32. Extending favorable margin and capital treatment for off-floor transactions only to those market-makers who submit to a 75% in-person requirement should have the effect of increasing the extent to which the transactions of market-makers contribute to liquidity and to the maintenance of fair and orderly markets on the PSE, by providing for a greater degree of in-person trading by market-makers and by enabling market-makers to better manage the risk of their market-making activities.

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote the maintenance of fair and orderly markets on the PSE and will contribute to the protection of investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*(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 thirty-five days of the date of the publication of this notice in the *Federal Register*, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall:

(A) By order approved such 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 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-93-19 and should be submitted by October 25, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 93-24304 Filed 10-1-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32967; file No. SR-Phlx-92-34]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Examination Specifications for Equity Options and Foreign Currency Options Qualifications Examinations.**

September 27, 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 December 21, 1992, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Phlx is submitting, for Commission approval, examination specifications for the equity options floor member and foreign currency options floor participant examinations administered by the Exchange.

The text of the proposed rule change is available at the Office of the Secretary, Phlx, and at the Commission.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The Phlx administers its floor member qualifications examinations pursuant to Phlx By-Laws Article X, section 10-6 and Article XII, section 12-4, and Phlx Rules 901 and 1061. Specifically, these by-laws and rules govern the Exchange's application for membership process and authorize the Admissions Committee to oversee this process. For example, Exchange Rule 901(c) states that the Phlx may condition membership upon successful completion of a written proficiency exam as well as a level of training, experience or competence established by the Exchange. Moreover, to stress the importance of proper training and competence for floor brokers representing customer orders, Exchange Rule 1061, Registration of Floor Brokers, specifically requires options floor brokers to pass an examination.

Pursuant to this authority, the Exchange requires all floor members and foreign currency options floor participants, whether specialists, floor brokers or market makers, to pass a written examination, unless a waiver is obtained pursuant to Rule 901(d). Accordingly, floor clerks who attain membership as well as floor members new to the Exchange must take either the equity options or foreign currency options examination, depending on whether membership or foreign currency options participation is sought.

The Equity Options Qualification Examination includes questions based on Phlx Rules 703, 1001-1003, 1012, 1014, 1017-1019, 1022, 1033-1035, 1038, 1044, 1047, 1053, 1060, 1062-1066. In addition, this examination covers the Options Floor Procedure

<sup>1</sup> 17 CFR 200.30-3(a)(12) (1993).

Advices adopted pursuant to Phlx Rule 970, the Phlx's Rule 19d-1 minor rule violation enforcement and reporting plan, and the Regulations of Order and Decorum adopted pursuant to Phlx Rule 60. Upon request, the Market Surveillance Department of the Exchange distributes an examination study packet that includes the above rules as well as an Option Disclosure Document (Understanding the Risks and Uses of Listed Options) and a glossary of terms. There is a \$50 fee for this examination.

The Foreign Currency Options Qualification Examination covers three general areas: foreign currency option contract specifications; underlying foreign currencies; and trading floor procedures. Specifically, the examination includes multiple-choice questions covering the following topics: the interbank market; spot and forward transactions; spot rates; U.S. and European terms; contract size; expiration; exercise prices; exercise and delivery procedures; premium quotations; ticker symbols; trading hours; position and exercise limits; floor order tickets; and underlying quotations. There is a \$20 fee for the examination. A separate study packet also is available for this examination.

Both these examinations are given by the Market Surveillance Department, and the scores are generally available to the test taker the same day. The tests are updated periodically to reflect new trading rules and procedures as well as new products traded on the Exchange. The Exchange will file new versions of the floor member qualification examinations with the Commission pursuant to Rule 19b-4 of the Act prior to implementing changes to the examination.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act. Specifically, the Exchange believes that Exchange membership qualification examinations are consistent with the Exchange's responsibility pursuant to Section 6(c)(3)(B) to prescribe standards of training, experience and competence for persons associated with Exchange members. The Exchange believes that this, in turn, should protect investors and the public interest as well as promote just and equitable principles of trade, consistent with Section 6(b)(5) of the Act.

**(B) Self-Regulatory Organization's Statement on Burden on Competition**

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

**(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others**

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 4, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 93-24305 Filed 10-1-93; 8:45 am]

BILLING CODE 8010-01-M

<sup>1</sup> 17 CFR 200.30-3(a)(12) (1992).

[Rel. No. IC-19735; File No. 812-8542]

**Nationwide Life Insurance Co. et al.; Application for Exemption**

September 27, 1993.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Nationwide Life Insurance Company ("Nationwide" or the "Company"), Nationwide Variable Account-II (the "Separate Account"), and Nationwide Financial Services ("NFS") (collectively referred to herein as "Applicants").

RELEVANT 1940 ACT SECTION: Order requested under section 6(c) of the 1940 Act for exemptions from sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction from the assets of the Separate Account of the mortality and expense risk charges imposed under certain individual modified single premium deferred variable annuity contracts (the "Contracts").

FLING DATE: The application was filed on August 19, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on October 22, 1993, and should be accompanied by a proof of service on the 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 may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Kurt W. Bernlohr, Esq., McCutchan, Druen, Maynard, Rath & Dietrich, One Nationwide Plaza, Columbia, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney, or Michael V. Wible, Special Counsel, on (202) 272-2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is

available for a fee from the Commission's Public Reference Branch.

### Applicants' Representations

1. Nationwide is a stock life insurance company incorporated under the laws of the State of Ohio.

2. The Separate Account was established by Nationwide on October 7, 1981 for the purpose of funding variable annuity contracts. The Company previously registered an individual deferred variable annuity contract as a funding vehicle to be offered through the Separate Account. The Contracts will be offered as a new class of security through the Separate Account. The Company has filed a registration statement for the Contracts (File No. 33-67636) which is incorporated by reference in the application. NFS is the general distributor of the Contracts.

3. The Contracts are sold to individuals as non-qualified contracts. Purchase payments under the Contracts will be allocated to the Separate Account and invested in one or more sub-accounts of the Separate Account. The initial purchase payment under a Contract must be at least \$15,000. Thereafter, purchase payments must be at least \$5,000 each. Additional purchase payments are not permitted in New York.

4. No sales charge is deducted from purchase payments made under the Contracts. If part or all of the Contract value is withdrawn, a Contingent Deferred Sales Charge ("CDSC") may be imposed on the withdrawal. The maximum CDSC is 7% of purchase payments withdrawn during the first year after they were made. The CDSC declines by 1% each year thereafter until it is eliminated for purchase payments made 7 or more complete years prior to the withdrawal. Each Contract year, the Contract owner may withdraw without a CDSC, an amount equal to 10% of purchase payments made at the time of withdrawal, less purchase payments previously withdrawn that were subject to a CDSC. Under a systematic withdrawal program, the free withdrawal amount is the greater of 10% of purchase payments, less prior withdrawals that were subject to a CDSC or a percentage of the Contract value based on the Contract owners age. However, if total withdrawals during a year exceed the above amounts, the above formula will not apply and the free withdrawal amount for the year will be determined using the 10% of purchase payment test. Free withdrawals are non-cumulative.

5. If the annuitant dies prior to annuitization and before age 85, Nationwide will pay a death benefit to

the beneficiary. The death benefit is equal to the greater of (a) the sum of all purchase payments made under the Contract, less purchase payments previously withdrawn, (b) the Contract value, or (c) the Contract value as of the most recent five year Contract anniversary, less withdrawals since that Contract anniversary.

6. An administrative charge equal on an annual basis to .15% of the daily net asset value of the Separate Account is deducted from Contract value during the accumulation and annuity phase. The Company estimates that this charge will yield an amount considerably less than its current and projected future expenses. Applicants state that the Company is relying on Rule 26a-1 under the 1940 Act to assess this charge and that it will monitor the proceeds of the charge to ensure that it does not exceed expenses without profit. This charge is guaranteed never to increase.

7. For assuming mortality and expenses risks under the Contracts, Nationwide will assess a mortality and expense risk charge equal on an annual basis to 1.25% of the daily net asset value of the Separate Account. Of this amount, .80% represents mortality risk and .45% represents expense risks. According to Applicants, the mortality risk is the risk of guaranteeing to make monthly payments for the lifetime of the annuitant regardless of how long the annuitant may live and to pay the guaranteed death benefit if the annuitant dies before age 85. The Applicants state that the annuity purchase rates are guaranteed at issue for the life of the Contract. Also, there is the risk that the average life expectancy of the entire population may grow longer. The expense risk assumed by the Company is the guarantee that the administrative charge and the mortality and expense risk charge will never be increased regardless of the actual expenses incurred by the Company.

8. Applicants submit that if the mortality and expense risk charge is insufficient to cover the actual cost of the mortality and expense risk, the loss will be borne by Nationwide. Conversely, if the mortality and expense risk charge proves more than sufficient, the excess will be a profit to Nationwide and it will become part of the Company's general account.

### Applicants' Legal Analysis

1. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act require that all payments received under a periodic payment plan certificate be held by a qualified trustee or a custodian and held under arrangements which prohibit any

payment to the depositor or principal underwriter except for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services.

2. Nationwide represents that the level of the mortality and expense risk charge is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the Contract. Applicants state that this representation is based upon Nationwide's analysis of publicly available information regarding other insurance companies of similar size and risk ratings offering similar products. Applicants represent that Nationwide will maintain, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative review. According to the Applicants, Nationwide also maintains, and will make available to the Commission upon request, a supporting actuarial memorandum demonstrating the reasonableness of the mortality and expense risk charge.

3. Applicants state that Nationwide advances front-end sales commissions from its surplus, since there is no front-end sales load under the Contract. However, Nationwide intends to recover those commissions through the CDSC, when applicable. Should revenue from the CDSC prove insufficient to cover all sales expenses, Nationwide bears this shortfall in its general account. To this extent, some portion of the profit, if any, from the mortality and expense risk charge could be used to make up unrecovered sales expenses. Nationwide represents that there exists a reasonable likelihood that this distribution financing arrangement will benefit the Separate Account and the Contract owners. Applicants also represent that the basis of this conclusion is set forth in a memorandum which will be made available to the Commission upon its request.

4. The Applicants represent that investments of the Separate Account will be made only in investment companies that, if they adopt any distribution financing plan under Rule 12b-1 under the 1940 Act, will have Boards of Trustees or Directors, the majority of which will be "disinterested" as defined in the 1940 Act. Applicants further represent that such Boards of Directors or Trustees must formulate and approve any such distribution plan.

**Conclusion**

Applicants submit that for all the reasons and upon the facts set forth above, their request for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 93-24251 Filed 10-1-93; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary**

[Order 93-9-29; Docket 48803]

**Application of Worldwide Airlines Services, Inc. d/b/a Leisure Air for Issuance of New Certificate Authority**

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Worldwide Airline Services, Inc. d/b/a Leisure Air fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

**DATES:** Persons wishing to file objections should do so no later than October 12, 1993.

**ADDRESSES:** Objections and answers to objections should be filed in Docket 48803 and addressed to the Documentary Services Division (C-55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janet A. Davis, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: September 27, 1993.

Patrick V. Murphy,  
Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93-24255 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-62-P

**Aviation Proceedings; Agreements Filed During the Week Ended September 24, 1993**

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

**Docket Number:** 49137.

**Date filed:** September 20, 1993.

**Parties:** Members of the International Air Transport Association.

**Subject:** COMP Telex 024f—Currency Changes—Sweden.

**Proposed Effective Date:** September 30, 1993.

**Docket Number:** 49149.

**Date filed:** September 24, 1993.

**Parties:** Members of the International Air Transport Association.

**Subject:** Telex COMP Mail Vote 646 (Netherlands Security Tax).

**Proposed Effective Date:** October 1, 1993.

Myrna F. Adams,

Chief, Docket Section, Documentary Services Division.

[FR Doc. 93-24267 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-62-P

**Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 24, 1993**

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-case order, a tentative order, or in appropriate cases a final order without further proceedings.

**Docket Number:** 49139.

**Date filed:** September 21, 1993.

**Due Date for Answers, Conforming Applications, or Motion to Modify Scope:** October 19, 1993.

**Description:** Application of Delta Air Service, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, requests authority to engage in interstate scheduled air transportation of persons, property and mail: Between any point in any State in the United States or the District of Columbia, or any Territory

or Possession of the United States, and any other point in any State of the United States or the district of Columbia, or any Territory or possession of the United States.

**Docket Number:** 49148.

**Date filed:** September 23, 1993.

**Due Date for Answers, Conforming Applications, or Motion to Modify Scope:** October 21, 1993.

**Description:** Application of Tower Air, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for issuance of a certificate of public convenience and necessity, or amendment of its current certificate, for authority to operate scheduled passenger, property and mail air service between New York, N.Y. and Boston, Massachusetts, on the one hand, and Dublin, Ireland, on the other.

**Docket Number:** 49150.

**Date filed:** September 24, 1993.

**Due Date for Answers, Conforming Applications, or Motion to Modify Scope:** October 22, 1993.

**Description:** Application of Airtours International Airways Limited, pursuant to Section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to engage in foreign charter air transportation of persons, property and mail between a point or points in the United Kingdom and a point or points in the United States.

Myrna F. Adams,

Chief Docket Section, Documentary Services Division.

[FR Doc. 93-24266 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-62-P

**Federal Aviation Administration**

[AC 91-53A]

**Noise Abatement Departure Profiles**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

**SUMMARY:** The Federal Aviation Administration (FAA) is announcing the availability of Advisory Circular (AC) 91-53A which provides standardized guidelines for noise abatement departure profiles (NADP's) for all civil turbojet airplanes with a maximum certificated gross takeoff weight of more than 75,000 pounds operating within the United States. The AC provides a general framework for the development of one or two departure profiles for each aircraft type operated by any interested airplane operator. These departure profiles as adjusted to specific aircraft

type would provide one profile for reducing noise close to the airport and one profile that is designed to reduce noise further out from the airport. The revised AC cancels AC 91-53, Noise Abatement Departure Profile, dated October 17, 1978.

**DATES:** This AC is effective on July 22, 1993.

**ADDRESSES:** A copy of AC 91-53A, Noise Abatement Departure Profiles, may be obtained by writing to U.S. Department of Transportation, General Services Section, M-443.2, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Wesley Te Winkle, Flight Standards Service, Special Programs Branch, AFS-430, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3728.

**SUPPLEMENTARY INFORMATION:** Draft AC 91-53A was published in the *Federal Register* Friday, August 7, 1992 (Vol. 57, No. 153, Page 34990). Interested persons were invited to comment on the proposed AC by submitting written data, views, or arguments, concerning environmental, energy, or economic impacts. The FAA reviewed all comments for recommended changes to the AC or the proposed action of the AC. There were no comments on the safety aspects of the AC, only comments on the number and use of the proposed NADP's. Therefore, the FAA did not change the minimum acceptable criteria proposed in the draft AC.

Eighteen commenters responded. Support of the action came from individual airport operators, the U.S. Environmental Protection Agency, and pilot groups. Opposition to the action came from an international air transport organization, an environmental group concerned with aircraft noise, an airport operator's association, and two city governments. Comments on the proposed number of NADP's, proposing either an increase of profiles to accommodate numerous noise sensitive areas, or the reduction of NADP's to one, were considered. The Noise Abatement Takeoff Working Group recommended two profiles to provide some communities with noise relief and still maintain a reasonable standardization of flight profiles. The FAA determined that two profiles were appropriate. The FAA encourages each airplane operator to use the appropriate NADP when an airport operator requests its use to abate noise for either a close-in or distant community.

Dated: September 15, 1993.

**Thomas C. Accardi,**  
Director, Flight Standards Service.  
[FR Doc. 93-24276 Filed 10-1-93; 8:45 am]  
BILLING CODE 4910-13-M

**National Highway Traffic Safety Administration**

[Docket No. 93-42; Notice 2]

**Diamond Coach Corporation; Grant of Petition for Determination of Inconsequential Noncompliance**

The Diamond Coach Corporation (Diamond) of Oswego, Kansas determined that some of its vehicles fail to comply with 49 CFR 571.120, "Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars," (Federal Motor Vehicle Safety Standard No. 120), and filed an appropriate report pursuant to 49 CFR part 573, Defect and Noncompliance Reports. Diamond also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 14, 1993, (58 FR 32987) and an opportunity afforded for comment. This notice grants the petition.

During December 1992, Diamond produced five buses, model VIP 2000, which it determined to be in non-compliance with S5.1.2 of Standard No. 120. Diamond requested a determination of inconsequentiality relative to S5.1.2, which states that the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system as specified on the vehicle's certification label.

The certification label on the five vehicles shows a GAWR of 3900 pounds for the front axle and 7480 pounds for the rear axle. However, the Tire and Rim Association (TRA) Yearbook, shows a tire load capability of 3880 pounds for the front axle and 7500 pounds for the rear axle.

Diamond cited the following reasons for requesting an exemption from the notification and remedy requirements:

1. The non-compliance is a technical non-compliance of S5.1.2 of FMVSS No. 120 only, i.e., the 16x6 k tires on the front of the vehicle are capable of sustaining loads in excess of the 3880 as called out by the TRA Yearbook, when one considers the 10% safety factor [sic] specified by S5.1.2.
2. The certification label shows a GAWR of 3900 lbs for the front axle and a load of 7480

pounds for the rear axle. The TRA Yearbook shows a tire load capability of 3880 pounds for the front axle and 7500 pounds for the rear axle. Therefore the front axle is technically 20 pounds under-rated and the rear axles 20 pounds over-rated, at the tire pressures shown. Diamond Coach Corporation feels that, while every attempt is made to accurately reflect the actual loads for each axle, it is entirely foreseeable that on any given vehicle the mere 20 pound differential between the two axles could easily fall to the rear as the front.

3. Lastly, Diamond Coach Corporation would like to point out that there are only five (5) units involved. All other units preceding and proceeding these five have been rated accurately. These five were misstated due to clerical error only. New procedures have been established to correct this problem and see that it is not repeated.

One comment was received on the petition, from the Rubber Manufacturers Association (RMA). The petitioner had claimed that the noncompliance was only a technical failure of paragraph S5.1.2, and that the front-tires are capable of sustaining loads in excess of 3,880 pounds given the 1.1 safety factor specified in the paragraph. RMA, having learned that the tires were LT225/75R16D, stated that the 1.1 factor of paragraph S5.1.2 would not apply. RMA's analysis is correct. The safety factor applies only when a truck uses a passenger car tire. The tires concerned here are light truck tires. NHTSA has therefore discounted the petitioner's citation of paragraph S5.1.2 in support of its argument.

Nonetheless, NHTSA notes that the total load capability of 3,880 pounds is only 20 pounds less than the GAWR of 3,900 pounds specified on the vehicles' certification labels. Having a tire load capability that deviates so slightly from the GAWR specification (approximately one-half of one percent) is a negligible difference, especially in a vehicle the size of a bus where the weights of varying numbers of passengers and amounts of luggage can result in differences of much more than 20 pounds.

Accordingly, for the reasons given above, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 28, 1993.

**Barry Felrice,**  
Associate Administrator for Rulemaking.  
[FR Doc. 93-24256 Filed 10-1-93; 8:45 am]  
BILLING CODE 4910-59-M

[Docket No. 93-59; Notice 01]

**Tradewinds Conversions, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance**

Tradewinds Conversions, Inc. (hereinafter referred to as "Tradewinds") of Elkhart, Indiana, an alterer of motor vehicles, has determined that 1993 Ford E150 Schooner Model Tradewinds Conversions fail to comply with 49 CFR 571.207, Federal Motor Vehicle Safety Standard (FMVSS), No. 207, "Seating Systems," and 49 CFR 571.210, FMVSS No. 210, "Seat Belt Assembly Anchorages," and has filed an appropriate report pursuant to 49 CFR part 573. Tradewinds has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety. The non-compliance concerns the performance of its mid-seating pedestals, Part # FDN-200.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

For the type of seats concerned in the petition, current FMVSS Nos. 207 and 210 test procedures specify simultaneous loading of seat assemblies and seat belts with the seat loads applied at the center of gravity of the seat assembly.

Paragraphs S4.2(a), S4.2(b), S4.2(c), and S4.2(d) of Standard No. 207 require that each occupant seat, other than a side-facing seat or a passenger seat on a bus, shall withstand the following forces:

S4.2(a)/S4.2(b). In any position to which it can be adjusted—apply forces 20 times the weight of the seat in a forward longitudinal direction; and rearward longitudinal direction through the center of gravity of the seat.

S4.2(c). For a seat belt assembly attached to the seat—the force specified in S4.2(a) and S4.2(b), in each case applied simultaneously with the forces imposed on the seat by the seat belt assembly when it is loaded in accordance with S4.2 of FMVSS No. 210; and

S4.2(d). In its rearmost position—a force that produces a 3,300 in-pound moment about the seating reference for each designated seating position \* \* \*

Also, paragraph S4.2, "Strength," of FMVSS No. 210 requires that each

occupant seat, other than side-facing seats, the anchorages, attachment hardware, and attachment bolts \* \* \* shall withstand a 5,000-pound force when tested in accordance with S5.1, "Seats with Type 1 or Type 2 seat belt anchorages."

Tradewinds determined that there was a non-compliance of its conversion when Part # FDN-200, quick release pedestals, were tested using the current NHTSA FMVSS Nos. 207 and 210 test procedures. The non-compliance occurred when the test results showed that the latching pin in the quick release pedestal "would not consistently reach" the maximum test loading requirements of the Standards. Approximately 200 van conversions are involved.

Tradewinds supports its petition for exemption by stating that when Part # FDN-200 pedestals were tested under the proposed new test procedure with split loading of pedestal and seat assembly, all requirements were met.

The new test procedure that Tradewinds is referring to is a rulemaking proposal to amend FMVSS No. 207 specifically for pedestal seating systems. The proposal has been published in the Federal Register as a Notice of Proposed Rulemaking (NPRM) (55 FR 33141, August 14, 1990), and as a Supplemental Notice of Proposed Rulemaking (SNPRM) (58 FR 12921, March 8, 1993). Basically, the proposal would allow manufacturers the choice of using either the current procedure or the new procedure for testing most pedestal seats. The current procedure requires a single load be applied through the center of gravity of the entire assembly. The proposed procedure would permit the load to be split and applied simultaneously through the pedestal and through the seat.

The manufacturer of Part # FDN-200, Boss Manufacturing and Distributing, Inc. (Boss), furnished NHTSA with data on tests conducted by General Testing Laboratories on a 1993 Dodge "B" van using the procedure proposed in the SNPRM. Boss stated that the mid-position, quick release pedestal seat could withstand the proposed FMVSS No. 207 and the current FMVSS No. 210 testing. Boss also stated the pedestal seat would not consistently reach the current maximum requirements. Based on the test results submitted to NHTSA, Tradewinds concludes that the quick release pedestal seat can meet the test loading requirements of FMVSS Nos. 207 and 210 if the proposed new test procedure with split loading is permitted.

Interested persons are invited to submit written data, views, and

arguments on the petition of Tradewinds, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: November 3, 1993.

Authority 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: September 28, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-24268 Filed 10-1-93; 8:45 am]

BILLING CODE 4910-59-M

**DEPARTMENT OF THE TREASURY****Internal Revenue Service**

[Delegation Order No. 23 (Rev. 14)]

**Delegation of Authority To Approve Claims for Reimbursement of Bank Charges**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of authority.

**SUMMARY:** The authority to approve claims for reimbursement of bank charges due to erroneous levies may be redelegated to service center or compliance center collection branch chiefs or collection field branch chiefs; and to eliminate the ceiling on claims which Regions may settle for damage to, or loss of personal property (31 U.S.C. 3721). The text of the Delegation Order appears below.

**EFFECTIVE DATE:** September 20, 1993.

**FOR FURTHER INFORMATION CONTACT:** Patricia L. Guida, Program Analyst; Office of Operations, CO:O:1, room 7539; 1111 Constitution Avenue, NW.; Washington, DC 20224; telephone (202) 622-5960 (not a toll-free call). Order No. 23 (Rev. 14).

*Effective date:* September 20, 1993.

Settlement of Tort Claims, Claims under the Small Claims Act, and Claims Made by an Employee of the Internal

Revenue Service for Damage to or Loss of Personal Property Incident to Service.

1. Pursuant to Treasury Orders 101-06 and 101-15 there is hereby delegated to the officials listed below the authority to handle the claims and amounts of claims as specified: (a) Claims Manager, National Office:

(1) The authority, under 28 U.S.C. 2672 to consider, ascertain, adjust, determine, compromise, settle, and pay or transmit for payment claims for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Internal Revenue Service;

(2) The authority to consider, ascertain, adjust, and determine claims under 31 U.S.C. 3723;

(3) The authority under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721), as amended by title 31, subtitle A, part 41, to settle and pay claims made by an employee of the Internal Revenue Service for damage to or loss of personal property incident to his/her service.

(b) Chief, Facilities Management Branch, and as appropriate, each Regional Office, the authority under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721) as amended by title 31, subtitle A, part 41, to settle and pay claims made by an employee within the respective regions in any amount for damage to or loss of personal property incident to his/her service. All payments relating to usage of privately owned vehicles (POV) under the meritorious provisions of the Treasury Regulations must receive approval from the Claims Manager prior to payment by the Regional Office.

(c) Assistant Commissioner (International), District Directors and Service Center Directors, and the Director, Austin Compliance Center the authority to consider, ascertain, adjust and determine under 31 U.S.C. 3723 claims for reimbursement of bank charges arising out of erroneous Service levies or bank charges for stopping payment on a check, which the Service lost or misplaced and requested the taxpayer to replace.

2. The authority delegated herein may not be redelegated except as provided in paragraphs 3 and 4, below.

3. The authority in 1(c) above, to consider, ascertain, adjust and determine claims for reimbursement of bank charges for stopping payment on a check may be redelegated but not lower than to first line supervisors.

4. The authority in 1(c) above, to consider, ascertain, adjust and determine claims for reimbursement of bank charges arising out of erroneous Service levies may be redelegated but not lower than service center collection branch chief or collection field branch chief.

5. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.

6. Delegation Order No. 23 (Rev. 13), effective October 1, 1990, is superseded.

Dated: September 20, 1993.

**Michael P. Dolan,**

*Deputy Commissioner.*

[FR Doc. 93-24316 Filed 10-1-93; 8:45 am]

BILLING CODE 4830-01-U

# Sunshine Act Meetings

Federal Register

Vol. 58, No. 190

Monday, October 4, 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).

## DEPARTMENT OF ENERGY

### FEDERAL ENERGY REGULATORY COMMISSION

#### "FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: September 28, 1993, 58 FR 50631.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., September 29, 1993.

CHANGE IN THE MEETING: The following Docket Number has been added to Item CAG-3 on the Agenda scheduled for September 29, 1993:

*Item No., Docket No., and Company*  
CAG-3, RP93-125-000, Texas Eastern  
Transmission Corporation

Lois D. Cashell,

Secretary.

[FR Doc. 93-24361 Filed 9-30-93; 8:45 am]

BILLING CODE 6717-02-M

## DEPARTMENT OF JUSTICE

### UNITED STATES PAROLE COMMISSION

DATE AND TIME: Thursday, October 7, 1993, 9:00 a.m.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matters will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving four cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5968.

Dated: September 29, 1993.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 93-24424 Filed 9-30-93; 1:12 pm]

BILLING CODE 4410-01-M

## DEPARTMENT OF JUSTICE

### UNITED STATES PAROLE COMMISSION

TIME AND DATE: 1:30 p.m., Thursday, October 7, 1993.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Paroling Policy With Respect to First Degree Murder.
4. The Need to Address the Circuit Split On Good Time For Transfer Treaty Offenders.
5. Verifying Identity Under the Freedom of Information Act.
6. Witness Security Procedures For Inactive Cases.
7. Proposal Regarding the Advancement of Parole Dates on the Basis of Community Service.
8. Discussion on the Adoption of the Manual Regarding Home Confinement/Electronic Monitoring.
9. Wording For Publication Regarding a Proposed New General Condition For HIV Positive Parolees.
10. Discussion of Third Party Risk.
11. Proposal Regarding the Special Community Advisor Condition.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492-5962.

Dated: September 29, 1993.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 93-24425 Filed 9-30-93; 1:12 pm]

BILLING CODE 4410-01-M

## NATIONAL CREDIT UNION ADMINISTRATION

### Notice of Meetings

TIME AND DATE: 9:30 a.m., Thursday, October 7, 1993.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314-3428.

STATUS: Open.

#### BOARD BRIEFINGS:

1. Central Liquidity Facility Report and Report on CLF Lending Rate.
2. Report on Pilot Program for Community Development Credit Unions.
3. Insurance Fund Report.

#### MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.

2. National Credit Union Share Insurance Fund (NCUSIF) Insurance Assessment for Insurance Year 1994.

3. Final Rule, Amendment to Part 704, NCUA's Rules and Regulations, Corporate Credit Unions.

4. Proposed Charter Application for the Alianza Federal Credit Union, Washington, DC.

5. Fiscal Year 1994 Overhead Transfer Rate.

RECESS: 10:45 a.m.

TIME AND DATE: 11:00 a.m., Thursday, October 7, 1993.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314-3428.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

1. Requests by Credit Unions for Waivers from Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).

2. Proposed Office Reorganization. Closed pursuant to exemption (2).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518-6300.

Becky Baker,

Secretary of the Board.

[FR Doc. 93-24472 Filed 9-30-93; 3:17 pm]

BILLING CODE 7535-01-M

## NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

### MEETING STATUS: Open.

DATE AND TIME: November 8, 1993; 10:00 a.m.—3:30 p.m.

PLACE: NCLIS, 1110 18th St., NW., Suite 820, Washington, DC 20005.

10:00-12:00 N Ethics Training

1:45-3:30 p.m. NCLIS Committee Meetings to: (1) review and revise draft committee charges; (2) develop FY 1994 committee goals; (3) prepare/revise proposals for FY 1994 funding consideration to achieve committee goals—

- Administration
- Education
- Information Technology
- International

DATE AND TIME: November 9, 1993, 9:00 a.m. to 3:30 p.m.

PLACE: The Army/Navy Club, 901 17th Street, NW., Washington, DC. (John Paul Jones/Iwo Jima Room)

#### MATTERS TO BE DISCUSSED:

Vice Chairman's report  
Executive Director's Report  
Committee reports  
Administration

Education  
 Keynote speaker: To be named  
 Committee reports (cont.)  
 Information Technology  
 International  
 Report from Lucille Thomas on IFLA  
 preconference on school libraries and on  
 meeting of International Society of  
 School Librarians

To request further information or to  
 make special arrangements for  
 physically challenged persons, contact  
 Barbara Whiteleather (202-606-9200)  
 no later than one week in advance of the  
 meeting.

Dated: September 27, 1993.

**Peter R. Young,**

*NCLIS Executive Director.*

[FR Doc. 93-24461 Filed 9-30-93; 2:42 pm]

BILLING CODE 7527-01-M

#### SECURITIES AND EXCHANGE COMMISSION

##### Agency Meetings

Notice is hereby given, pursuant to  
 the provisions of the Government in the  
 Sunshine Act, Pub. L. 94-409, that the  
 Securities and Exchange Commission  
 will hold the following meetings during  
 the week of October 4, 1993.

A closed meeting will be held on  
 Monday, October 4, 1993, at 11:00 a.m.  
 An open meeting will be held on

Wednesday, October 6, 1993, at 10:00  
 a.m.

Commissioners, Counsel to the  
 Commissioners, the Secretary to the  
 Commission, and recording secretaries  
 will attend the closed meeting. Certain  
 staff members who have an interest in  
 the matters may also be present.

The General Counsel of the  
 Commission, or his designee, has  
 certified that, in his opinion, one or  
 more of the exemptions set forth in 5  
 U.S.C. 552b(c) (4), (8), (9)(A) and (10)  
 and 17 CFR 200.402(a) (4), (8), (9)(i) and  
 (10), permit consideration of the  
 scheduled matters at a closed meeting.

Commissioner Schapiro, as duty  
 officer, voted to consider the items  
 listed for the closed meeting in a closed  
 session.

The subject matter of the closed  
 meeting scheduled for Monday, October  
 4, 1993, at 11:00 a.m., will be:

Institution of administrative proceedings of  
 an enforcement nature.

Institution of injunctive actions.

Settlement of administrative proceedings  
 of an enforcement nature.

The subject matter of the open  
 meeting scheduled for Wednesday,  
 October 6, 1993, at 10:00 a.m., will be:

1. Consideration of whether to issue a letter  
 granting exemptions from Rules 10b-6, 10b-

7, and 10b-8 under the Securities Exchange  
 Act of 1934 for distributions in the United  
 States of the securities of certain highly  
 capitalized German issuers. For further  
 information, please contact Diane Mage  
 Roberts at (202) 272-2938.

2. Consideration of whether to propose a  
 new Rule and Rule amendments to address  
 payment for order flow practices. For further  
 information, please contact Jill Ostergaard at  
 (202) 272-7390.

3. Consideration of whether to adopt under  
 Section 15(c) of the Securities Exchange Act  
 of 1934 a draft rule that would change the  
 settlement timeframe for most broker-dealers'  
 securities transactions from five days after  
 the trade date to three days after the trade  
 date. For further information, please contact  
 Jack P. Drogin at (202) 272-2775.

At times, changes in Commission  
 priorities require alterations in the  
 scheduling of meeting items. For further  
 information and to ascertain what, if  
 any, matters have been added, deleted  
 or postponed, please contact: Stephen  
 Luparello at (202) 272-2100.

Dated: September 29, 1993.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 93-24484 Filed 9-30-93; 3:55 pm]

BILLING CODE 8010-01-M

# Federal Register

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Monday  
October 4, 1993

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Part II

## Environmental Protection Agency

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40 CFR Part 721

Significant New Uses of Certain Chemical  
Substances; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 721**

[OPPTS-50612; FRL-4584-5]

RIN 2070-AB27

**Significant New Uses of Certain Chemical Substances**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances which were the subject of premanufacture notices (PMNs) and subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating this SNUR using direct final procedures.

**DATES:** The effective date of this rule is December 3, 1993. This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on October 18, 1993.

If EPA receives notice before November 3, 1993 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the substance for which the notice of intent to comment is received and will issue a proposed SNUR providing a 30-day period for public comment.

**ADDRESSES:** Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPPTS-50612 and the name(s) of the chemical substance(s) subject to the comment. All comments should be sent in triplicate to: U.S. Environmental Protection Agency, ATTN: OPPT Document Receipt Office (TS-790), 401 M St., SW., Rm. E-G102, Washington, DC 20460.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing confidential business information (CBI)

must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** This SNUR will require persons to notify EPA at least 90 days before commencing manufacturing or processing a substance for any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs published in the Federal Register of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

**I. Authority**

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

**II. Applicability of General Provisions**

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR

notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the Federal Register its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28 and must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

**III. Substances Subject to This Rule**

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the action taken by EPA in the section 5(e) consent order or as a non-section 5(e) SNUR for the substance (including the statutory citation and specific finding), toxicity concern, and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII. of this preamble.

Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI. of this preamble, the SNUR for such substances contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice at least 90 days in advance. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to

evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

Data on potential exposures or releases of the substances, testing other than that specified in the section 5(e) order for the substances, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. Persons submitting a Significant New Use Notice (SNUN) must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs, as stated in 40 CFR 721.1(c), including submission of test data on health and environmental effects as described in 40 CFR 720.50.

The SNUR for the PMN substance identified as P-89-538 regulates the chemical substance subject to a 5(e) order where the finding is based solely on substantial production volume and significant or substantial human exposure and/or release to the environment of substantial quantities. For this case there were limited or no toxicity data available for the PMN substance. In such cases, EPA regulates the new chemical substance under section 5(e) by requiring certain toxicity tests. For instance, chemical substances with potentially substantial releases to surface waters would be subject to toxicity testing of aquatic organisms and chemicals with potentially substantial human exposures would be subject to health effects testing for mutagenicity, acute effects, and subchronic effects.

EPA is not publishing SNURs for three PMN substances (P-91-514, P-92-1112, and P-92-1113) which are subject to a final 5(e) consent order. The section 5(e) consent orders for these substances are derived from an exposure-based finding as described above for P-89-538. However, for these substances the short-term toxicity testing required by the 5(e) order is usually completed within 1 to 2 years of notice of commencement. EPA's experience with exposure-based SNURs requiring short-term testing is that the SNUR is often revoked within 1 to 2 years when the test results are received. Rather than issue and revoke SNURs in such a short span of time, EPA will defer publication of exposure-based SNURs until either a Notice of Commencement (NOC) or data demonstrating risk are received unless the toxicity testing required is long-term. EPA is issuing this explanation and notification as required in 40 CFR 721.160(a)(2) as it has determined that SNURs are not needed at this time for

these substances which are subject to a final 5(e) consent order under TSCA.

The section 5(e) orders for P-89-867 and P-90-1840 contain new chemical exposure limits (NCELS) provisions. In each case, the section 5(e) order allows the PMN submitter to protect workers by controlling and monitoring airborne concentrations of the substance present in the workplace as an alternative to certain respirator requirements. A clause had been added to these SNURs stating that as an alternative to the respiratory protection designated in the SNUR, manufacturers, importers, and processors may follow the same NCEL provisions found in the section 5(e) consent orders for these substances, including using the same sampling and analytical methods as the original PMN submitter subject to the 5(e) consent order. No general NCEL language has been added to the regulatory text of the corresponding SNURs as EPA expects that only manufacturers, importers, and processors with access to the previously approved sampling and analytical methods will be able to use this clause readily. EPA recommends that any company proposing to substitute an NCEL or other alternative control measures for SNUR provisions, which must first develop its own sampling and analytical methods, obtain EPA approval, submit a SNUN, or request a determination of equivalency under the procedures for "EPA Approval of Alternative Control Measures" in § 721.30.

#### PMN Number P-85-296

*Chemical name:* (generic) Silicone ester polyacrylate.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* February 3, 1986.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

*Toxicity concern:* Similar chemicals have been shown to cause cancer in test animals.

*Recommended testing:* A 2-year two-species rodent bioassay (40 CFR 798.3300) to help characterize cancer effects.

*CFR citation:* 40 CFR 721.9510.

#### PMN Number P-85-1211

*Chemical name:* Benzoic acid, 2-(3-phenylbutylidene)amino-, methyl ester.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* March 26, 1986.

*Basis for section 5(e) consent order:* The order was issued under section

5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.

*Toxicity concern:* Based on analogy to aniline, EPA is concerned that the PMN substance may be toxic to aquatic organisms at concentrations as low as 160 parts per billion (ppb) in surface waters.

*Recommended testing:* EPA has determined that an algal toxicity test (40 CFR 797.1050), a daphnid acute toxicity test (40 CFR 797.1300), and a fish acute toxicity test (40 CFR 797.1400) will help characterize the environmental effects of the PMN substance. The PMN submitter has agreed not to exceed the production volume limit without performing the tests listed above.

*CFR citation:* 40 CFR 721.1728.

#### PMN Number P-86-1146

*Chemical name:* (generic) Capped aliphatic isocyanate.

*CAS number:* Not available.

*Effective date of consent order:* April 3, 1987.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.

*Toxicity concern:* Similar chemicals have been shown to cause cancer in test animals.

*Recommended testing:* A 2-year two-species rodent bioassay (40 CFR 798.3300) to help characterize cancer effects.

*CFR citation:* 40 CFR 721.4490.

#### PMN Number P-88-2484

*Chemical name:* (generic) Ethoxylated substituted naphthol.

*CAS number:* Not available.

*Toxicity concern:* The PMN substance will be used as a processing aid. The PMN substance has demonstrated toxicity to aquatic organisms in acute toxicity tests. The fish 96-h LC50 is 2.3 ppm, the daphnid 48-h LC50 is 19 ppm, and the green algae 96-h EC50 is 190 ppm. Based on these data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 200 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 200 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 200 ppb. Based on this information, the PMN substance meets the concern criteria at 40 CFR 721.170 (b)(4)(iii).

**Recommended testing:** EPA has determined that a chronic daphnid toxicity test (40 CFR 797.1330), a chronic fish toxicity test (40 CFR 797.1600), and an aerobic aquatic biodegradation test (40 CFR 796.3100) will help characterize the environmental effects of the PMN substance.

**CFR citation:** 40 CFR 721.5285.

**PMN Number P-89-538**

**Chemical name:** (generic) Phosphoramidate.

**CAS number:** Not available.

**Effective date of consent order:** October 23, 1992.

**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial human and environmental exposures. **Recommended testing:** EPA has determined that the results of the following studies would help characterize possible effects of the substance:

1. A two-species oral developmental toxicity study (40 CFR 798.4900).
2. A water solubility test (40 CFR 796.1840 or 796.1860).
3. A hydrolysis study (40 CFR 796.3500).
4. A fate screening biodegradation test (American Society for Testing and Materials (ASTM) E 47.06).
5. An inherent biodegradation in soil (40 CFR 796.3400).
6. A complete pharmacokinetics (absorption, distribution, metabolism, excretion, and kinetics (40 CFR 795.223)).
7. A 90-day repeated dose oral study in rats (40 CFR 798.2650), which includes: Functional observational battery, neuropathology, and motor activity (National Technical Information Service (NTIS) PB 91-154617).
8. A two-generation reproductive study (40 CFR 798.4700).
9. A 2-year, two-species bioassay (40 CFR 798.3300).

The consent order contains three production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the tests listed above at items 1 through 5. In addition, the PMN submitter has also agreed not to exceed the second and third higher production volume limits without performing tests listed above at items 6 through 8 and 9, respectively.

**CFR citation:** 40 CFR 721.6090.

**PMN Number P-89-867**

**Chemical name:** (generic) Halogenated phenyl alkane.

**CAS number:** Not available.

**Effective date of consent order:** March 24, 1993.

**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i), (ii)(I), and (ii)(II) of TSCA based on findings that this substance may present an unreasonable risk of injury to health and the environment, and that the substance will be produced in substantial quantities and there may be significant or substantial human exposure to the substance.

**Toxicity concern:** Similar substances have been shown to cause cancer, developmental and reproductive toxicity in test animals, and toxicity to fish at concentrations as low as 0.1 ppb. **Recommended testing:** Incineration testing, using Midwest Research Institute (MRI) guidelines or comparable protocol, to help characterize health effects. The PMN submitter has agreed not to exceed the production limit without performing this test. A 2-year, two-species rodent, cancer bioassay (40 CFR 798.3300) would help characterize carcinogenicity. In addition, EPA has determined that the following tests would be necessary to evaluate possible aquatic toxicity: Fish bioconcentration test (40 CFR 797.1520), fish early life stage toxicity test (40 CFR 797.1600), algal acute toxicity test (40 CFR 797.1050), daphnid chronic toxicity test (40 CFR 797.1330), oyster acute toxicity test (40 CFR 797.1800), tadpole/sediment subchronic test (40 CFR 795.145), and chironomid sediment invertebrate test (40 CFR 795.135). The above aquatic toxicity tests would be required on the likely photolysis products or, in the absence of degradation, the parent PMN substance. The following information is required to identify the test species to be used in the above aquatic tests before testing commences: A laboratory determination of direct photolysis reaction quantum yield in aqueous solution and sunlight photolysis (40 CFR 796.3780) and a gas phase absorption spectra and photolysis test (40 CFR 796.3800).

**CFR citation:** 40 CFR 721.536.

**PMN Number P-90-1840**

**Chemical name:** (generic) Aromatic amino ether.

**CAS number:** Not available.

**Effective date of consent order:** November 5, 1992.

**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment. **Toxicity concern:** The PMN substance and similar chemicals have been shown

to cause mutagenicity, carcinogenicity, neurotoxicity (retinopathy), hepatotoxicity, reproductive effects, and aquatic toxicity in test animals at concentrations as low as 1 ppb.

**Recommended testing:** A 90-day subchronic rodent study (oral or inhalation route) with special attention given to hepatotoxicity, histopathological exam of the male and female reproductive organs, and retinopathy is needed to help characterize the neurotoxic, hepatotoxic, and reproductive effects of the PMN substance. The 90-day study must also include for each treatment group a satellite group of exposed animals to be retained for an additional 90-day recovery period to evaluate the possible reversibility of retinopathy. Light and electron microscopy should be utilized to examine the ocular tissue (40 CFR 798.2650, modified). A 2-year, two-species bioassay (40 CFR 798.3300) is also necessary to characterize the carcinogenic potential of the PMN substance. The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic study. The PMN submitter has also agreed not to exceed the second, higher production volume limit without performing the 2-year, two-species bioassay. In addition, an early life stage toxicity study (40 CFR 797.1600), a daphnia chronic toxicity study (40 CFR 797.1330), an algal acute toxicity study (40 CFR 797.1050), and a coupled units test (40 CFR 796.3300) would characterize the potential aquatic toxicity effects.

**CFR citation:** 40 CFR 721.3390.

**PMN Number P-92-44**

**Chemical name:** (generic) Acrylated epoxy phenolic resin.

**CAS number:** Not available.

**Effective date of consent order:** February 17, 1993.

**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

**Toxicity concern:** Similar chemicals have been shown to cause cancer in test animals.

**Recommended testing:** EPA has determined that a 2-year rodent bioassay (40 CFR 798.3330) will help characterize the cancerous effects of the PMN substance.

**CFR citation:** 40 CFR 721.5910.

**PMN Number P-92-168**

*Chemical name:* Benzenamine, 4-isocyanato-*N,N*-bis(4-isocyanatophenyl)-2,5-dimethoxy-.

*CAS number:* 126505-35-9.

*Effective date of consent order:* December 24, 1992.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

*Toxicity concern:* Test data on substances similar in structure to the PMN substance indicate that the PMN substance may cause respiratory sensitization, lung toxicity, and eye irritation in test animals.

*Recommended testing:* EPA has determined that a dermal sensitization study (40 CFR 798.4100) and a pulmonary sensitization study (Karol method or equivalent) will help characterize the sensitization potential of the PMN substance. The Agency has also determined that a 90-day subchronic inhalation study (40 CFR 798.2450) will help characterize the lung effects of the PMN substance. The PMN submitter has agreed not to exceed the production volume limit without performing the pulmonary sensitization study. The PMN submitter has performed and submitted to the Agency the dermal sensitization study. *CFR citation:* 40 CFR 721.1068.

**PMN Number P-92-177**

*Chemical name:* (generic) Mixed methyltin mercaptoester sulfides.

*CAS number:* Not available.

*Effective date of consent order:* December 29, 1992.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i), (ii)(I), and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment, will be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant or substantial human exposure to the substance.

*Toxicity concern:* Similar chemicals have been shown to cause neurotoxicity, liver toxicity, and immunotoxicity in test animals and toxicity to aquatic organisms at concentrations as low as 2 ppb.

*Recommended testing:* The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing water solubility (40 CFR 796.1860), soil

sediment adsorption isotherm (40 CFR 796.2750), and inherent biodegradability in soil (with anaerobic procedure) (40 CFR 796.3400) studies to help characterize the ability of the PMN substance to migrate through soil to ground water. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing a 28-day oral toxicity study in rats (Organization for Economic Cooperation and Development (OECD) guideline 407). The 28-day study shall include, for all test doses, a neurotoxicity functional observational battery (NTIS guideline PB 91-154617) with the highest dose set at 1,000 mg/kg. For the highest test dose group only, histopathologic examination shall be extended to include testes/ovaries and lungs. The following additional information would be required to evaluate the following effects which may be caused by the PMN substance: Acute algal toxicity (40 CFR 797.1050, static/nominal conditions), acute daphnid toxicity (40 CFR 797.1300, flow-through/measured conditions), and acute fish toxicity (40 CFR 797.1400, flow-through/measured conditions). *CFR citation:* 40 CFR 721.5075.

**PMN Number P-92-652**

*Chemical name:* (generic) Substituted phenyl azo substituted benzenediazonium salt.

*CAS number:* Not available.

*Effective date of consent order:* February 26, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.

*Toxicity concern:* The PMN substance contains a substituted benzenediazonium moiety. Aromatic diazonium salts are highly toxic to aquatic organisms. Based on quantitative structural activity relationships, the PMN substance is expected to be toxic to fish, daphnia, and algae at levels as low as 1 ppb.

*Recommended testing:* A 96-h bioassay in algae (40 CFR 797.1050), a 48-h LC50 test in daphnia (40 CFR 797.1300), and two 96-h LC50 tests in fish (40 CFR 797.1400), one for freshwater fish and one with saltwater fish, would help characterize the aquatic toxicity effects of the PMN substance. The algal test should be conducted with static conditions and measured concentrations. The remaining tests should be conducted with flow-through conditions and measured concentrations. These tests should not be conducted with UV light present (e.g.

fluorescent lights). If fluorescent lights are used, glass filters that screen out UV light should be employed. *CFR citation:* 40 CFR 721.1555.

**PMN Number P-92-660**

*Chemical name:* (generic) Acrylamide-substituted epoxy.

*CAS number:* Not available.

*Effective date of consent order:* March 16, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.

*Toxicity concern:* Similar substances have been shown to cause neurotoxicity, liver toxicity, blood toxicity, and cancer in test animals and toxicity to aquatic organisms at concentrations as low as 70 ppb.

*Recommended testing:* The consent order contains two production limits. The PMN submitter has agreed not to exceed the first production limit without performing a dominant lethal assay in rats by the oral route (40 CFR 798.5450). The PMN submitter has also agreed not to exceed the second higher production limit without performing a 90-day inhalation toxicity study in rats (40 CFR 798.2450), with special attention to the pathology of the reproductive organs and with neurotoxicity (including functional observational battery, motor activity, and neuropathology, (NTIS: PB 91-154617)). The following additional information would characterize the following effects which may be caused by the PMN substance:

Information	Effects	Guidelines
2-year rodent bioassay.	cancer	40 CFR 798.3300
algal acute study.	aquatic toxicity	40 CFR 797.1050 (static/nominal conditions)
daphnid acute study.	aquatic toxicity	40 CFR 797.1300 (flow-through/measured conditions)
fish acute study.	aquatic toxicity	40 CFR 797.1400 (flow-through/measured conditions)

*CFR citation:* 40 CFR 721.320.

**PMN Number P-92-686**

*Chemical name:* (generic) Nickel salt of an organo compound containing nitrogen.

*CAS number:* Not available.

*Effective date of consent order:* September 22, 1992.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.

*Toxicity concern:* Similar chemicals have been shown to cause skin sensitization, systemic toxicity (blood, immune system, and lungs), mutagenicity, and carcinogenicity in humans and test animals. Based on test data, nickel compounds are acutely and chronically toxic to aquatic organisms. The toxicity values are based on the free nickel ion and correspond to the nickel water criterion standard established under the Clean Water Act. Acute values are 3.4 ppm for all species and chronic values are 380 ppb for all species. The acute concentration of concern (COC) is set at 100 ppb and the chronic COC is set at 40 ppb based on the predicted chronic values and an assessment factor of 10.

*Recommended testing:* A 2-year, two-species rodent, cancer bioassay (40 CFR 798.3300) would help characterize skin sensitization, systemic toxicity (blood, immune system, and lungs), mutagenicity, and carcinogenicity. Acute toxicity tests for algae (40 CFR 797.1050), daphnids (40 CFR 797.1300), and fish (40 CFR 797.1400) would help characterize the aquatic toxicity effects. *CFR citation:* 40 CFR 721.5330.

#### PMN Number P-92-755

*Chemical name:* (generic) Butoxy-substituted ether alkane.

*CAS number:* Not available.

*Effective date of consent order:* September 22, 1992.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

*Toxicity concern:* Similar substances have been shown to cause developmental toxicity, systemic toxicity, and blood effects in test animals.

*Recommended testing:* A 28-day dermal toxicity test in rats (OECD 407) and a developmental toxicity study in two species (one rodent and one nonrodent) would help characterize developmental and systemic effects. The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing a 28-day dermal toxicity study. Dependent on the results of the 28-day test, the Agency may request a developmental toxicity study. The PMN submitter has agreed not to exceed a second higher production

volume limit without performing a developmental toxicity study unless notified by EPA that the developmental toxicity study will not be required. *CFR citation:* 40 CFR 721.3435.

#### PMN Number P-92-1119

*Chemical name:* (generic) Disubstituted diphenylsulfone.

*CAS number:* Not available.

*Effective date of consent order:* March 8, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.

*Toxicity concern:* Similar chemicals have been shown to cause cancer, reproductive toxicity, and blood effects in test animals and toxicity to aquatic organisms at concentrations as low as 50 ppb.

*Recommended testing:* A 90-day subchronic study (40 CFR 798.2650) in rats (both sexes) with special attention to the blood and testes is required to help characterize the health effects. The PMN submitter has agreed not to exceed the specified production volume limit without performing the 90-day subchronic study. A 21-day chronic daphnia study (40 CFR 797.1330) and a 96-h algal study (40 CFR 797.1050) would help characterize the environmental effects. *CFR citation:* 40 CFR 721.2575.

#### PMN Number P-92-1125

*Chemical name:* (generic) Substituted nitrobenzene.

*CAS number:* Not available.

*Basis for action:* The PMN substance will be used as a chemical intermediate.

Based on the analogy of the PMN substance to neutral organic compounds, the PMN substance may cause toxicity to aquatic organisms. Based on these data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 50 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 50 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 50 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(4)(iii).

*Recommended testing:* EPA has determined that an algal toxicity test (40 CFR 797.1050), a daphnid acute toxicity test (40 CFR 797.1300), and a fish acute

toxicity test (40 CFR 797.1400) will help characterize the environmental effects of the PMN substance.

*CFR citation:* 40 CFR 721.1372.

#### PMN Number P-92-1131

*Chemical name:* (generic) Polyoxyalkylene substituted aromatic azo colorant.

*CAS number:* Not available.

*Basis for action:* The PMN substance will be used as a polymeric colorant. Based on the analogy of the PMN substance to similar substances and the expected reduction products, the PMN substance may cause developmental toxicity, mutagenicity, oncogenicity, and toxicity to blood, reproductive organs, spleen, kidney, liver, and thyroid from exposure to the PMN substance via inhalation. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk of injury to human health because the substance would be used in liquid form only. EPA has concerns that use of the substance in other forms, such as a solid or powder, may result in an unreasonable risk. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C) and (b)(3)(ii).

*Recommended testing:* EPA has determined that the following tests would help characterize the human health effects of the PMN substance: A 90-day subchronic study in rats by the oral route with special attention to the blood, reproductive organs, spleen, kidney, liver, and thyroid (40 CFR 798.2650); an Ames assay with the prival modification (40 CFR 798.5265); and an in vivo mouse micronucleus assay by the oral route (40 CFR 798.5395). Alternatively, a radiolabeled metabolism study by the oral route in rodents to determine the bioavailability of the reduction product of concern would help characterize the human health effects of the PMN substance. *CFR citation:* 40 CFR 721.757.

#### PMN Number P-92-1134

*Chemical name:* (generic) Cyclic phosphazene, methacrylate derivative.

*CAS number:* Not available.

*Effective date of consent order:* December 1, 1992.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

*Toxicity concern:* Similar chemicals have been shown to cause cancer in test animals.

**Recommended testing:** A 2-year rodent bioassay (40 CFR 798.3300) to help characterize cancer effects.  
**CFR citation:** 40 CFR 721.2170

**PMN Number P-92-1313**

**Chemical name:** (generic) Aliphatic difunctional acrylic acid ester.  
**CAS number:** Not available.  
**Effective date of consent order:** March 31, 1993.  
**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.  
**Toxicity concern:** Similar chemicals have been shown to cause cancer in test animals.  
**Recommended testing:** A 2-year rodent bioassay (40 CFR 798.3330) to help characterize cancer effects.  
**CFR citation:** 40 CFR 721.470.

**PMN Number P-92-1352**

**Chemical name:** (generic) Aliphatic dicarboxylic acid salt.  
**CAS number:** Not available.  
**Basis for action:** The PMN substance will be used in an open, nondispersive use. Based on the analogy of the PMN substance to aliphatic diacids, neutral organic chemicals, and anionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1,000 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to water at concentrations above 1,000 ppb. EPA has determined that other uses of the substance may result in releases to surface waters at concentrations above 1,000 ppb. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(4)(ii).  
**Recommended testing:** EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and a green algal toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.  
**CFR citation:** 40 CFR 721.2270.

**PMN Number P-92-1364**

**Chemical name:** (generic) Tetramethylammonium salts of alkylbenzenesulfonic acid.  
**CAS number:** Not available.  
**Basis for action:** The PMN substance will be used as an ingredient for photo resists. Based on the analogy of the PMN substance to anionic surfactants, the

PMN substance may cause toxicity to aquatic organisms. Based on these data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 80 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to water at concentrations above 80 ppb. EPA has determined that uses of the substance other than those described in the PMN may result in releases to surface waters at concentrations above 80 ppb. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(4)(ii).

**Recommended testing:** EPA has determined that a coupled units test (i.e. a laboratory bench-scale simulation of a publicly owned treatment works (POTW)) with special emphasis on realistic effluent concentration, realistic POTW residence time, and measurement of the amount of surfactant and degradation product would help characterize the environmental effects of the PMN substance.

**CFR citation:** 40 CFR 721.9650.

**PMN Number P-92-1447**

**Chemical name:** (generic) 2-Propenoic acid, reaction product with 2-oxepanone and alkyl triol.

**CAS number:** Not available.

**Effective date of consent order:** February 11, 1993.

**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health or the environment.

**Toxicity concern:** Similar chemicals have been shown to cause cancer in test animals and toxicity to aquatic organisms at concentrations as low as 1 ppb.

**Recommended testing:** The following testing is recommended to help characterize the associated effects:

Information	Effects	Guidelines
2-year rodent bioassay.	cancer	40 CFR 798.3300
algal acute study.	aquatic toxicity	40 CFR 797.1050 (static/nominal conditions)

Information	Effects	Guidelines
daphnid acute study.	aquatic toxicity	40 CFR 797.1300 (flow-through/measured conditions)
fish acute study.	aquatic toxicity	40 CFR 797.1400 (flow-through/measured conditions)

**CFR citation:** 40 CFR 721.8650.

**PMN Number P-93-36**

**Chemical name:** 2-Propenoic acid, docosyl ester.  
**CAS number:** Not available.  
**Effective date of consent order:** March 31, 1993.  
**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.  
**Toxicity concern:** Similar chemicals have been shown to cause cancer in test animals.  
**Recommended testing:** A 2-year rodent bioassay (40 CFR 798.3330) to help characterize the cancer effects.  
**CFR citation:** 40 CFR 721.8290.

**PMN Numbers P-93-37 and P-93-38**

**Chemical name:** 2-Propenoic acid, C<sub>18-26</sub> and C<sub>>20</sub> alkyl esters.  
**CAS number:** Not available.  
**Effective date of consent order:** March 31, 1993.  
**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that these substances may present an unreasonable risk of injury to health.  
**Toxicity concern:** Similar chemicals have been shown to cause cancer in test animals.  
**Recommended testing:** A 2-year rodent bioassay (40 CFR 798.3330) to characterize cancer effects.  
**CFR citation:** 40 CFR 721.8265.

**PMN Numbers P-93-212 and P-93-213**

**Chemical name:** (generic) Aromatic amine polyols.  
**CAS number:** Not available.  
**Basis for action:** The PMN substances will be used as components of polyurethane foam insulation. Based on the analogy of the PMN substances to similar substances, EPA is concerned that toxicity to aquatic organisms may occur at concentrations in surface waters as low as 200 ppb in the case of P-93-212 and 2 ppb for P-93-213. EPA determined importation and use of the substances as described in the PMN did

not present an unreasonable risk because the substances would not be released in a manner which would exceed the concentrations of concern. EPA has determined that domestic manufacture of the substances may result in releases to surface waters above the concentrations of concern. Based on this information, the PMN substances meet the concern criteria under § 721.170(b)(4)(ii).

**Recommended testing:** EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and a green algal toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substances.

*CFR citation:* 40 CFR 721.7450.

#### PMN Number P-93-343

**Chemical name:** (generic) Nitrobenzoic acid octyl ester.

**Basis for action:** The PMN substance will be used as a chemical intermediate. Based on analogy to benzoic esters, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 1 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 1 ppb. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined that a fish early life stage toxicity test (40 CFR 797.1600) will help characterize the environmental effects of the PMN substance.

*CFR citation:* 40 CFR 721.1732.

#### PMN Numbers P-93-352 and P-93-353

**Chemical name:** (generic) Alkylated sulfonated diphenyl oxide, alkali and amine salts.

**CAS number:** Not available.

**Basis for action:** The PMN substances will be used as mineral flotation collectors. Based on the results of acute fish, daphnia, and algae testing on P-93-352, the substances cause toxicity to aquatic organisms. Based on these data, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 20 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters at concentrations above

20 ppb. EPA has determined that other uses of the substances may result in releases to surface water at concentrations above 20 ppb. Based on this information, the PMN substances meet the concern criteria under § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined that a fish early life stage toxicity test (40 CFR 797.1600) will help characterize the environmental effects of the PMN substances.

*CFR citation:* 40 CFR 721.2565.

#### PMN Number P-93-362

**Chemical name:** (generic)

Alkylenediolalkyl ether.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used as a solvent. Based on the analogy of the PMN substance to similar alkyl ethers, the PMN substance may cause neurotoxicity and systemic toxicity. EPA has determined that workers exposed to the PMN substance by inhalation may be at risk for these toxic effects. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant inhalation exposures did not occur. EPA has determined that domestic manufacture may result in significant inhalation exposures. Based on this information, the substance meets the concern criteria under § 721.170(b)(3)(ii).

**Recommended testing:** EPA has determined that a 90-day oral subchronic study (40 CFR 798.2650) will help characterize the health effects of the PMN substance.

*CFR citation:* 40 CFR 721.3374.

#### PMN Number P-93-458

**Chemical name:** (generic) Alkenyl ether of alkanetriol polymer.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used as a thickening agent for textile printing. Based on analogy to nonionic surfactants and on the submitted acute aquatic toxicity data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 1 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 1 ppb. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined a chronic 60-day fish early

life stage toxicity test in rainbow trout (40 CFR 797.1600) and a 21-day chronic daphnid toxicity test (40 CFR 797.1350) would help characterize the environmental effects of the substance.

*CFR citation:* 40 CFR 721.3367.

#### PMN Number P-93-483

**Chemical name:** 1,4-Bis(3-hydroxy-4-benzoylphenoxy)butane.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used in fibers. Based on analogy to phenols, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 1 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 1 ppb. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600), a 21-day chronic daphnid toxicity test (40 CFR 797.1350), and an algal toxicity test (40 CFR 797.1050) would help characterize the environmental effects of the substance.

*CFR citation:* 40 CFR 721.1920.

#### PMN Number P-93-498

**Chemical name:** (generic) Polyester polyurethane acrylate.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used as a resin for UV curable coatings, inks, and adhesives. Based on analogy of the PMN substance to acrylates, the PMN substance may cause cancer from exposure via inhalation. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk of injury to human health because the substance would not be spray-applied. EPA has concerns that other uses of the substance may result in spray application and may result in an unreasonable risk. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(1)(i)(C).

**Recommended testing:** A 2-year rodent bioassay (40 CFR 798.3300) to characterize the cancer effects.

*CFR citation:* 40 CFR 721.8082.

#### PMN Number P-93-533

**Chemical name:** (generic) Substituted benzenediazonium.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used as a site-limited chemical intermediate. Based on analogy of the PMN substance to similar substances which have been demonstrated to cause death in test animals from a single ocular exposure, the PMN substance may also be lethal from acute ocular exposures. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk of injury to human health because use of the substance as a site-limited chemical intermediate and use of chemical safety goggles or equivalent eye protection limited worker exposure. EPA has concerns that uses other than as a site-limited intermediate may cause worker exposure. Based on this information, the PMN substance meets the concern criteria under § 721.170(b)(2).

**Recommended testing:** EPA has determined that an acute eye irritation study would help characterize the human health effects of the PMN substance.

**CFR citation:** 40 CFR 721.1568.

#### IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for 20 of the substances regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters; the SNUR provisions for these substances designated herein are consistent with the provisions of the section 5(e) orders.

In the other 15 cases for which the proposed uses are not regulated under a section 5(e) order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure the following objectives: That EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; that EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; that, when necessary to prevent unreasonable risks, EPA will be able to regulate prospective

manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and that all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements. Issuance of a SNUR for a chemical substance does not signify that the substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for ensuring that a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

#### V. Direct Final Procedure

EPA is issuing these SNURs as direct final rules, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii), this rule will be effective on December 3, 1993, unless EPA receives a written notice by November 3, 1993 that someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR(s) for the specific substance(s) to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance(s) providing a 30-day comment period. This action establishes SNURs for a number of chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

#### VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order requires or recommends certain testing, Unit III. of this preamble lists those recommended tests.

However, EPA has established production limits in the section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these

substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the section 5(e) orders are included in Unit III. of this preamble. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUR notices submitted for significant new uses without any test data may increase the likelihood that EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUR notice submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUR notice submitters should be aware that EPA will be better able to evaluate SNUR notices which provide detailed information on:

1. Human exposure and environmental release that may result from the significant new use of the chemical substances.
2. Potential benefits of the substances.
3. Information on risks posed by the substances compared to risks posed by potential substitutes.

#### VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.1725(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or

import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.1725(b)(1).

#### VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. Section 5(e) orders have been issued for 20 substances and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA designates as significant new uses. In cases where EPA has not received an NOC and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons

for a significant new use as defined in this rule before the effective date of the rule. However, 29 of the 35 substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that many, if any, of the significant new uses described in the following regulatory text are ongoing.

As discussed in the Federal Register of April 24, 1990 (55 FR 17376), EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the rule, rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

#### IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPPTS-50612).

#### X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS-50612). The record includes information considered by EPA in developing this rule. A public version of the record without any CBI is available in the TSCA Nonconfidential Information Center (NCIC), also known

as, TSCA Public Docket Office, from 8 a.m. to 12 p.m. and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. NCIC is located in Rm. E-G102, 401 M St., SW., Washington, DC 20460.

#### XI. Regulatory Assessment Requirements

##### A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule will not be a "major" rule because it will not have an effect on the economy of \$100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be between \$7,198 and \$8,170, including a \$2,500 user fee payable to EPA to offset EPA costs in processing the notice. In addition, EPA estimates that the cost of recordkeeping requirements for ongoing uses is \$583 per year. EPA believes that, because of the nature of the rule and the substances involved, there will be few SNUR notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has determined that approximately 10 percent of the parties affected by this rule could be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

##### C. Paperwork Reduction Act.

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time 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 burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070-0012), Washington, DC 20503.

#### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: September 24, 1993.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.320 to subpart E to read as follows:

#### § 721.320 Acrylamide-substituted epoxy.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as acrylamide-substituted epoxy (PMN P-92-660) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(i), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(1)(iii), (g)(1)(iv), (g)(1)(vi), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

3. By adding new § 721.470 to subpart E to read as follows:

#### § 721.470 Aliphatic difunctional acrylic acid ester.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as aliphatic difunctional acrylic acid ester (PMN P-92-1313) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

4. By adding new § 721.536 to subpart E to read as follows:

#### § 721.536 Halogenated phenyl alkane.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified

generically as halogenated phenyl alkane (PMN P-89-867) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a resin.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv), (a)(5)(v), (6)(i), (b) (concentration set at 0.1 percent), and (c). As an alternative to the respiratory requirements in this section, manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance. As an alternative to the respiratory requirements in this section manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance.

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (g)(1)(vii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

5. By adding new § 721.757 to subpart E to read as follows:

#### § 721.757 Polyoxyalkylene substituted aromatic azo colorant.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polyoxyalkylene substituted aromatic azo colorant (PMN

P-92-1131) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(w)(1) and (w)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

6. By adding new § 721.1068 to subpart E to read as follows:

**§ 721.1068 Benzenamine, 4-isocyanato-N,N-bis(4-isocyanatophenyl)-2,5-dimethoxy-**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as benzenamine, 4-isocyanato-N,N-bis(4-isocyanatophenyl)-2,5-dimethoxy- (PMN P-92-168) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(5)(vii), (a)(6)(ii), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (22,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

7. By adding new § 721.1372 to subpart E to read as follows:

**§ 721.1372 Substituted nitrobenzene.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as a substituted nitrobenzene (PMN P-92-1125) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 50 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

8. By adding new § 721.1555 to subpart E to read as follows:

**§ 721.1555 Substituted phenyl azo substituted benzenediazonium salt.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a substituted phenyl azo substituted benzenediazonium salt (PMN P-92-652) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

9. By adding new § 721.1568 to subpart E to read as follows:

**§ 721.1568 Substituted benzenediazonium.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a substituted benzenediazonium (PMN P-93-533) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

10. By adding new § 721.1728 to subpart E to read as follows:

**§ 721.1728 Benzoic acid, 2-(3-phenylbutylidene)amino-, methyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as benzoic acid, 2-(3-phenylbutylidene)amino-, methyl ester (PMN P-85-1211) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (10,600 kg).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

11. By adding new § 721.1732 to subpart E to read as follows:

**§ 721.1732 Nitrobenzoic acid octyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as nitrobenzoic acid octyl ester (PMN P-93-343) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

12. By adding new § 721.1920 to subpart E to read as follows:

**§ 721.1920 1,4-Bis(3-hydroxy-4-benzoylphenoxy)butane.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 1,4-bis(3-hydroxy-4-benzoylphenoxy)butane (PMN P-93-483) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

13. By adding new § 721.2170 to subpart E to read as follows:

**§ 721.2170 Cyclic phosphazene, methacrylate derivative.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as cyclic phosphazene, methacrylate derivative (PMN P-92-1134), is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)

(concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

14. By adding new § 721.2270 to subpart E to read as follows:

**§ 721.2270 Aliphatic dicarboxylic acid salt.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as aliphatic dicarboxylic acid salt (PMN P-92-1352) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1,000 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

15. By adding new § 721.2565 to subpart E to read as follows:

**§ 721.2565 Alkylated sulfonated diphenyl oxide, alkali and amine salts.**

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified as alkylated sulfonated diphenyl oxide, alkali salt (PMN P-93-352) and alkylated sulfonated diphenyl oxide, amine salt (PMN P-93-353) are subject to reporting under this section for the

significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 20 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

16. By adding new § 721.2575 to subpart E to read as follows:

**§ 721.2575 Disubstituted diphenylsulfone.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as disubstituted diphenylsulfone (PMN P-92-1119) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(1)(vi), (g)(1)(vii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(iii), and (g)(5). The following additional statements shall appear on each label and MSDS as required by this paragraph: This substance may cause blood effects.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (o), and (q).

(iv) *Release to water.* Requirements as specified in § 721.90(b)(1) and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

17. By adding new § 721.3367 to subpart E to read as follows:

**§ 721.3367 Alkenyl ether of alkanetriol polymer.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as alkenyl ether of alkanetriol polymer (PMN P-93-458) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

18. By adding new § 721.3374 to subpart E to read as follows:

**§ 721.3374 Alkylenediolalkyl ether.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as an alkylenediolalkyl ether (PMN P-93-362) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

19. By adding new § 721.3390 to subpart E to read as follows:

**§ 721.3390 Aromatic amino ether.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as aromatic amino ether

(PMN P-90-1840) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a final product with residual monomer 50 ppm by weight.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(i), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c). For gloves, a significant new use of the substance is any manner or method of manufacturing, importing, or processing associated with any use of the substance without establishing a program whereby the employer is able to demonstrate that the gloves selected provide an impervious barrier to prevent dermal exposure during normal and expected duration and conditions of exposure within the work area by testing the material used to make the gloves and the construction of the gloves to establish that they will be impervious for the expected duration and conditions of exposure. The testing must subject the gloves to the expected conditions of exposure, including the likely combinations of chemical substances to which the gloves may be exposed in the work area. There must be no permeation of the PMN substance greater than 2 ppm after 8 h of testing in accordance with the American Society for Testing and Materials (ASTM) F739 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases" and ASTM F1194 "Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials." The employer must submit all test data to the Agency and must receive the Agency's written approval of the test results for each type of glove tested prior to use of such gloves. Gloves may not be used for a time period longer than they are actually tested and must be replaced at the end of the work shift. As an alternative to the respiratory requirements in this section, manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance.

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e)

(concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i),

(g)(3)(ii), (g)(4)(i), and (g)(5). The following additional statements shall appear on each label and MSDS as required by this paragraph: This substance may cause liver damage. This substance may cause retinopathy.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), (c)(4) (where N = 1 ppb). When calculating the surface water concentrations according to the instructions in the introductory text of § 721.91(a)(4), the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 45 percent removal efficiency may be attributed to such treatment.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

20. By adding new § 721.3435 to subpart E to read as follows:

**§ 721.3435 Butoxy-substituted ether alkane.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as butoxy-substituted ether alkane (PMN P-92-755) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(3), (b) (concentration set at 1.0 percent), and (c). In addition, the employer must be able to demonstrate that the gloves selected for handling the chemical substance provide an impervious barrier to prevent dermal exposure during normal and expected duration and conditions of exposure

within the work area by testing the material used to make the gloves and the construction of the gloves to establish that they will be impervious for the expected duration and conditions of exposure. The testing must subject the gloves to the expected conditions of exposure, including the likely combinations of chemical substances to which the gloves may be exposed in the work area. There must be no permeation of the gloves by the chemical substance (or an EPA-approved analogue) greater than 0.16  $\mu\text{g}/\text{cm}^2/\text{min}$  after 8 h of testing in accordance with the most recent versions of the American Society for Testing and Materials (ASTM) F739 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases" and ASTM F1194 "Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials." The employer must submit all test data to the Agency and must receive written Agency approval of the test results for each type of glove tested prior to use of such gloves. Nitrile gloves with a minimum thickness of 0.5588 mm have already been tested and found to satisfy the terms of this section. Gloves contaminated with the PMN substance shall be disposed of after every work shift.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5). In addition, the human health hazard statements shall include a statement that this substance may cause systemic toxicity and blood effects.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and records documenting compliance with the glove permeability testing requirements of this section are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

21. By adding new § 721.4490 to subpart E to read as follows:

**§ 721.4490 Capped aliphatic isocyanate.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a capped aliphatic isocyanate (PMN P-86-1146) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(ii)(G), (h)(1)(iii)(A), (h)(1)(iii)(B), (h)(1)(iii)(D), and (h)(1)(iii)(E).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(iv) *Disposal.* Requirements as specified in § 721.90 (a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b) through (g), (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

22. By adding new § 721.5075 to subpart E to read as follows:

**§ 721.5075 Mixed methyltin mercaptoester sulfides.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as mixed methyltin mercaptoester sulfides (PMN P-92-177) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(1)(i), (g)(1)(iii), (g)(1)(iv), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1) and (a)(2) (only in a facility permitted to landfill Resources Conservation and Recovery Act (RCRA) hazardous wastes with the

landfill operated in accordance with subtitle C of RCRA).

(v) *Release to water.* Requirements as specified in § 721.90(a)(4) (where N = 2 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

23. By adding new § 721.5285 to subpart E to read as follows:

**§ 721.5285 Ethoxylated substituted naphthol.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as an ethoxylated substituted naphthol (PMN P-88-2484) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 200 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

24. By adding new § 721.5330 to subpart E to read as follows:

**§ 721.5330 Nickel salt of an organo compound containing nitrogen.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as nickel salt of an organo compound containing nitrogen (PMN P-92-686) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in

§ 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(1)(ii), (g)(1)(vii), (g)(1)(viii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(i), and (g)(5). The following additional statements shall appear on each label and MSDS as required by this paragraph: This substance may cause skin sensitization. This substance may cause blood effects.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(b), (c), and (k).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(2) (landfill operated in accordance with subtitle C of the Resource Conservation and Recovery Act (RCRA) to receive nickel wastes), § 721.85(b)(2) (landfill operated in accordance with subtitle C of RCRA to receive nickel wastes), and § 721.85(c)(2) (landfill operated in accordance with subtitle C of RCRA to receive nickel wastes).

(v) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 40 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

25. By adding new § 721.5910 to subpart E to read as follows:

**§ 721.5910 Acrylated epoxy phenolic resin.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as acrylated epoxy phenolic resin (PMN P-92-44) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C),

(h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(c).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

26. By adding new § 721.6090 to subpart E to read as follows:

**§ 721.6090 Phosphoramidate.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as phosphoramidate (P-89-538) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance in any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive, or who have received this substance from the employer within 5 years from the date the employer becomes aware of the new information described under paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the

employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

27. By adding new § 721.7450 to subpart E to read as follows:

**§ 721.7450 Aromatic amine polyols.**

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as aromatic amine polyols (PMNs P-93-212 and P-93-213) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

28. By adding new § 721.8082 to subpart E to read as follows:

**§ 721.8082 Polyester polyurethane acrylate.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as polyester polyurethane acrylate (PMN P-93-498) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

29. By adding new § 721.8265 to subpart E to read as follows:

**§ 721.8265 2-Propenoic acid, C<sub>18-26</sub> and C<sub>>20</sub> alkyl esters.**

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified as 2-propenoic acid, C<sub>18-26</sub> alkyl ester (P-93-37) and 2-propenoic acid, C<sub>>20</sub> alkyl esters (P-93-38) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

30. By adding new § 721.8290 to subpart E to read as follows:

**§ 721.8290 2-Propenoic acid, docosyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 2-propenoic acid, docosyl ester (PMN P-93-36) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

31. By adding new § 721.8650 to subpart E to read as follows:

**§ 721.8650 2-Propenoic acid, reaction product with 2-oxepanone and alkyltriol.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as 2-propenoic acid, reaction product with 2-oxepanone and alkyltriol (PMN P-92-1447) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

32. By adding new § 721.9510 to subpart E to read as follows:

**§ 721.9510 Silicone ester polyacrylate.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a silicone ester polyacrylate (PMN P-85-296), is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85 (a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

33. By adding new § 721.9650 to subpart E to read as follows:

**§ 721.9650 Tetramethylammonium salts of alkylbenzenesulfonic acid.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as tetramethylammonium salts of alkylbenzenesulfonic acid (PMN P-92-1364) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 80 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 93-24293 Filed 10-1-93; 8:45 am]

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# Federal Register

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Monday  
October 4, 1993

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Part III

## Department of Education

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Educational Research and Development  
Centers Programs; Notice of Solicitation  
of Written Public Comments

**DEPARTMENT OF EDUCATION****Office of Educational Research and Improvement (OERI)****Educational Research and Development Centers Program; Solicitation of Written Public Comments**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed priority for fiscal years 1994 and 1995, and request for written public comments on a document about problems and issues related to educationally at-risk students.

**SUMMARY:** Under the Educational Research and Development Centers Program the Secretary proposes a priority for fiscal years 1994 and 1995 for an award to support a national research and development center to study the education of at-risk students. Related to the same activity, the Secretary invites written public comments on a document which is available in draft form, and is designed to be used in final form to provide additional suggestions to prospective applicants about addressing the mission and priority of the center to be awarded pursuant to the competition, which will be announced after the priority is finalized.

**DATES:** Comments must be received on or before November 18, 1993.

**ADDRESSES:** All comments concerning this proposed priority or concerning the available document should be addressed to Dr. Joseph Conaty, U.S. Department of Education, 555 New Jersey Avenue, NW., room 610, Washington, DC 20208-5573.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph Conaty. Telephone: (202) 219-2079. Individuals who use a telecommunications device for the deaf (TDD) may call 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:** The Educational Research and Development Centers Program, authorized under 20 U.S.C. 1221e, supports sustained educational research and development activities, including those designed to generate knowledge that increases the capacity of the Nation's education system to provide all children and youth with equal educational opportunities to achieve academic excellence. The National Education Goals, which focus attention on specific progress to be realized by the Nation, include an essential emphasis on improving the quality of education for children and youth who are most at risk

of educational failure, or of educational achievement that falls seriously short of those students' educational potential.

The Secretary believes that systemic reform of the Nation's educational system, which is necessary to substantially improve education in this society, cannot take place without making the educational needs of students who are most at risk of educational failure a crucial component of educational change. Deliberate, sustained, and coordinated efforts should be created to improve the social and educational conditions that threaten the learning of many children and youth who are economically disadvantaged, in urban and rural settings. These efforts will be central to the mission of the reauthorized Office of Educational Research and Improvement (OERI). Using guidance provided from such sources as the recent National Academy of Science's report on Research and Education Reform: Roles for the Office of Educational Research and Improvement (1992), the Secretary seeks to provide support for national research and development centers designed to conduct sound and coherent education research programs on important topics.

Prior to this announcement, OERI engaged in a number of agenda-building activities designed to identify the kinds of research needed to improve the education of students who are at risk of school failure or substantially below average academic achievement. Written comments were received from the general public, and from many representatives of various interest groups, including many education organizations. OERI staff met with other Department of Education officials, who represented a cross-section of programs, to discuss and gather comments on working documents related to this topic. In addition, OERI staff met with appropriate officials from the Departments of Health and Human Services, Justice, Labor, Agriculture, and Housing and Urban Development, and the National Science Foundation. As a result of these meetings, written comments, staff analyses, and further consideration of national needs, the Department has prepared this notice of proposed priority and a document about a prospective national research and development center's work on the education of at-risk students.

Under the proposed priority the Secretary proposes that institutions of higher education, institutions of higher education in consort with public agencies or nonprofit organizations, and interstate agencies established by compact that operate subsidiary bodies to conduct postsecondary educational

research and development may apply for funding to support the activities described in this notice.

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 a particular project will depend on the availability of funds, the nature of the final priority, and the quality of the applications received.

**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 706.3(b) 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: The educational needs of children and youth who are at risk of educational failure.

Under this proposed priority, the Secretary will support projects by eligible applicants that—

- Conduct research and development activities on topics about the educational needs of children and youth who are at risk of educational failure because of economic, community, and family factors, and personal experiences, including the lack of adequate school and other educational resources;
- Will contribute to increasing the capacity of educational systems to provide all students with equal opportunities to learn and achieve educational success;
- Use research methods in some of its studies which involve advanced or innovative quantitative or qualitative techniques of sampling, data gathering, operationalization of variables, and data analyses, and interdisciplinary perspectives;
- Conduct one or more definitive research studies that have national implications and inform policy or practice across the nation, i.e., use large representative samples and rigorous scientific techniques that preclude biased results and support generalizable, replicable findings concerning the education of sizable populations of at-risk children or youth;
- Include research and development activities related to two or more of the following topics:
  - (a) Understanding how individual cognitive and emotional characteristics

of at-risk students dispose them to respond differently to their social and educational circumstances;

(b) Creating personalized and caring educational environments;

(c) Identifying effective ways of organizing schools and classrooms;

(d) Understanding educational program fade-out effects; and

(e) Understanding how best to integrate all educational programs and staff development into a coherent learning environment for at-risk students; and

• Document and report its research activities in ways that will allow others to use the research results.

#### Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

Interested persons are also invited to submit comments and recommendations regarding a document concerning problems and issues related to educationally at-risk students, and the ways in which a national research and development center might address those problems and issues. The document may be obtained by contacting Dr. Joseph Conaty, U.S. Department of Education, 555 New Jersey Avenue, NW., room 610, Washington, DC 20208-5573. Telephone: (202) 219-2079. The Department plans to include information such as that included in this document in application packages for a planned grant award for a national research and development center. This information is intended to offer additional guidance to applicants about addressing the activities of the center

and is not intended to impose any requirements other than those established by statute or regulations.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 610, 555 New Jersey Avenue, NW., 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 706 and 708.

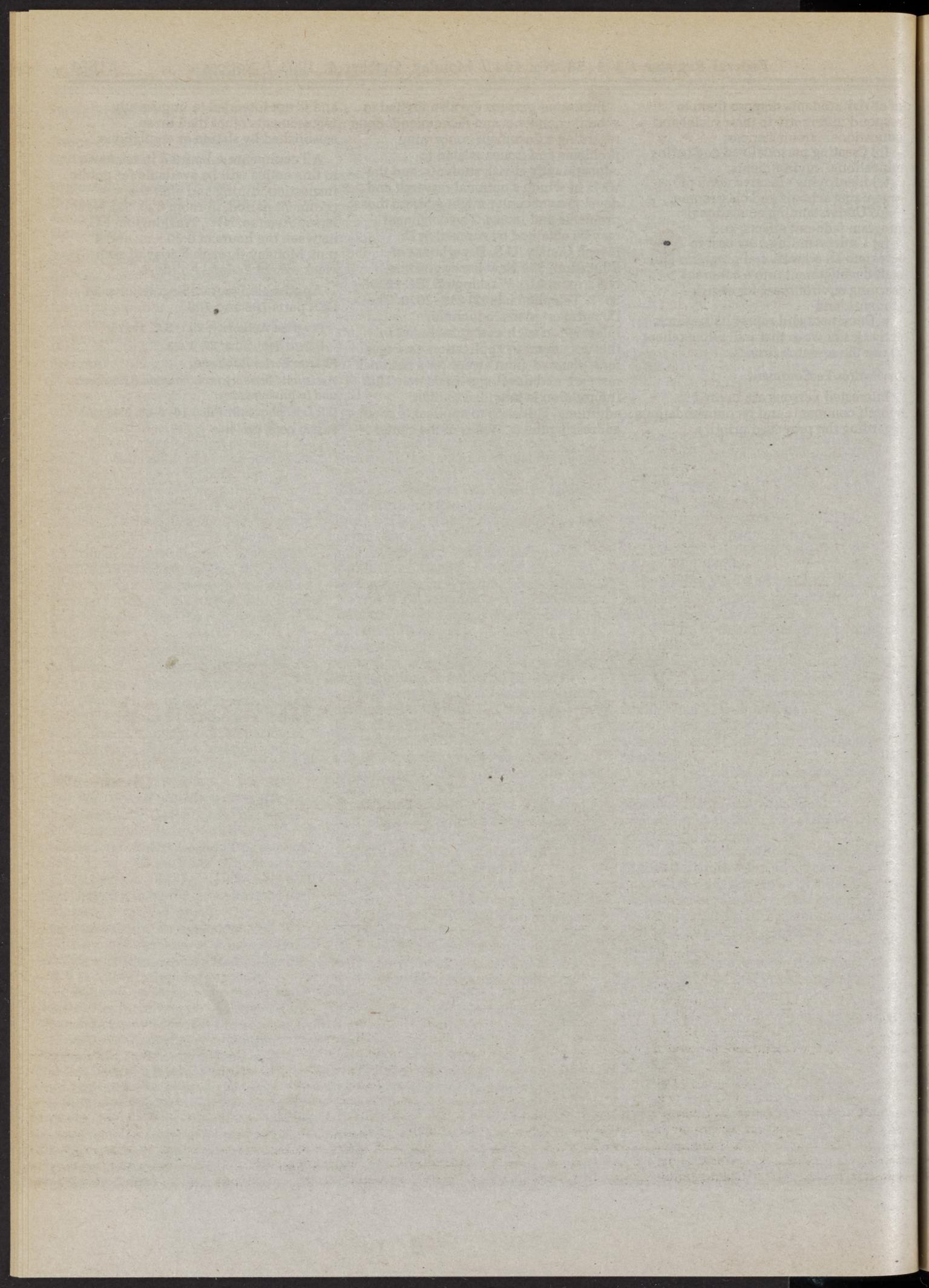
Program Authority: 20 U.S.C. 1221e.

Dated: September 29, 1993.

**Sharon Porter Robinson,**  
*Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 93-24301 Filed 10-1-93; 8:45 am]

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Monday  
October 4, 1993

**Federal Register**

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**Part IV**

**Environmental  
Protection Agency**

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**40 CFR Part 721**

**Significant New Uses of Certain Chemical  
Substances; Final Rule**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[OPPTS-50613; FRL-4632-4]

RIN 2070-AB27

### Significant New Uses of Certain Chemical Substances

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

**ACTION:** Final rule.

**SUMMARY:** EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances which were the subject of premanufacture notices (PMNs) and subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating this SNUR using direct final procedures.

**DATES:** The effective date of this rule is December 3, 1993. This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on October 18, 1993. If EPA receives notice before November 3, 1993 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the substance for which the notice of intent to comment is received and will issue a proposed SNUR providing a 30-day period for public comment.

**ADDRESSES:** Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPPTS-50613 and the name(s) of the chemical substance(s) subject to the comment. All comments should be sent in triplicate to: U.S. Environmental Protection Agency, ATTN: OPPT Document Receipt Officer (TS-790), 401 M St., SW., Rm. E-G102, Washington, DC 20460. Comments that are claimed confidential must be clearly marked confidential business information (CBI). If CBI is claimed, three additional sanitized copies must also be submitted. Nonconfidential versions of comments on this proposed rule will be placed in

the rulemaking record and will be available for public inspection. Comments should include the docket control number. The docket control number for this SNUR is OPPTS-50613.

#### FOR FURTHER INFORMATION CONTACT:

Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** This SNUR will require persons to notify EPA at least 90 days before commencing manufacturing or processing a substance for any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs published in the *Federal Register* of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

#### I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

#### II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR

part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the *Federal Register* its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

#### III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the action taken by EPA in the section 5(e) consent order or as a non-section 5(e) SNUR for the substance (including the statutory citation and specific finding), toxicity concern, and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII. of this preamble.

Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI. of this preamble, the SNUR for such substances contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice at least 90 days in advance. In addition, this unit

describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

Data on potential exposures or releases of the substances, testing other than that specified in the section 5(e) order for the substances, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. Persons submitting a Significant New Use Notice (SNUN) must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs, as stated in 40 CFR 721.1(c), including submission of test data on health and environmental effects as described in 40 CFR 720.50.

EPA is not publishing SNURs for seven PMN substances P-91-1297, P-91-1298, P-91-1299, P-92-813, P-93-96, P-93-97, and P-93-193 which are subject to final 5(e) consent orders. The 5(e) consent orders for these substances are derived from an exposure finding based solely on substantial production volume and significant or substantial human exposure and/or release to the environment of substantial quantities. For these cases, there were limited or no toxicity data available for the PMN substances. In such cases, EPA regulates the new chemical substances under section 5(e) by requiring certain toxicity tests. For instance, chemical substances with potentially substantial releases to surface waters would be subject to toxicity testing of aquatic organisms and chemicals with potentially substantial human exposures would be subject to health effects testing for mutagenicity, acute effects, and subchronic effects. However for these substances the short-term toxicity testing required by the 5(e) order is usually completed within 1 to 2 years of notice of commencement. EPA's experience with exposure-based SNURs requiring short-term testing is that the SNUR is often revoked within 1 to 2 years when the test results are received. Rather than issue and revoke SNURs in such a short span of time, EPA will defer publication of exposure-based SNURs until either a Notice of Commencement (NOC) or data demonstrating risk are received unless the toxicity testing required is long-term. EPA is issuing this explanation and notification as required in 40 CFR 721.160(a)(2) as it has determined that SNURs are not needed at this time for these substances which are subject to a final 5(e) consent order under TSCA.

The section 5(e) orders for P-89-1058, P-90-1564, P-91-826, and P-92-129 contain new chemical exposure limits (NCEL) provisions. In each case, the section 5(e) order allows the PMN submitter and the submitter's customers to protect workers by controlling and monitoring airborne concentrations of the substance present in the workplace as an alternative to certain respirator requirements.

A clause had been added to these SNURs stating that as an alternative to the respiratory protection designated in the SNUR, manufacturers, importers, and processors may follow the same NCEL provisions found in the section 5(e) consent orders for these substances, including using the same sampling and analytical methods as the original PMN submitter subject to the 5(e) consent order. No general NCEL language has been added to the regulatory text of the corresponding SNURs as EPA expects that only manufacturers, importers, and processors with access to the previously approved sampling and analytical methods will be able to readily use this clause. EPA recommends that any company proposing to substitute NCEL or other alternative control measures for SNUR provisions that does not have access to previously approved sampling and analytical methods obtain EPA approval either by submitting a SNUN or requesting a determination of equivalency under the procedures for "EPA Approval of Alternative Control Measures" in § 721.30.

#### PMN Number P-86-1662

*Chemical name:* (generic) Halogenated phosphate ester.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* June 20, 1987.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.

*Toxicity concern:* Similar chemicals have been shown to cause neurotoxicity in test animals.

*Recommended testing:* A 28-day repeated dose oral study in rats according to Organization for Economic Cooperation and Development (OECD) Guideline No. 407 and the Pesticide Assessment Guidelines, Subdivision F, Addendum 10—Neurotoxicity, Series 81-7 and 82-6, EPA 540/09-91-123, National Technical Information Service (NTIS) No. PB91-154617, March 1991. The PMN submitter has agreed not to exceed the production volume limit without performing the 28-day study

which includes the neurotoxicological addenda.

*CFR citation:* 40 CFR 721.5990.

#### PMN Number P-89-1038

*Chemical name:* (generic) Aminoethylethylene urea methacrylamide.

*CAS number:* Not available.

*Basis for action:* The PMN substance will be used as an adhesion promoter. Based on analogy to similar substances, the PMN substance may cause neurotoxicity, cancer, and developmental toxicity. EPA has determined that persons exposed to the PMN substance through drinking water may be at risk for these toxic effects. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant environmental releases. EPA has determined that environmental releases during manufacturing may result in significant environmental exposures to drinking water. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

*Recommended testing:* EPA has determined that a rat dominant lethal assay (40 CFR 798.5450), a 90-day oral subchronic study (40 CFR 798.2650) with functional observational battery and neuropathology (NTIS No. PB91-154617), and a 2-year two-species oral bioassay (40 CFR 798.3300) will help characterize the health effects of the PMN substance.

*CFR citation:* 40 CFR 721.9925.

#### PMN Number P-89-1058

*Chemical name:* Propanoic acid, 2,2-dimethyl-, ethenyl ester.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* August 6, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.

*Toxicity concern:* Similar chemicals have been shown to cause developmental and reproductive toxicity, neurotoxicity, and cancer in test animals. In addition, similar chemicals have demonstrated toxicity to aquatic organisms at concentrations as low as 40 parts per billion (ppb). *Recommended testing:* Each of the following tests will help characterize the human health effects of the PMN substance: An oral 90-day study in rats (Fischer 344) following TSCA Guidelines (40 CFR part 798, subpart C) with additional neurotoxicity endpoints

following NTIS No. PB91-154617 (functional observation battery, motor activity and neurohistopathology) and additional reproductive endpoints (weights of testes, epididymides (total and caudal), pituitary seminal vesicles (with coagulating glands), prostate, ovary, and uterus, all recorded at sacrifice, as well as histopathology of the testes at sacrifice). Particular attention is to be directed toward achieving satisfactory quality from fixation and embedding, and preparations are to follow the recommendations of Russell L.D., Ettl P.A., Sinha Hikim A.P., Clegg E.D., *Histological and Histopathological Evaluation of the Testis*. Cache River Press, Clearwater, FL. (1990). Histologic analyses are to include evaluations of the spermatogenic cycle; i.e. the presence and integrity of the 14 cell stages of spermatogenesis following the guidance provided by Russell et al. (1990). An oral (gavage) developmental toxicity study following TSCA Guidelines (40 CFR 798.4900) in two species (CD® rat and New Zealand white rabbit) and an oncogenicity study following TSCA Guidelines (40 CFR 798.3300). The oncogenicity study will be conducted in Fischer 344 rats via the oral route and in Sprague-Dawley rats via the inhalation route. The following additional aquatic toxicity information, a 96-h bioassay in algae (40 CFR 797.1050), a 48-h LC50 test in daphnia (40 CFR 797.1300), and a 96-h LC50 test in fish (40 CFR 797.1400) is needed to help characterize the environmental effects which may be caused by exposure to the PMN substance. The consent order contains three production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic study which includes the neurotoxicological and reproductive adjuncts. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the developmental toxicity study. In addition, the PMN submitter has agreed not to exceed the final production volume limit without performing the 2-year, two-species bioassay. *CFR citation:* 40 CFR 721.8160.

#### PMN Number P-90-1564

*Chemical name:* Hexanedioic acid, diethenyl ester.  
*CAS number:* Not available.  
*Effective date of section 5(e) consent order:* August 6, 1993.  
*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may

present an unreasonable risk of injury to health and the environment.  
*Toxicity concern:* Similar chemicals have been shown to cause developmental and reproductive toxicity, neurotoxicity and cancer in test animals. In addition, similar chemicals have demonstrated toxicity to aquatic organisms at concentrations as low as 80 ppb.  
*Recommended testing:* Each of the following tests will help characterize the human health effects of the PMN substance: An oral 90-day study in rats (Fischer 344) following TSCA Guidelines (40 CFR part 798, subpart C) with additional neurotoxicity endpoints following NTIS No. PB91-154617 (functional observation battery, motor activity and neurohistopathology) and additional reproductive endpoints (weights of testes, epididymides (total and caudal), pituitary seminal vesicles (with coagulating glands), prostate, ovary, and uterus, all recorded at sacrifice, as well as histopathology of the testes at sacrifice). Particular attention is to be directed toward achieving satisfactory quality from fixation and embedding, and preparations are to follow the recommendations of Russell L.D., Ettl P.A., Sinha Hikim A.P., Clegg E.D., *Histological and Histopathological Evaluation of the Testis*. Cache River Press, Clearwater, FL. (1990). Histologic analyses are to include evaluations of the spermatogenic cycle; i.e. the presence and integrity of the 14 cell stages of spermatogenesis following the guidance provided by Russell et al. (1990). An oral (gavage) developmental toxicity study following TSCA Guidelines (40 CFR 798.4900) in two species (CD® rat and New Zealand white rabbit) and an oncogenicity study following TSCA Guidelines (40 CFR 798.3300). The oncogenicity study will be conducted in Fischer 344 rats via the oral route and in Sprague-Dawley rats via the inhalation route. The following additional aquatic toxicity information, a 96-h bioassay in algae (40 CFR 797.1050), a 48-h LC50 test in daphnia (40 CFR 797.1300), and a 96-h LC50 test in fish (40 CFR 797.1400) is needed to help characterize the environmental effects which may be caused by exposure to the PMN substance. The consent order contains three production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic study which includes the neurotoxicological and reproductive adjuncts. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the

developmental toxicity study. In addition, the PMN submitter has agreed not to exceed a final production volume limit without performing the 2-year, two-species bioassay. *CFR citation:* 40 CFR 721.4215.

#### PMN Number P-90-1687

*Chemical name:* (generic) Substituted acrylamide.  
*CAS number:* Not available.  
*Effective date of section 5(e) consent order:* May 7, 1993.  
*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.  
*Toxicity concern:* Similar chemicals have been shown to cause oncogenicity, mutagenicity, neurotoxicity, and male reproductive toxicity in test animals.  
*Recommended testing:* EPA has determined that a rodent dominant lethal assay (40 CFR 798.5450) would help characterize the mutagenic effects of the PMN substance. The PMN submitter has agreed not to exceed the production volume limit without performing this test. In addition, EPA is interested in receiving a 90-day subchronic toxicity study (40 CFR 798.2250) and a 2-year, two-species rodent bioassay (40 CFR 798.3300), or studies on analogous substances, as well as data on potential exposures or releases of the substance. *CFR citation:* 40 CFR 721.323.

#### PMN Number P-91-503

*Chemical name:* 2-Propenoic acid, 2-[[[(1-methylethoxy)carbonyl]amino]ethyl] ester.  
*CAS number:* Not available.  
*Effective date of section 5(e) consent order:* June 11, 1993.  
*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.  
*Toxicity concern:* Similar chemicals have been shown to cause cancer in test animals.  
*Recommended testing:* EPA has determined that the results of a 2-year rodent bioassay (40 CFR 798.3300) would help characterize the potential carcinogenic effects of the PMN substance. Toxicity data on representative members of the acrylate/methacrylate class of chemical substances being developed by certain acrylate and methacrylate manufacturers may also be useful in evaluating the risk posed by the PMN substance.

*CFR citation:* 40 CFR 721.8335.

**PMN Number P-91-548**

*Chemical name:* 2,5,8,10,13-Pentaoxahexadec-15-enoic acid, 9,14-dioxo-2-[(1-oxo-2-propenyl)oxy]ethyl ester.

*CAS number:* 31206-94-7.

*Effective date of section 5(e) consent order:* June 11, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

*Toxicity concern:* Similar chemicals have been shown to cause cancer in test animals.

*Recommended testing:* EPA has determined that the results of a 2-year rodent bioassay (40 CFR 798.3300) would help characterize the potential carcinogenic effects of the PMN substance. Toxicity data on representative members of the acrylate/methacrylate class of chemical substances being developed by certain acrylate and methacrylate manufacturers may also be useful in evaluating the risk posed by the PMN substance.

*CFR citation:* 40 CFR 721.5705.

**PMN Number P-91-826**

*Chemical name:* Hexanoic acid, 2-ethyl-, ethenyl ester.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* August 6, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.

*Toxicity concern:* Similar chemicals have been shown to cause developmental and reproductive toxicity, neurotoxicity, liver toxicity and cancer in test animals. In addition, similar chemicals have demonstrated toxicity to aquatic organisms at concentrations as low as 7 ppb.

*Recommended testing:* Each of the following tests will help characterize the human health effects of the PMN substance: An oral 90-day study in rats (Fischer 344) following TSCA Guidelines (40 CFR part 798, subpart C) with additional neurotoxicity endpoints following NTIS No. PB91-154617 (functional observation battery, motor activity, and neurohistopathology) and additional reproductive endpoints (weights of testes, epididymides (total and caudal), pituitary seminal vesicles (with coagulating glands), prostate, ovary, and uterus, all recorded at

sacrifice, as well as histopathology of the testes at sacrifice). Particular attention is to be directed toward achieving satisfactory quality from fixation and embedding, and preparations are to follow the recommendations of Russell L.D., Etlin P.A., Sinha Hikim A.P., Clegg E.D., Histological and Histopathological Evaluation of the Testis. Cache River Press, Clearwater, FL. (1990). Histologic analyses are to include evaluations of the spermatogenic cycle; i.e. the presence and integrity of the 14 cell stages of spermatogenesis following the guidance provided by Russell et al. (1990). An oral (gavage) developmental toxicity study following TSCA Guidelines (40 CFR 798.4900) in two species (CD® rat and New Zealand white rabbit) and an oncogenicity study following TSCA Guidelines (40 CFR 798.3300). The oncogenicity study will be conducted in Fischer 344 rats via the oral route and in Sprague-Dawley rats via the inhalation route. The following additional aquatic toxicity information, a 96-h bioassay in algae (40 CFR 797.1050), a 48-h LC50 test in daphnia (40 CFR 797.1300), and a 96-h LC50 test in fish (40 CFR 797.1400) is needed to help characterize the environmental effects which may be caused by exposure to the PMN substance. The consent order contains three production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic study which includes the neurotoxicological and reproductive adjuncts. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the developmental toxicity study. In addition, the PMN submitter has agreed not to exceed a final production volume limit without performing the 2-year, two-species bioassay.

*CFR citation:* 40 CFR 721.4250.

**PMN Numbers P-91-1190 and P-91-1191**

*Chemical name:* (generic) Substituted dichlorobenzothiazoles.

*CAS number:* Not available.

*Basis for action:* The PMN substances will be used as dyes. Based on analogy to similar benzothiazoles, the PMN substances may cause cancer, chronic liver and thyroid effects. EPA has determined that workers exposed by inhalation and anyone exposed through drinking water to the PMN substances may be at risk for these toxic effects. EPA determined that use of the substances as a liquid as described in the PMNs did not present an unreasonable risk because significant

inhalation exposure will not occur. EPA has determined that use other than in a liquid form may result in significant inhalation exposures. In addition, EPA has determined that water releases during processing and use did not present an unreasonable risk because significant drinking water exposures will not occur. EPA has determined that release to water from manufacturing may result in significant drinking water exposures. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(1)(i)(C), (b)(3)(ii), and (c)(2)(ii).

*Recommended testing:* EPA has determined that a 90-day oral subchronic study with special attention to thyroid and liver (40 CFR 798.2650), and an in vivo mouse micronucleus study in bone marrow (40 CFR 798.5395) will help characterize the health effects of the PMN substances.

*CFR citation:* 40 CFR 721.1740.

**PMN Numbers P-92-31, P-92-32, and P-92-33**

*Chemical names:* Acetamide, N-[4-(pentyloxy)phenyl]-, acetamide, N-[2-nitro-4-(pentyloxy)phenyl]-, and acetamide, N-[2-amino-4-(pentyloxy)phenyl]-.

*CAS number:* Not available.

*Basis for action:* The substances will be used as site-limited intermediates. Test data on the substances indicate that the substances cause toxicity to aquatic organisms. Based on this data, EPA expects toxicity to aquatic organisms to occur at concentrations of 90 ppb for P-92-31 and P-92-32 and at a concentration of 30 ppb for P-92-33 in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters at concentrations above 90 ppb (30 ppb for P-92-33). EPA has determined that manufacture, processing, and use of the substances other than as site-limited intermediates could result in releases to surface waters where the concentration of the substances would be greater than 90 ppb (30 ppb for P-92-33). Based on this information, the substances meet the concern criteria at § 721.170(b)(4)(iii).

*Recommended testing:* EPA has determined a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600) and a 21-day chronic daphnid toxicity test (40 CFR 797.1350) would help characterize the environmental effects of the substances.

*CFR citation:* 40 CFR 721.285.

**PMN Number P-92-129**

*Chemical name:* Neononanoic acid, ethenyl ester.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* August 6, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.

*Toxicity concern:* Similar chemicals have been shown to cause developmental and reproductive toxicity, neurotoxicity and cancer in test animals. In addition, similar chemicals have demonstrated toxicity to aquatic organisms at concentrations as low as 5 ppb.

*Recommended testing:* Each of the following tests will help characterize the human health effects of the PMN substance: An oral 90-day study in rats (Fischer 344) following TSCA Guidelines (40 CFR part 798, subpart C) with additional neurotoxicity endpoints following NTIS No. PB91-154617 (functional observation battery, motor activity and neurohistopathology) and additional reproductive endpoints (weights of testes, epididymides (total and caudal), pituitary seminal vesicles (with coagulating glands), prostate, ovary, and uterus, all recorded at sacrifice, as well as histopathology of the testes at sacrifice). Particular attention is to be directed toward achieving satisfactory quality from fixation and embedding, and preparations are to follow the recommendations of Russell L.D., Ettl P.A., Sinha Hikim A.P., Clegg E.D., *Histological and Histopathological Evaluation of the Testis*. Cache River Press, Clearwater, FL. (1990). Histologic analyses are to include evaluations of the spermatogenic cycle; i.e. the presence and integrity of the 14 cell stages of spermatogenesis following the guidance provided by Russell et al. (1990). An oral (gavage) developmental toxicity study following TSCA Guidelines (40 CFR 798.4900) in two species (CD® rat and New Zealand white rabbit) and an oncogenicity study following TSCA Guidelines (40 CFR 798.3300). The oncogenicity study will be conducted in Fischer 344 rats via the oral route and in Sprague-Dawley rats via the inhalation route. The following additional aquatic toxicity information, a 96-h bioassay in algae (40 CFR 797.1050), a 48-h LC50 test in daphnia (40 CFR 797.1300), and a 96-h LC50 test in fish (40 CFR 797.1400) is needed to help characterize the environmental effects which may be caused by

exposure to the PMN substance. The consent order contains three production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic study which includes the neurotoxicological and reproductive adjuncts. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the developmental toxicity study. In addition, the PMN submitter has agreed not to exceed a final production volume limit without performing the 2-year, two-species bioassay.

*CFR citation:* 40 CFR 721.5310.

**PMN Number P-92-396**

*Chemical name:* (generic) Alkylphenoxypoly(oxyethylene) sulfuric acid ester, substituted amine salt.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* May 26, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.

*Toxicity concern:* The PMN substance has demonstrated acute toxicity to aquatic organisms at concentrations as low as 50 ppb.

*Recommended testing:* A fish early life stage test (40 CFR 797.1600) and a daphnid chronic toxicity test (40 CFR 797.1350) are recommended to help characterize the PMN substance's potential to cause chronic toxicity to aquatic organisms.

*CFR citation:* 40 CFR 721.7770.

**PMN Number P-92-471**

*Chemical name:* 1,2-Cyclohexanedicarboxylic acid, 2,2-bis[[(2-[(oxiranylmethoxy) carbonyl]cyclohexyl) carbonyl]oxymethyl]-1,3-propanediyl bis(oxiranylmethyl) ester.

*CAS number:* Not available.

*Effective date of section 5(e) consent order:* June 5, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

*Toxicity concern:* Similar chemicals have been shown to cause carcinogenicity, mutagenicity, and male reproductive effects in test animals.

*Recommended testing:* A 90-day subchronic study (40 CFR 798.2650) would address the potential male reproductive effects. A 2-year, two-

species bioassay (40 CFR 798.3300) would address the potential carcinogenicity. The PMN submitter has agreed not to exceed the production volume limit without performing the 90-day subchronic study.

*CFR citation:* 40 CFR 721.2260.

**PMN Number P-92-1086**

*Chemical name:* Octanoic acid, hydrazide.

*CAS number:* 6304-39-8.

*Effective date of section 5(e) consent order:* April 12, 1993.

*Basis for section 5(e) consent order:* The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.

*Toxicity concern:* Test data on substances similar in structure to the PMN substance indicate that the PMN substance may cause oncogenicity, mutagenicity, liver toxicity, and aquatic toxicity in test animals at concentrations as low as 1 ppb.

*Recommended testing:* EPA has determined that the following tests will help characterize the health and environmental effects of the substance: a 90-day subchronic oral (40 CFR 798.2650), an oncogenicity (40 CFR 798.3300), an aerobic aquatic biodegradation (40 CFR 796.3100), a modified semicontinuous activated sludge test (SCAS) (40 CFR 796.3340), a 96-h bioassay in algae (40 CFR 797.1050), a 48-h LC50 in daphnia (40 CFR 797.1300), and a 96-h LC50 test in fish (40 CFR 797.1400). The PMN submitter has agreed not to exceed the production volume limit without performing the 90-day subchronic oral (40 CFR 798.2650) study.

*CFR citation:* 40 CFR 721.5385.

**PMN Number P-92-1337**

*Chemical name:* (generic) Phenyl(disubstituted polycyclic).

*CAS number:* Not available.

*Basis for action:* The PMN substance will be used as a component of a manufactured consumer article. Based on aquatic toxicity data on the PMN substance, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 10 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 10 ppb. Based on this information, the

PMN substance meets the concern criteria at § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined a chronic fish early life stage toxicity test in the sheepshead minnow (40 CFR 797.1600) and a chronic mysid shrimp toxicity test (40 CFR 797.1350) would help characterize the environmental effects of the substance.

**CFR citation:** 40 CFR 721.5920.

#### PMN Number P-92-1394

**Chemical name:** (generic) Diperoxy ketal.

**CAS number:** Not available.

**Effective date of section 5(e) consent order:** May 14, 1993.

**Basis for section 5(e) consent order:** The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.

**Toxicity concern:** Similar chemicals have been shown to be toxic to aquatic organisms.

**Recommended testing:** The Agency has determined that the results of an algal toxicity study (40 CFR 797.1050), a mysid shrimp test (40 CFR 797.1950), and a fish test (40 CFR 797.1400 or 40 CFR 797.1440) would help characterize the chronic toxicity of the PMN substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.

**CFR citation:** 40 CFR 721.4550.

#### PMN Number P-93-66

**Chemical name:** (generic) Mannich-based adduct.

**CAS number:** Not available.

**Basis for action:** The substance will be used as a site-limited intermediate. Test data on structurally similar chemical substances indicate that the substance may cause toxicity to aquatic organisms. Based on this data, EPA expects toxicity to aquatic organisms to occur at a concentration of 8 ppb of the substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 8 ppb. EPA has determined that manufacture, processing, and use of the substance other than as a site-limited intermediate could result in releases to surface waters where the concentration of the substance would be greater than 8 ppb. Based on this information, the substance meets the concern criteria at § 721.170(b)(4)(iii).

**Recommended testing:** The Agency has determined that the results of the

following acute aquatic toxicity testing using salt water species would help characterize possible environmental effects of the substance: A 96-h bioassay in *Skeltonema* (40 CFR 797.1050), 96-h LC50 test in mysid shrimp (40 CFR 797.1930), and 96-h LC50 test in fish (40 CFR 797.1400).

**CFR citation:** 40 CFR 721.4590.

#### PMN Number P-93-658

**Chemical name:** (generic)

Polysubstituted phenylazopolysubstituted phenyl dye.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used for fabric printing. Based on analogy to similar substances, the PMN substance may cause liver, spleen, and developmental toxicity. EPA has determined that workers dermally exposed to the PMN substance may be at risk for these toxic effects. EPA determined that use of the substance as a liquid as described in the PMN did not present an unreasonable risk because significant dermal absorption will not occur. EPA has determined that use other than in a liquid form may result in significant dermal exposures. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

**Recommended testing:** EPA has determined that a 90-day oral subchronic study (40 CFR 798.2650) will help characterize the health effects of the PMN substance.

**CFR citation:** 40 CFR 721.5915.

#### PMN Numbers P-93-722, P-93-723, and P-93-724

**Chemical name:** (generic)

Phosphonocarboxylate salts.

**CAS number:** Not available.

**Basis for action:** The PMN substances will be used as a scale inhibitor for water based solutions. Based on analogy to polyanionic monomers, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 ppm of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters at concentrations above 1 ppm. EPA has determined that other uses of the substances may result in releases to surface water at concentrations above 1 ppm. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined that an algal acute toxicity study in hard water (calcium added) (40 CFR 797.1050) would help characterize

the environmental effects of the PMN substances.

**CFR citation:** 40 CFR 721.6085.

#### PMN Numbers P-93-725 and P-93-726

**Chemical name:** (generic) Alkyl phosphonate ammonium salts.

**CAS number:** Not available.

**Basis for action:** The PMN substances will be used as a scale inhibitor for water based solutions. Based on analogy to polyanionic monomers EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 400 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters at concentrations above 400 ppb. EPA has determined that other uses of the substances may result in releases to surface water at concentrations above 400 ppb. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined that a fish acute toxicity study (40 CFR 797.1400) and a daphnid acute toxicity study (40 CFR 797.1300) under flow through conditions and at a pH of 7 would help characterize the environmental effects of the PMN substances.

**CFR citation:** 40 CFR 721.6070.

#### PMN Number P-93-832

**Chemical name:** (generic) Aromatic sulfonic acid compound with amine.

**CAS number:** Not available.

**Basis for action:** The PMN substance will be used as a coatings additive. Based on analogy to anionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 30 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters at concentrations above 30 ppb. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 30 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(iii).

**Recommended testing:** EPA has determined a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600) and a 21-day chronic daphnid toxicity test (40 CFR 797.1350) would help characterize the environmental effects of the substance.

**CFR citation:** 40 CFR 721.9620.

**PMN Numbers P-93-853 through P-93-858**

*Chemical name:* (generic) Organotin catalysts.

*Basis for action:* The PMN substances will be used as catalysts. Based on analogy to similar organotin compounds and toxicity data for the substances, the PMN substances may cause irritation and corrosion to all membranes, neurotoxicity, immunosuppression, liver and blood effects, sensitization, and developmental toxicity. EPA has determined that workers exposed by inhalation to the PMN substances may be at risk for these toxic effects. EPA determined that use of the substances as a liquid as described in the PMNs did not present an unreasonable risk because significant inhalation exposure will not occur. EPA has determined that use other than in a liquid form may result in significant inhalation exposures. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(3)(i) and (b)(3)(ii).

*Recommended testing:* EPA has determined that a 90-day oral subchronic study (40 CFR 798.2650) modified to detect neurotoxicity will help characterize the health effects of the PMN substances.

*CFR citation:* 40 CFR 721.9665.

**IV. Objectives and Rationale of the Rule**

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for 12 of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters; the SNUR provisions for these substances designated herein are consistent with the provisions of the section 5(e) orders.

In the other 21 cases for which the proposed uses are not regulated under a section 5(e) order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure that: EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; EPA will have an opportunity to review and

evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements. Issuance of a SNUR for a chemical substance does not signify that the substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for ensuring that a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

**V. Direct Final Procedure**

EPA is issuing these SNURs as direct final rules, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii), this rule will be effective on December 3, 1993, unless EPA receives a written notice by November 3, 1993 that someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR(s) for the specific substance(s) to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance(s) providing a 30-day comment period.

This action establishes SNURs for a number of chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

**VI. Test Data and Other Information**

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order requires or recommends certain testing, Unit III. of this preamble lists those recommended tests.

However, EPA has established production limits in the section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health and environmental risks that may be posed

by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the section 5(e) orders are included in Unit III. of this preamble. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUR notices submitted for significant new uses without any test data may increase the likelihood that EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUR notice submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUR notice submitters should be aware that EPA will be better able to evaluate SNUR notices which provide detailed information on:

1. Human exposure and environmental release that may result from the significant new use of the chemical substances.
2. Potential benefits of the substances.
3. Information on risks posed by the substances compared to risks posed by potential substitutes.

**VII. Procedural Determinations**

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA is required to keep this information confidential to protect the CBI of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.1725(b)(1), a manufacturer or

importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.1725(b)(1).

#### VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. Section 5(e) orders have been issued for 12 substances and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a Notice of Commencement (NOC) and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which a NOC has not been submitted

at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, 22 of the 33 substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that any of the significant new uses described in the following regulatory text are ongoing.

As discussed in the Federal Register of April 24, 1990 (55 FR 17376), EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

#### IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPPTS-50613).

#### X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS-50613). The record includes information considered by EPA in developing this rule.

A public version of the record, without any CBI, is available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office, from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. NCIC is located in Rm. E-G102, 401 M St., SW., Washington, DC 20460.

#### XI. Regulatory Assessment Requirements

##### A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule will not be a "major" rule because it will not have an effect on the economy of \$100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be between \$7,198 to \$8,170, including a \$2,500 user fee payable to EPA to offset EPA costs in processing the notice. In addition, EPA estimates that the cost of recordkeeping requirements for ongoing uses is \$583 per year. EPA believes that, because of the nature of the rule and the substances involved, there will be few SNUR notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has determined that approximately 10 percent of the parties affected by this rule could be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the

SNUR notice submitters were small firms.

#### C. Paperwork Reduction Act.

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time 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 burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070-0012), Washington, DC 20503.

#### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: September 24, 1993.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.285 to subpart E to read as follows:

**§ 721.285 Acetamide, N-[4-(pentyloxy)phenyl]-, acetamide, N-[2-nitro-4-(pentyloxy)phenyl]-, and acetamide, N-[2-amino-4-(pentyloxy)phenyl]-.**

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified as acetamide, N-[4-(pentyloxy)phenyl]- (PMN P-92-31), acetamide, N-[2-nitro-4-(pentyloxy)phenyl]- (PMN P-92-32), and acetamide, N-[2-amino-4-(pentyloxy)phenyl]- (PMN P-92-33) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 90 ppb for PMNs P-92-31 and P-92-32, and N = 30 ppb for P-92-33). When calculating the surface water concentrations according to the instructions in § 721.90(a)(4), the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 25 percent removal efficiency may be attributed to such treatment.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

3. By adding new § 721.323 to subpart E to read as follows:

#### § 721.323 Substituted acrylamide.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as substituted acrylamide (PMN P-90-1687) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(iii), (a)(3), (a)(4), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c). Section 721.63(a)(5)(i), (a)(5)(ii), and (a)(5)(iii) apply to manufacturing operations only; § 721.63(a)(5)(ix), (a)(5)(x), and (a)(5)(xi) apply to processing and use operations only.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5). The following additional statement shall appear on each label and MSDS as

required by this paragraph: This substance may cause nervous system effects.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

4. By adding new § 721.1740 to subpart E to read as follows:

#### § 721.1740 Substituted dichlorobenzothiazoles.

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as substituted dichlorobenzothiazoles (PMN P-91-1190 and P-91-1191) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(w)(1), (w)(2), (x)(1), and (x)(2).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) Importers and processors of this substance are not subject to this section if they only resell a formulation containing the PMN substance.

(2) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(3) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

5. By adding new § 721.2260 to subpart E to read as follows:

#### § 721.2260 1,2-Cyclohexanedicarboxylic acid, 2,2-bis[2-[[[2-[[oxiranyl(methoxy)carbonyl]cyclohexyl]oxy]methyl]-1,3-propanediyl] bis(oxiranylmethyl) ester.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance 1,2-cyclohexanedicarboxylic acid, 2,2-

bis[[[2-(oxiranyl methoxy) carbonyl] cyclohexyl carbonyl] oxy]methyl]-1,3-propanediyl bis(oxiranyl methyl) ester (PMN P-92-471) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(5)(ii), (a)(5)(viii), (a)(5)(ix), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(2)(ii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

6. By adding new § 721.4215 to subpart E to read as follows:

**§ 721.4215 Hexanedioic acid, diethenyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as hexanedioic acid, diethenyl ester (PMN P-90-1564) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent.

(2) The significant new uses are: (i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i). (There must be no permeation of the PMN substance greater than 0.05 µg/min·cm<sup>2</sup> after 8 hours of testing in accordance with the most current version of the American Society for Testing and Materials (ASTM) F739 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases." For conditions of exposure

which are intermittent, gloves may be tested in accordance with the most current version of ASTM F1383 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases Under Conditions of Intermittent Contact," provided the contact time in testing is greater than or equal to the expected duration of dermal contact, and the purge time used in testing is less than or equal to the expected duration of noncontact during the intermittent cycle of dermal exposure in the workplace. If ASTM F1383 is used for testing, manufacturers, importers, and processors must submit to the Agency a description of worker activities involving the PMN substance which includes daily frequencies and durations of potential worker exposures. The results of all glove permeation testing must be reported in accordance with the most current version of ASTM F1194 "Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials." Manufacturers, importers, and processors must submit all test data to the Agency and must receive written Agency approval for each type of glove tested prior to use of such gloves. The following gloves have been tested in accordance with the ASTM F739 method and found by EPA to satisfy the requirements for continuous use: North/B-161-R/Butyl rubber gloves (These gloves are acceptable for the solid form of the substance only.), 0.04 cm thick; and Ansell Edmont/4H/PE/EVOH/PE-Laminate gloves, 0.006 cm thick. (Gloves may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift.), (a)(2)(ii) (With the exception of laboratory activities, full body chemical protective clothing is required for any worker activity in which the substance is reasonably likely to contact the worker in the following state(s): Open liquid pool or solid of greater than 5 kg; liquid spray or splash; mist; aerosol dust; or any worker activity which have potential for contact with the PMN chemical for more than 10 min/h. At a minimum, a chemical protective apron is required for any worker activity with potential for contact with the PMN chemical which is not covered by this paragraph), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(iii) (if cartridge service life testing is not available), (a)(5)(xii) or (a)(5)(xiii) (if data on cartridge service life testing has been reviewed and approved in writing by EPA), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), and (a)(6)(v). As an alternative to the respiratory requirements in this section,

manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(vi) (The following additional statements shall appear on each label required by this paragraph: The health effects of this material have not been fully determined but are currently being tested. EPA is concerned however, that this material may have serious chronic health and environmental effects. When using this material, use eye and skin protection, which includes gloves which have been determined to be impervious to this substance. Use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h time weighted average (TWA) of 1 ppm, when there is a likelihood of exposure in the work area from dust, mist, smoke or vapors.), (h)(2)(ii)(F), (h)(2)(ii)(G), (h)(2)(ii)(I), (h)(2)(iii)(A), (h)(2)(iii)(B), (h)(2)(iii)(C), (h)(2)(iii)(E), (h)(2)(iv)(A), (h)(2)(iv)(B). The following additional statements shall appear on each MSDS required by this paragraph: This substance may cause moderate skin irritation. This substance may cause neurotoxicity. When using this substance, use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h TWA of 1 ppm.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (where N = 80 ppb). When calculating the surface water concentrations according to the instructions in § 721.91(a)(4), the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 75 percent removal efficiency may be attributed to such treatment. In addition, when the substance is released in combination with the substances hexanoic acid, 2-ethyl-, ethenyl ester, neononanoic acid, ethenyl ester, and propanoic acid, 2,2-dimethyl-, ethenyl ester, the quotient

from the formula referenced in this section shall not exceed the average of the quotient applicable to the other substances weighted by the proportion of each substance present in the total daily amount released.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance. Manufacturers, importers, and processors of the substance must document that the PMN substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent if this section does not apply as described in paragraph (a)(1) of this section.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

7. By adding new § 721.4250 to subpart E to read as follows:

**§ 721.4250 Hexanoic acid, 2-ethyl-, ethenyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as hexanoic acid, 2-ethyl-, ethenyl ester (PMN P-91-826) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent.

(2) The significant new uses are: (i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) (There must be no permeation of the substance greater than 0.02 µg/min-cm<sup>2</sup> after 8 hours of testing in accordance with the most current version of the American Society for Testing and Materials (ASTM) F739 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases." For conditions of exposure which are intermittent, gloves may be tested in accordance with the most current version of ASTM F1383 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases Under Conditions of Intermittent Contact," provided the contact time in testing is greater than or equal to the expected duration of dermal

contact, and the purge time used in testing is less than or equal to the expected duration of noncontact during the intermittent cycle of dermal exposure in the workplace. If ASTM F1383 is used for testing, manufacturers, importers, and processors must submit to the Agency a description of worker activities involving the substance which includes daily frequencies and durations of potential worker exposures. The results of all glove permeation testing must be reported in accordance with the most current version of ASTM F1194 "Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials." Manufacturers, importers, and processors must submit all test data to the Agency and must receive written Agency approval for each type of glove tested prior to use of such gloves. The following gloves have been tested in accordance with the ASTM F739 method and found by EPA to satisfy the requirements for continuous use: North/F101/Vitron gloves, 0.03 cm thick; and Ansell/Edmont/4H/PE/EVOH/PE Laminate gloves, 0.006 cm thick. (Gloves may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift.), (a)(2)(ii) (With the exception of laboratory activities, full body chemical protective clothing is required for any worker activity in which the substance is reasonably likely to contact the worker in the following state(s): Open liquid pool or solid of greater than 5 kg; liquid spray or splash; mist; aerosol dust; or any worker activity which have potential for contact with the PMN chemical for more than 10 min/h. At a minimum, a chemical protective apron is required for any worker activity with potential for contact with the PMN chemical which is not covered by this paragraph), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(iii) (if cartridge service life testing is not available), (a)(5)(xii) or (a)(5)(xiii) (if data on cartridge service life testing has been reviewed and approved in writing by EPA), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), and (a)(6)(v).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(vi) (The following additional statements shall appear on each label required by this paragraph: The health effects of this material have not been fully determined but are currently being tested. EPA is concerned however, that this material may have serious chronic health and environmental effects. When using this material, use eye and skin protection, which includes gloves which have been

determined to be impervious to this substance. Use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h time weighted average (TWA) of 1 ppm, when there is a likelihood of exposure in the work area from dust, mist, smoke or vapors.), (h)(2)(ii)(F), (h)(2)(ii)(G), (h)(2)(ii)(I), (h)(2)(iii)(A), (h)(2)(iii)(B), (h)(2)(iii)(C), (h)(2)(iii)(E), (h)(2)(iv)(A), (h)(2)(iv)(B). The following additional statements shall appear on each MSDS required by this paragraph: This substance may cause moderate skin irritation. This substance may cause neurotoxicity. When using this substance, use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h TWA of 1 ppm.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (where N = 7 ppb). When calculating the surface water concentrations according to the instructions in § 721.91(a)(4), the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 75 percent removal efficiency may be attributed to such treatment. In addition, when the substance is released in combination with the substances hexanedioic acid, diethenyl ester, neononanoic acid, ethenyl ester, and propanoic acid, 2,2-dimethyl-, ethenyl ester, the quotient from the formula referenced in this section shall not exceed the average of the quotient applicable to the other substances weighted by the proportion of each substance present in the total daily amount released.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance. Manufacturers, importers, and processors of the substance must document that the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent if this section does not apply as

described in paragraph (a)(1) of this section.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

8. By adding new § 721.4550 to subpart E to read as follows:

**§ 721.4550 Diperoxy ketal.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as diperoxy ketal (PMN-92-1394) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

9. By adding new § 721.4590 to subpart E to read as follows:

**§ 721.4590 Mannich-based adduct.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as a Mannich-based adduct (PMN P-93-66) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 8 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

10. By adding new § 721.5310 to subpart E to read as follows:

**§ 721.5310 Neononanoic acid, ethenyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as neononanoic acid, ethenyl ester (PMN P-92-129) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent.

(2) The significant new uses are: (i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i) (There must be no permeation of the substance greater than 0.02 µg/min-cm<sup>2</sup> after 8 hours of testing in accordance with the most current version of the American Society for Testing and Materials (ASTM) F739 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases." For conditions of exposure which are intermittent, gloves may be tested in accordance with the most current version of ASTM F1383 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases Under Conditions of Intermittent Contact," provided the contact time in testing is greater than or equal to the expected duration of dermal contact, and the purge time used in testing is less than or equal to the expected duration of noncontact during the intermittent cycle of dermal exposure in the workplace. If ASTM F1383 is used for testing, manufacturers, importers, and processors must submit to the Agency a description of worker activities involving the substance which includes daily frequencies and durations of potential worker exposures. The results of all glove permeation testing must be reported in accordance with the most current version of ASTM F1194 "Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials." Manufacturers, importers, and processors must submit all test data to

the Agency and must receive written Agency approval for each type of glove tested prior to use of such gloves. The following gloves have been tested in accordance with the ASTM F739 method and found by EPA to satisfy the requirements for continuous use: North/F101/Vitron gloves, 0.03 cm thick; and Ansell/Edmont/4H/PE/EVOH/PE Laminate gloves, 0.006 cm thick. Gloves may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift.), (a)(2)(ii) (With the exception of laboratory activities, full body chemical protective clothing is required for any worker activity in which the substance is reasonably likely to contact the worker in the following state(s): Open liquid pool or solid of greater than 5 kg; liquid spray or splash; mist; aerosol dust; or any worker activity which have potential for contact with the substance for more than 10 min/h. At a minimum, a chemical protective apron is required for any worker activity with potential for contact with the substance which is not covered by this paragraph), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(iii) (if cartridge service life testing is not available), (a)(5)(xii) or (a)(5)(xiii) (if data on cartridge service life testing has been reviewed and approved in writing by EPA), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), and (a)(6)(v).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(vi) (The following additional statements shall appear on each label required by this paragraph: The health effects of this material have not been fully determined but are currently being tested. EPA is concerned however, that this material may have serious chronic health and environmental effects. When using this material, use eye and skin protection, which includes gloves which have been determined to be impervious to this substance. Use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h time weighted average (TWA) of 1 ppm, when there is a likelihood of exposure in the work area from dust, mist, smoke or vapors.), (h)(2)(ii)(F), (h)(2)(ii)(G), (h)(2)(ii)(I), (h)(2)(iii)(A), (h)(2)(iii)(B), (h)(2)(iii)(C), (h)(2)(iii)(E), (h)(2)(iv)(A), (h)(2)(iv)(B) (The following additional statements shall appear on each MSDS required by this paragraph: This substance may cause moderate skin irritation. This substance may cause neurotoxicity. When using this substance, use respiratory protection, unless workplace

airborne concentrations are maintained at or below an 8-h TWA of ppm.)

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 5 ppb). When calculating the surface water concentrations according to the instructions in § 721.91(a)(4), the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 75 percent removal efficiency may be attributed to such treatment. In addition, when the substance is released in combination with the substances hexanedioic acid, diethenyl ester, hexanoic acid, 2-ethyl-, ethenyl ester, and propanoic acid, 2,2-dimethyl-, ethenyl ester, the quotient from the formula referenced in this section shall not exceed the average of the quotient applicable to the other substances weighted by the proportion of each substance present in the total daily amount released.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance. Manufacturers, importers, and processors of the substance must keep records documenting that the PMN substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent if this section does not apply as described in paragraph (a)(1) of this section.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

11. By adding new § 721.5385 to subpart E to read as follows:

**§ 721.5385 Octanoic acid, hydrazide.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as octanoic acid, hydrazide (PMN P-92-1086) is subject to reporting under this

section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(5)(vii), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1) and (b)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

12. By adding new § 721.5705 to subpart E to read as follows:

**§ 721.5705 2,5,8,10,13-Pentaoxahexadec-15-enoic acid, 9,14-dioxo-2-[(1-oxo-2-propenyl)oxy]ethyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as 2,5,8,10,13-pentaoxahexadec-15-enoic acid, 9,14-dioxo-2-[(1-oxo-2-propenyl)oxy]ethyl ester (P-91-548) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iii), (a)(6)(iv), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c). Based on organic vapor cartridge service life data available on the PMN substance, respirator cartridges shall be changed at least every 8 hours.

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f),

(h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(D), and (h)(2)(iii)(A). The following additional statement shall appear on each label and MSDS as required by this paragraph: Use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, smoke, fumes, vapor, or gas.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

13. By adding new § 721.5915 to subpart E to read as follows:

**§ 721.5915 Polysubstituted phenylazopolysubstitutedphenyl dye.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as a polysubstituted phenylazopolysubstitutedphenyl dye (PMN P-93-658) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(w)(1), (w)(2), (x)(1), and (x)(2). (ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

14. By adding new § 721.5920 to subpart E to read as follows:

**§ 721.5920 Phenyl(disubstitutedpolycyclic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as phenyl(disubstitutedpolycyclic) (PMN P-92-1337) is subject to reporting under this section for the significant new uses

described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Release to water*. Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 10 ppb).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

15. By adding new § 721.5990 to subpart E to read as follows:

**§ 721.5990 Halogenated phosphate ester.**

(a) *Chemical substance and significant new uses subject to reporting*.

(1) The chemical substance identified generically as a halogenated phosphate ester (PMN P-86-1662) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent.

(2) The significant new uses are: (i) *Protection in the workplace*.

Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program*. Requirements as specified in § 721.72(a), (b), (c), (d), (e)

(concentration set at 1.0 percent), (f), (g)(2)(i), (g)(2)(iv), (g)(2)(v), (g)(5). The following additional statements shall appear on each label and MSDS as required by this paragraph: This substance may cause neurotoxicity.

(iii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(q).

(iv) *Disposal*. Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The

provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

16. By adding new § 721.6070 to subpart E to read as follows:

**§ 721.6070 Alkyl phosphonate ammonium salts.**

(a) *Chemical substances and significant new uses subject to reporting*.

(1) The chemical substances identified generically as alkyl phosphonate ammonium salts (PMNs P-93-725 and P-93-726) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Release to water*. Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 400 ppb).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

17. By adding new § 721.6085 to subpart E to read as follows:

**§ 721.6085 Phosphonocarboxylate salts.**

(a) *Chemical substances and significant new uses subject to reporting*.

(1) The chemical substances identified generically as phosphonocarboxylate salts (PMNs P-93-722, P-93-723, and P-93-724) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Release to water*. Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1000 ppb).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

18. By adding new § 721.7770 to subpart E to read as follows:

**§ 721.7770 Alkylphenoxypoly(oxyethylene) sulfuric acid ester, substituted amine salt.**

(a) *Chemical substance and significant new uses subject to reporting*.

(1) The chemical substance identified as alkyl phenoxypoly(oxyethylene) sulfuric acid ester, substituted amine salt (PMN P-92-396) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Hazard communication program*.

Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(k).

(iii) *Release to water*. Requirements as specified in § 721.90(a)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

19. By adding new § 721.8160 to subpart E to read as follows:

**§ 721.8160 Propanoic acid, 2,2-dimethyl-, ethenyl ester.**

(a) *Chemical substance and significant new uses subject to reporting*.

(1) The chemical substance identified as propanoic acid, 2,2-dimethyl-, ethenyl ester (PMN P-89-1058) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent.

(2) The significant new uses are: (i) *Protection in the workplace*.

Requirements as specified in § 721.63(a)(1), (a)(2)(i) (There must be no permeation of the substance greater than 0.02 µg/min·cm<sup>2</sup> after 8 hours of testing in accordance with the most current version of the American Society for Testing and Materials ASTM F739 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases." For conditions of exposure which are

intermittent, gloves may be tested in accordance with the most current version of ASTM F1383 "Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases Under Conditions of Intermittent Contact," provided the contact time in testing is greater than or equal to the expected duration of dermal contact, and the purge time used in testing is less than or equal to the expected duration of noncontact during the intermittent cycle of dermal exposure in the workplace. If ASTM F1383 is used for testing, manufacturers, importers, and processors must submit to the Agency a description of worker activities involving the substance which includes daily frequencies and durations of potential worker exposures. The results of all glove permeation testing must be reported in accordance with the most current version of ASTM F1194 "Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials." Manufacturers, importers, and processors must submit all test data to the Agency and must receive written Agency approval for each type of glove tested prior to use of such gloves. The following gloves have been tested in accordance with the ASTM F739 method and found by EPA to satisfy the requirements for continuous use: Ansell Edmont/15-554/PVA, 0.08 cm thick; and Ansell Edmont/4h/PE/EVOH/PE laminate gloves, 0.006 cm thick. Gloves may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift. The following gloves have been tested in accordance with the ASTM 1383 method and found by EPA to satisfy the requirements for intermittent use: North/B-161-R/Butyl rubber gloves, 0.04 cm thick, time period tested 2 min/h. The gloves listed may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift unless based on its review of data from the ASTM 1383 method, the company's personal protective equipment required under this paragraph, and other appropriate information, the Agency approves, in writing, a time period of greater duration. (a)(2)(ii) (With the exception of laboratory activities, full body chemical protective clothing is required for any worker activity in which the substance is reasonably likely to contact the worker in the following state(s): Open liquid pool or solid of greater than 5 kg; liquid spray or splash; mist; aerosol dust; or any worker activity which has the potential for contact with the substance for more than 10 min/h.

At a minimum, a chemical protective apron is required for any worker activity with potential for contact with the substance which is not covered by this paragraph, (a)(2)(iii), (a)(3), (a)(4), (a)(5)(iii) (if cartridge service life testing is not available), (a)(5)(xii) or (a)(5)(xiii) (if data on cartridge service life testing has been reviewed and approved in writing by EPA), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), and (a)(6)(v). As an alternative to the respiratory requirements in this section, manufacturers, importers, and processors may use the New Chemical Exposure Limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(vi). The following additional statements shall appear on each label required by this paragraph: The health effects of this material have not been fully determined but are currently being tested. EPA is concerned however, that this material may have serious chronic health and environmental effects. When using this material, use eye and skin protection, which includes gloves which have been determined to be impervious to this substance. Use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h time weighted average (TWA) of 1 ppm, when there is a likelihood of exposure in the work area from dust, mist, smoke or vapor, (h)(2)(ii)(F), (h)(2)(ii)(G), (h)(2)(ii)(I), (h)(2)(iii)(A), (h)(2)(iii)(B), (h)(2)(iii)(C), (h)(2)(iii)(E), (h)(2)(iv)(A), (h)(2)(iv)(B). The following additional statements shall appear on each MSDS required by this paragraph: This substance may cause moderate skin irritation. This substance may cause neurotoxicity. When using this substance, use respiratory protection, unless workplace airborne concentrations are maintained at or below an 8-h TWA of 1 ppm.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 40 ppb). When calculating the surface water concentrations according to the instructions in § 721.91, the statement in paragraph (a)(4) that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, then the amount of the

substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 75 percent removal efficiency may be attributed to such treatment. In addition, when the substance is released in combination with the substances hexanedioic acid, diethenyl ester, hexanoic acid, 2-ethyl-, ethenyl ester, and neononanoic acid, ethenyl ester, the quotient from the formula referenced in this section shall not exceed the average of the quotient applicable to the other substances weighted by the proportion of each substance present in the total daily amount released.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance. Manufacturers, importers, and processors of the substance must document that the substance has been incorporated into a polymer matrix with the level of residual monomer below 0.1 percent if this section does not apply as described in paragraph (a)(1) of this section.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

20. By adding new § 721.8335 to subpart E to read as follows:

**§ 721.8335 2-Propenoic acid, 2-[[[(1-methylethoxy)carbonyl]amino]ethyl ester.**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-[[[(1-methylethoxy)carbonyl]amino]ethyl ester (P-91-503) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iii), (a)(6)(iv), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c). Based on organic vapor cartridge service life data available on the PMN substance, respirator cartridges shall be changed at least every 8 hours.

(ii) *Hazard communication program.* Requirements as specified in

§ 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(D), and (h)(2)(iii)(A). The following additional statement shall appear on each label and MSDS as required by this paragraph: Use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, smoke, fumes, vapor, or gas.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

21. By adding new § 721.9620 to subpart E to read as follows:

**§ 721.9620 Aromatic sulfonic acid compound with amine.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as aromatic sulfonic acid compound with amine (PMN P-93-832) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Release to water.* Requirements as

specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 30 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

22. By adding new § 721.9665 to subpart E to read as follows:

**§ 721.9665 Organotin catalysts.**

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified generically as organotin catalysts (PMNs P-93-853, P-93-854, P-93-855, P-93-856, P-93-857, and P-93-858) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(v)(1), (v)(2), (w)(1), (w)(2), (x)(1), and (x)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are

applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

23. By adding new § 721.9925 to subpart E to read as follows:

**§ 721.9925 Aminoethylethylene urea methacrylamide.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as an aminoethylethylene urea methacrylamide (PMN P-89-1038) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are: (i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(f).

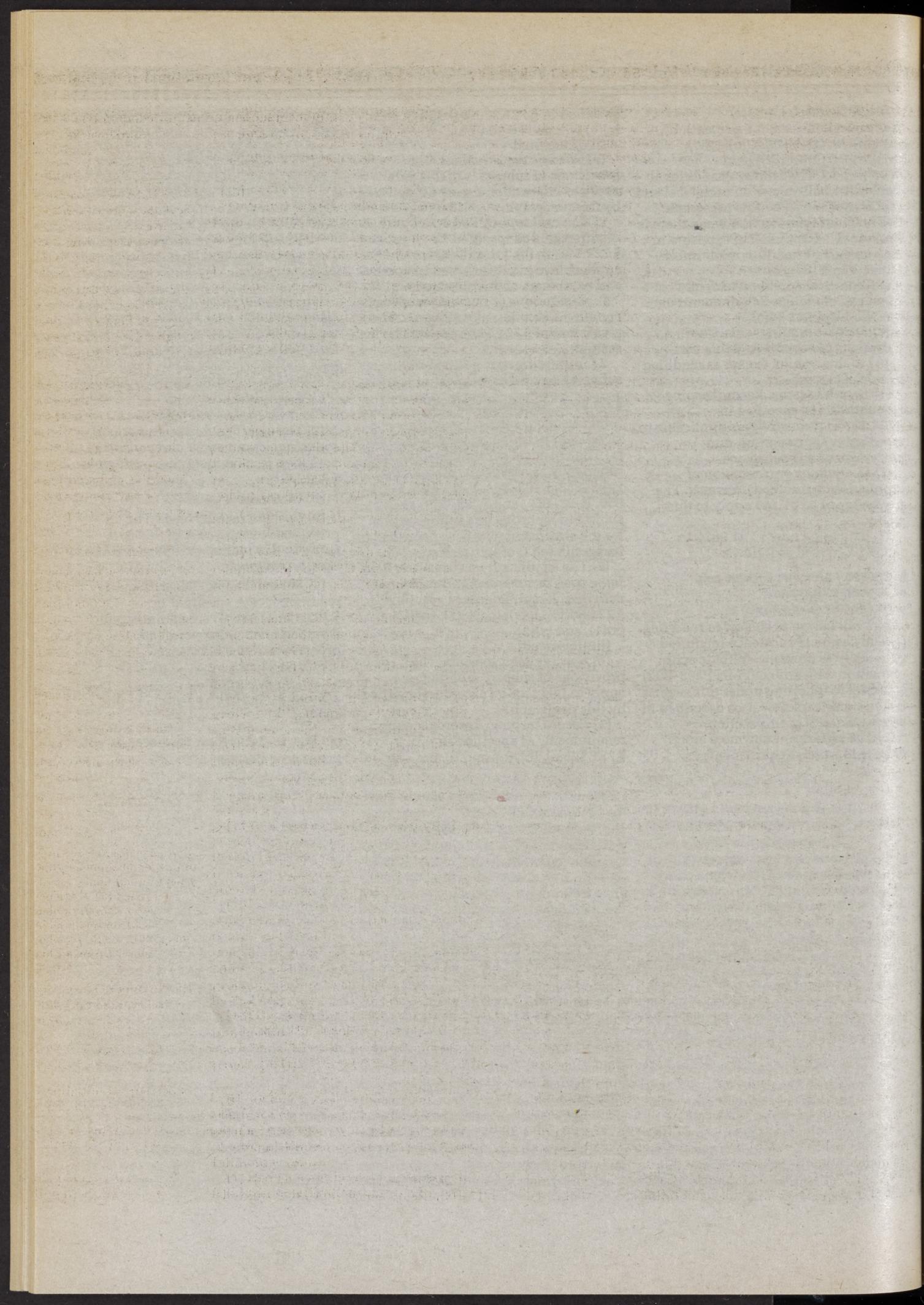
(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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Monday  
October 4, 1993

34  
CFR  
Part  
668

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**Part V**

**Department of  
Education**

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**34 CFR Part 668  
Student Assistance General Provisions;  
Proposed Rule**

## DEPARTMENT OF EDUCATION

## 34 CFR Part 668

RIN 1840-AB90

## Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the Student Assistance General Provisions regulations governing student eligibility under the Higher Education Act of 1965, as amended (HEA). The proposed regulations would implement certain new provisions of the Higher Education Amendments of 1992 that pertain to student eligibility. The purpose of the proposed regulations is to reduce the potential for abuse in the programs authorized under title IV of the HEA (title IV, HEA programs) by improving the accuracy of the information used to assess a student's eligibility for these programs. The proposed regulations also clarify the Secretary's policy with regard to the eligibility of incarcerated students, students studying abroad, and students enrolled in telecommunications or correspondence courses.

**DATES:** Comments must be received on or before November 18, 1993.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Adara L. Walton, Chief, Student Eligibility and Verification Section, General Provisions Branch, Division of Policy Development, U.S. Department of Education, (Regional Office Building 3, room 4318), Washington, DC 20202-5444.

**FOR FURTHER INFORMATION CONTACT:** Claude Denton, Program Specialist, Student Eligibility and Verification Section, General Provisions Branch, Division of Policy Development, U.S. Department of Education, (Regional Office Building 3, room 4318), Washington, DC 20202-5444. Telephone: (202) 708-7888. Individuals who use a telecommunications device (TDD) may call 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:** The Student Assistance General Provisions regulations implement requirements that apply to all institutions that participate in the title IV, HEA student financial assistance programs. For purposes of this subpart, the title IV, HEA student financial assistance programs include the Federal Pell Grant, Federal Stafford Loan, Federal PLUS Loan, Federal Supplemental Loans for

Students (SLS), Federal Direct Student Loan, State Student Incentive Grant (SSIG), Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs.

These proposed regulations would implement portions of the Higher Education Amendments of 1992, Public Law 102-325, enacted July 23, 1992. Regulatory implementation of this statute would result in the revision of the Student Assistance General Provisions (34 CFR part 668) that apply to all students seeking assistance under the title IV, HEA programs. These revisions will improve the efficiency of the title IV, HEA programs and, by so doing, improve their capacity to enhance opportunities for postsecondary education. Encouraging students to graduate from high school and to pursue high quality postsecondary education are important elements of the National Education Goals.

## Negotiated Rulemaking

Part G, section 492 of the HEA contains procedural requirements that the Secretary is to follow in developing proposed regulations for parts B, G, and H of title IV of the HEA, as amended by the Higher Education Amendments of 1992. Section 492(a) requires the Secretary to convene regional meetings to gain input on the content of proposed regulations. Participants at these meetings are to include individuals and representatives of the groups involved in student financial assistance programs, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies. During the meetings, the Secretary is to provide for a comprehensive discussion and exchange of information concerning the implementation of parts B, G, and H, and is to take information received at the meetings into account in the development of proposed regulations.

Subsequent to these meetings, part G, section 492(b) of title IV of the HEA requires the Secretary to draft and submit regulations implementing parts B, G, and H to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings and shall reflect the diversity of sizes of organizations providing financial aid services to both local areas and national markets.

In accordance with these requirements, the Secretary convened four regional meetings to discuss issues related to implementation of parts B, G, and H. Meetings were held in New York, New York; San Francisco, California; Atlanta, Georgia; and Kansas City, Missouri during the month of September, 1992. Participants in the meetings were invited to nominate individuals to serve as participants in the negotiated rulemaking sessions, which were held in January and February, 1993 in Washington, DC. Taking into account views expressed at the regional meetings, the Department prepared draft regulations on the main issues discussed, which served as the basis for the negotiated rulemaking process.

## Regional Meeting Comments

For purposes of these regulations implementing the part G student eligibility provisions, five primary issues were identified at the regional meetings: Selective service registration, incarcerated students, social security numbers, enrollment in correspondence or telecommunications courses, and programs of study abroad.

With regard to selective service registration and the proposed data match with the Selective Service System, regional meeting participants were asked how they would resolve nonconfirmed data matches (data matches that did not confirm that the applicant had registered with Selective Service). The majority of participants suggested that the Secretary allow institutions to resolve nonconfirmed data matches at the institution using Selective Service documentation.

Regional meeting participants were asked to define "incarcerated student" and to advise the Secretary on policy with regard to students who become incarcerated after establishing eligibility and receiving title IV, HEA loan assistance. Three of the regions advised the Secretary that a student should not be considered "incarcerated" for purposes of title IV, HEA loan eligibility if he or she is physically able to attend classes. Atlanta region participants expressed concern about the ability of incarcerated students to repay loan debts and chose to define "incarcerated" more narrowly as "any type of restriction or limitation on one's freedom." Regional participants reached consensus that institutions should cancel disbursements and deny eligibility for loan assistance from the date of incarceration, but incarceration should not affect loan disbursements made prior to incarceration.

With regard to social security numbers, regional participants favored the position that social security numbers should be reported on the student financial aid application, and that no pseudo social security numbers should be accepted. Consensus was reached that if the Secretary's data match with the Social Security Administration does not confirm that a student's submitted social security number is correct, the institution should be given discretion to collect documentation to establish a correct social security number. The participants generally agreed that a social security card is an acceptable form of documentation, and that disbursements of title IV, HEA assistance can be made as long as acceptable documentation is on file at the institution.

Regional participants offered a number of methods by which the Secretary could determine the number of telecommunications courses offered at an institution, including certifications to the Secretary and collection of this information through program participation applications. No consensus was reached between regions concerning the basis for the percentages, with one region recommending that the Secretary use a percentage of credits earned by the most recent graduating class through telecommunications while another region suggested that the Secretary use a percentage of current courses in eligible programs.

The regions were opposed to any requirement for a contractual agreement between the home and foreign institution as a condition of eligibility for a student studying abroad. They were equally opposed to the Secretary prescribing any additional conditions for approval of foreign courses that are not required as part of the student's degree program other than the requirement that the courses should be approved for credit by the home institution. The participants supported complete institutional discretion in approving study-abroad programs for credit and saw no need for additional regulations for monitoring satisfactory progress. Consensus was also reached that for a student to be eligible to receive title IV, HEA assistance for attendance in a study-abroad program, the student must be a regular student in an eligible program.

#### Regulatory Changes

The Secretary submitted for discussion at the negotiated rulemaking sessions the issues described above, and with the exception of the social security issue, consensus was reached on the language of the draft regulations.

A summary of the significant changes proposed by these regulations follows:

#### Section 668.2 General Definitions

One definition is proposed to be added to this section of the regulations. The term "output document" would be defined as "the Student Aid Report (SAR), Electronic Student Aid Report (ESAR), other document or automated data generated by the Department of Education's central processing system or Multiple Data Entry processing system as the result of the processing of data provided in a Free Application for Federal Student Aid (FAFSA)." This addition, and the corresponding deletion of a definition of "output document" in § 668.131, will ensure consistent use of the term throughout part 668.

#### Section 668.7. Eligible Student

##### Selective Service Registration Status

New section 484(o) of the HEA requires the Secretary to conduct data base matches, using common demographic data elements, with the Selective Service System for the purpose of enforcing the Selective Service registration provisions of section 1113 of Public Law 97-252. Section 484(o) also provides that appropriate confirmation of a student's registration, accomplished through an application output document or other means, shall fulfill the requirement that the student file a separate statement of registration compliance. In the absence of confirmation, the institution may use data or documents that support either the student's registration or the absence of a registration requirement for the student to fulfill the requirement to file a separate statement of compliance. The Secretary is required to prescribe in the regulations a mechanism for resolving nonconfirmed matches.

The Secretary, therefore, proposes to add § 668.7(a)(13) to provide for a data match with the Selective Service System and to provide that a confirmation of Selective Service registration on the student's application output document that is submitted to the institution fulfills the Selective Service registration requirement. In the absence of confirmation that the student has registered, the Secretary proposes to require the student to complete current requirements as provided for in § 668.33, including completion of a Statement of Registration Status. If the Statement of Registration Status is waived as provided for in § 668.33(b), the student would be required to provide clear and unambiguous evidence of compliance with, or

exemption from, Selective Service registration requirements. (Exemptions may include, but would not be limited to, students who are female or do not meet age requirements; compliance may be demonstrated by documentation from the Selective Service that the student has registered.) If the student provides a Statement of Registration Status claiming to be registered with Selective Service, and that claim is not confirmed by the data match, the student would be required to present evidence to resolve these conflicting sources of information prior to receiving title IV, HEA assistance, as required by § 668.33(g). The institution must allow a student a minimum of 30 days to collect and submit documentation to the institution in support of his claim to have registered with Selective Service or to be exempt from registration, in accordance with section 2 of the Computer Matching and Privacy Protection Act of 1988.

##### Incarcerated Students

In a separate notice of proposed rulemaking, the Secretary expects to propose to define an "incarcerated student" as a student who " \* \* \* is serving a criminal sentence in a Federal, State, or local penitentiary, prison, jail, reformatory, work farm, or other similar correctional institution. A student is not considered incarcerated if that student is in a 'half-way house' or 'home detention', or is sentenced to serve only weekends."

New section 484(b)(5) of the HEA makes incarcerated students ineligible to receive assistance under the Federal Family Education Loan, Federal Direct Student Loan, and Federal Perkins Loan programs. The Secretary is proposing, therefore, to add § 668.7(a)(14) to the regulations to provide for this restriction on incarcerated students.

The Secretary notes that incarceration after the beginning of an award year or period of enrollment should not be construed as making the otherwise eligible student ineligible for the entire award year or period of enrollment. Consequently, an otherwise eligible student would not be liable for the immediate return of loan funds delivered or disbursed prior to that student's incarceration. Similarly, if an otherwise eligible student is incarcerated during a portion of an award year or period of enrollment, he or she would be eligible to receive only those title IV, HEA funds that are applicable to that portion of the award year that he or she was not incarcerated.

### Social Security Number

Section 484(a)(4) of the HEA has been revised to require a student, as a condition of eligibility for title IV, HEA assistance, to provide a social security number. This section had previously provided for use of a student identification number for students who have no social security number. Because the amended section no longer provides for any alternatives to submission of a social security number, the Secretary will advise institutions to provide appropriate assistance to students affected by this change. Accordingly, the Secretary is adding § 668.7(a)(16) to the regulations to require submission of a social security number as a condition of title IV, HEA eligibility.

Section 484(q) of the HEA has been added to require the Secretary, in cooperation with the Commissioner of the Social Security Administration, to verify any social security number provided by a student as required by section 484(a)(4) of the HEA. A student's eligibility for title IV, HEA assistance cannot be denied, reduced, delayed or terminated because social security number verification is pending. If the Secretary determines that the social security number provided by the student is incorrect, the institution must deny or terminate the student's title IV, HEA eligibility until the student provides a correct social security number. If the student cannot provide a correct social security number, and a title IV, HEA loan has been guaranteed for the student, the institution must notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan. The guaranty must not be voided or otherwise nullified with respect to any disbursements made before the date that the lender and the guaranty agency receive the notice. In addition, section 484(q) prohibits the Secretary from taking any compliance, disallowance, penalty or other regulatory action against an institution or student with respect to an error in a social security number, unless the error was a result of fraud on the part of the institution or student.

The Secretary is proposing to add § 668.7(i) to implement these requirements. A data match with the Social Security Administration is being developed to verify the accuracy of social security numbers provided by students. The Secretary's determination with regard to the accuracy of the social security number, as required by section 484(q) of the HEA, would be based on the results of the data match and would

be provided on the student's output document. The institution's receipt of an output document from the student confirming the accuracy of that student's social security number would fulfill the requirement of § 668.7(a)(16), and the institution would be prohibited from requiring the student to provide any additional evidence to confirm that the social security number was accurate.

If the accuracy of the student's social security number is not confirmed using the data match, the Secretary would notify the student using the output document that the social security number the student provided to the institution was incorrect or that the data match was out of service at the time the student's application for student financial assistance was processed. If the student continues to claim that the social security number he or she provided to the institution is correct, the institution would provide the student an opportunity, within a deadline of at least 30 days from the date the institution receives the output document, to provide clear and convincing evidence of the accuracy of the student's social security number. Social security cards or other documents provided on official Social Security Administration letterhead would be considered "clear and convincing."

The Secretary recognizes that this provision may, in some cases, require a student to produce evidence of an accurate social security number solely because the data match is out of service at the time the student's application is processed. However, the data match system is being designed to minimize the potential for interruptions in data match operations. Moreover, the Secretary will continue to work with the Social Security Administration toward a goal of resolving this issue at the Federal agency level, which would eliminate the need for a student to produce evidence of an accurate social security number because the data match is out of service.

Upon receipt of clear and convincing evidence of a correct social security number from the student, the institution would be required to assist the student in reporting this information to, and obtaining a final determination from, the Secretary with regard to the accuracy of the student's social security number. In addition, upon making a preliminary determination that the social security number is correct based on the clear and convincing evidence provided, the institution would be allowed to make one disbursement of any combination of title IV, HEA program funds, employ the student

under the Federal Work-Study Program, or certify a Federal Stafford, Federal PLUS, Federal SLS, or Federal Direct Student Loan application for that student. The institution would not be held liable for this initial disbursement if the Secretary makes a subsequent determination that the student's social security number is incorrect.

If the Secretary determines that a student's social security number is incorrect, and the student fails to submit clear and convincing evidence that his or her social security number is correct within the deadline established by the institution, the institution may not disburse to the student, or certify the student as eligible for, any title IV, HEA program funds for that period of enrollment or award year, employ the student under the Federal Work-Study Program, or certify a Federal Stafford, Federal PLUS, Federal Direct Student Loan, or Federal SLS loan application for the student for that period of enrollment.

If the Secretary determines that a student's social security number is incorrect and the student does not contest the Secretary's determination, the institution shall deny or terminate the student's eligibility for assistance under the title IV, HEA programs until the student provides a correct social security number. If the student then provides a social security number that differs from the social security number he or she provided to the Secretary, the institution would assist the student in reporting the new social security number to, and obtaining a final determination from, the Secretary with regard to the accuracy of the more recently submitted number. Upon making a preliminary determination that the more recently submitted social security number is correct, the institution would be allowed to make one disbursement of any combination of title IV, HEA program funds, employ the student under the Federal Work-Study Program, or certify a Federal Stafford, Federal PLUS, Federal Direct Student Loan or Federal SLS loan application for that student. Disbursements would be made with liability to the institution if the Secretary subsequently determines that the more recently submitted social security number is incorrect.

If the Secretary determines that the social security number provided to an eligible institution by a student is incorrect, and a loan has been guaranteed for the student, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan until the Secretary determines that the

social security number provided by the student is correct. The guaranty shall not be voided or otherwise nullified with respect to disbursements made before the date that the lender and the guaranty agency receive the notice.

The Secretary shall not take any compliance, disallowance, penalty or other regulatory action against an institution with respect to any error in a social security number unless the error was the result of fraud on the part of the institution, the institution's failure to comply with the requirements of this section, or the institution's decision to make a disbursement for which it is liable in accordance with the requirements of this section. The Secretary shall not take any compliance, disallowance, penalty or other regulatory action against a student with respect to any error in a social security number unless the error was the result of fraud on the part of the student.

With regard to institutional liability, the Secretary initially took the position at the negotiated rulemaking sessions that section 484(q)(2) of the HEA requires the Secretary to verify with the Social Security Administration that the social security number of an applicant for title IV, HEA assistance is correct before title IV, HEA assistance can be disbursed. Several negotiators representing institutions wanted liability-free authority to disburse title IV, HEA assistance to a student whose social security number had been determined by the Secretary to be incorrect if the otherwise eligible student produced clear and convincing evidence to the institution of a correct social security number. The Secretary agreed that an initial disbursement could be made without liability if the student produced clear and convincing evidence that the social security number originally submitted to the Secretary was correct. However, an institution that disburses title IV, HEA assistance to an applicant who does not contest the initial finding of an incorrect social security number on his or her application but who subsequently provides to the institution a social security number that differs from the number provided on the application could be held liable if the subsequently provided social security number is determined to be incorrect.

Two negotiators representing student groups disagreed with the Secretary's proposal to assign liability to an institution in these circumstances. The two negotiators were concerned that institutions would be unwilling to incur this liability and would therefore delay assistance to students in these circumstances until verification of the

more recently provided social security number is completed. The Secretary believes, however, that the more recently submitted social security number cannot be considered correct under section 484(q)(2) of the HEA until it is submitted for verification and confirmed as correct using the data match with the Social Security Administration. Consequently, if an institution disburses title IV, HEA assistance to a student who provides a social security number different from that originally provided on the student's application for title IV, HEA assistance, this disbursement is made with liability to the institution if the more recently provided social security number is also determined to be incorrect. The Secretary solicits comments from interested parties concerning this issue.

#### Enrollment in Correspondence or Telecommunications Courses

New section 484(l) of the HEA makes a student ineligible to receive title IV, HEA assistance for a correspondence course unless the course is part of a program leading to an associate, bachelor's, or graduate degree. Accordingly, the Secretary is proposing to add § 668.7(a)(15) to provide for this requirement in the regulations.

Prior to enactment of the amended HEA, student eligibility was not affected by the student's enrollment in correspondence courses, except that the courses were required to meet certain standards for minimum weekly preparation and minimum time for completion as provided by the Secretary in § 668.8. These standards have not been revised by the new provisions of the HEA.

Section 484(m) of the HEA now provides that a student enrolled in an educational program that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor's, or graduate degree shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of all courses offered at that institution. (Institutions that meet the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act are not subject to this 50 percent rule. These institutions are technical institutes or vocational schools used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market.) Although

section 484(m) of the HEA distinguishes between correspondence and telecommunications courses, the current statutory framework, and consequently these proposed regulations, treat students enrolled in correspondence and telecommunications courses the same for purposes of determining student eligibility. (The one factor determining eligibility is whether the course is part of a program leading to an associate, bachelor's or graduate degree, and this provision is appropriately inserted at § 668.7(a)(14)).

However, the distinction between telecommunications and correspondence courses can be important in determining a student's cost of attendance for purposes of calculating financial need. According to section 472 of the HEA, the cost of attendance of a student enrolled in a correspondence course is limited to tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training. The cost of attendance of a student enrolled in telecommunications courses may be reduced under the discretionary authority of section 479A of the HEA if the telecommunications instruction results in a substantially reduced cost of attendance to the student.

The Secretary proposes to add § 668.7(j) to the regulations to provide a methodology for calculating the percentage of telecommunications and correspondence courses delivered by the institution. A course that otherwise meets the definition of a telecommunications course will be considered a correspondence course if the total number of telecommunications and correspondence courses at the institution exceeds 50 percent of all courses offered. The Secretary proposes to require institutions to calculate this percentage by comparing the total number of correspondence and telecommunications courses delivered the preceding award year with the total number of all courses delivered during that award year. If an institution delivers the same course in person, by telecommunications, or by correspondence, the Secretary would consider each delivery of the course to be a separate course for purposes of this calculation.

#### Program of Study Abroad

Section 484(a)(1) of the HEA continues to provide that, to receive title IV, HEA assistance, a student must be enrolled or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational

credential at an institution of higher education that is an eligible institution. This section has been amended, however, to provide that the program includes a program of study abroad approved for credit by the eligible institution at which the student is enrolled. If the program of study abroad is approved for credit by the home institution at which the student is enrolled, section 484(p) of the HEA now provides that an otherwise eligible student is eligible to receive title IV, HEA assistance without regard to whether the study-abroad program is required as part of the student's degree program.

The Secretary, therefore, proposes to add § 668.7(k) to the regulations to implement these amendments to the statute. The student studying abroad will continue to be required to meet eligible student requirements of this subpart. Also, the requirements of 34 CFR 600.9 providing for a written agreement between an eligible institution and an institution or organization that is not eligible will continue to apply.

#### Section 668.131 Definitions

This section of the regulations is proposed to be amended by deleting the definition of "output document." This deletion, and the corresponding addition of a definition of "output document" in § 668.2, will ensure consistent use of the term throughout 34 CFR part 668.

#### Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. However, the regulations would not have a significant economic impact on the small institutions affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

#### Paperwork Reduction Act of 1980

These proposed regulations have been examined under the Paperwork

Reduction Act of 1980 and have been found to contain no information collection requirements.

#### Invitation to Comment

Interested parties are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4318, ROB-3, 7th and D Streets SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

#### Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

#### List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Student aid.

Dated: September 29, 1993.

Richard W. Riley,  
Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: Federal Supplemental Opportunity Grant Program, 84.007; Federal Stafford Loan Program, 84.032; Federal PLUS Loan Program, 84.032; Federal Work-Study Program, 84.033; Federal Perkins Loan Program, 84.038; Federal Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069)

The Secretary proposes to amend part 668 of title 34 of the Code of Federal Regulations as follows:

#### PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Section 668.2, paragraph (b) is amended by adding in alphabetical

order a new definition for "Output document" to read as follows:

#### § 668.2 General definitions.

\* \* \* \* \*

(b) \* \* \*

*Output document:* The Student Aid Report (SAR), Electronic Student Aid Report (ESAR), other document or automated data generated by the Department of Education's central processing system or Multiple Data Entry processing system as the result of the processing of data provided in a Free Application for Federal Student Aid (FAFSA).

\* \* \* \* \*

3. Section 668.7 is amended by revising paragraph (a)(8); removing the word "and" at the end of paragraph (a)(11)(vii); removing the period at the end of paragraph (a)(12), and adding, in its place, a semicolon; and by adding new paragraphs (a)(13), (a)(14), (a)(15), (a)(16), (i), (j), and (k) to read as follows:

#### § 668.7 Eligible student.

(a) \* \* \*

(8) In accordance with the requirements of § 668.32, has filed a Statement of Educational Purpose;

\* \* \* \* \*

(13) Has filed—(i) An output document confirming registration with Selective Service by providing the results of a data match with the Selective Service System; or  
(ii) In the absence of confirmation as provided in paragraph (a)(13)(i) of this section and within a deadline to be set by the institution of no less than 30 days from the date the institution receives the output document, a Statement of Registration Status in accordance with § 668.33;

(14) For purposes of the FFEL, Federal Direct Student Loan, and Federal Perkins Loan programs, is not an incarcerated student at the time funds are delivered or disbursed;

(15) Is, if enrolled in a telecommunications or correspondence course, enrolled in a telecommunications or correspondence course that is part of an educational program leading to an associate, bachelor's, or graduate degree; and  
(16) Has a correct social security number that has been verified in accordance with the requirements of paragraph (i) of this section;

\* \* \* \* \*

(i) *Social security number.* The Secretary verifies a social security number provided by a student to an eligible institution and shall enforce the following conditions:

(1) Except as provided in paragraphs (i)(3) through (i)(6) of this section, an

institution shall not deny, reduce, delay or terminate a student's eligibility for assistance under the title IV, HEA programs because social security number verification is pending;

(2) If the institution receives an output document from a student indicating that the Secretary has determined that the student's social security number is correct, the institution shall not require the student to produce other evidence to confirm that the student's social security number is correct;

(3) If the institution receives an output document from a student indicating that the Secretary has determined that the social security number provided to the institution by the student is incorrect, or that the Secretary was unable to confirm that the social security number provided to the institution by the student is correct, but the student continues to claim that the social security number he or she provided to the Secretary is correct, the institution—

(i) Shall provide the student an opportunity, within a deadline of at least 30 days from the date the institution receives the output document, to provide clear and convincing evidence to support the student's claim that the social security number provided to the institution is correct;

(ii) Shall assist the student in providing this evidence to and obtaining a final determination from the Secretary with regard to the accuracy of the student's social security number;

(iii) May make one disbursement of any combination of title IV, HEA program funds, employ the student under the Federal Work-Study Program, or certify a Federal Stafford, Federal PLUS, Federal SLS, or Federal Direct Student loan application for the student upon making, based on the evidence provided for in paragraph (i) of this section, a preliminary determination that the social security number provided by the student to the institution is correct; and

(iv) Shall not be liable for an initial disbursement of title IV, HEA assistance to the student under paragraph (i)(3)(iii) of this section, if the Secretary makes a final determination that the student's social security number is incorrect.

(4) If a student fails to submit the documentation by the deadline established in accordance with paragraph (i)(3) of this section, the institution may not disburse to the student, or certify the student as eligible for, any title IV, HEA program funds for that period of enrollment or award year; employ the student under the Federal

Work-Study Program; or certify a Federal Stafford, Federal PLUS, Federal Direct Student Loan, or Federal SLS loan application for the student for that period of enrollment.

(5) If the institution receives an output document from a student indicating that the Secretary has determined that the social security number provided to the institution by the student is incorrect, and the student does not claim that the social security number he or she provided to the Secretary is correct, the institution—

(i) Except as provided in paragraph (i)(5)(iii) of this section, shall deny or terminate the student's eligibility for assistance under the title IV, HEA programs until the student has provided a correct social security number;

(ii) Shall, if the student provides a social security number to the institution that differs from the social security number provided to the Secretary, assist the student in providing this social security number to and obtaining a final determination from the Secretary with regard to the accuracy of the most recently submitted social security number;

(iii) May make one disbursement of any combination of title IV, HEA program funds, employ the student under the Federal Work-Study Program, or certify a Federal Stafford, Federal PLUS, Federal Direct Student Loan or Federal SLS loan application for the student upon making a preliminary determination that the student has provided a correct social security number; and

(iv) Shall be liable for any title IV, HEA disbursement made to the student under paragraph (i)(5)(iii) of this section if the Secretary determines that the student's social security number is incorrect.

(6) If the Secretary determines that the social security number provided to an eligible institution by a student is incorrect, and a loan has been guaranteed for the student under the Federal Family Education Loan Program, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, until the Secretary determines that the social security number provided by the student is correct, but the guaranty shall not be voided or otherwise nullified with respect to disbursements made before the date that the lender and the guaranty agency receive the notice.

(7) Except as provided in paragraph (i)(5) of this section, nothing in this section shall permit the Secretary to take any compliance, disallowance,

penalty or other regulatory action against—

(i) Any institution of higher education with respect to any error in a social security number, unless the error was the result of fraud on the part of the institution; or

(ii) Any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.

(j) *Special provisions regarding telecommunications and correspondence courses.* (1) A student enrolled in an educational program at an eligible institution (other than an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor's, or graduate degree conferred by the institution is not enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of all courses delivered at that institution.

(2) The percentage provided in paragraph (j)(1) of this section is calculated by comparing the total number of correspondence and telecommunications courses delivered during the preceding award year with the total number of all courses delivered during that award year. If an institution delivers the same course in person, by telecommunications, or by correspondence, the Secretary considers each delivery of the course by the institution to be a separate course for purposes of this calculation.

(3) A student is subject to reduced eligibility for title IV, HEA assistance if the financial aid administrator determines under the discretionary authority provided in section 479A of the HEA that the student's telecommunications instruction results in a substantially reduced cost of attendance to the student.

(k) *Program of study abroad.* (1) An otherwise eligible student who is engaged in a program of study abroad is eligible to receive title IV, HEA assistance if—

(i) The student maintains enrollment in an eligible institution during his or her program of study abroad; and

(ii) The eligible institution approves the program of study abroad for academic credit at the eligible institution.

(2) The study abroad program need not be required as part of the student's degree program.

\* \* \* \* \*

**§ 668.131 [Amended]**

4. Section 668.131 is amended by removing the definition of "Output document."

[FR Doc. 93-24300 Filed 10-1-93; 8:45 am]

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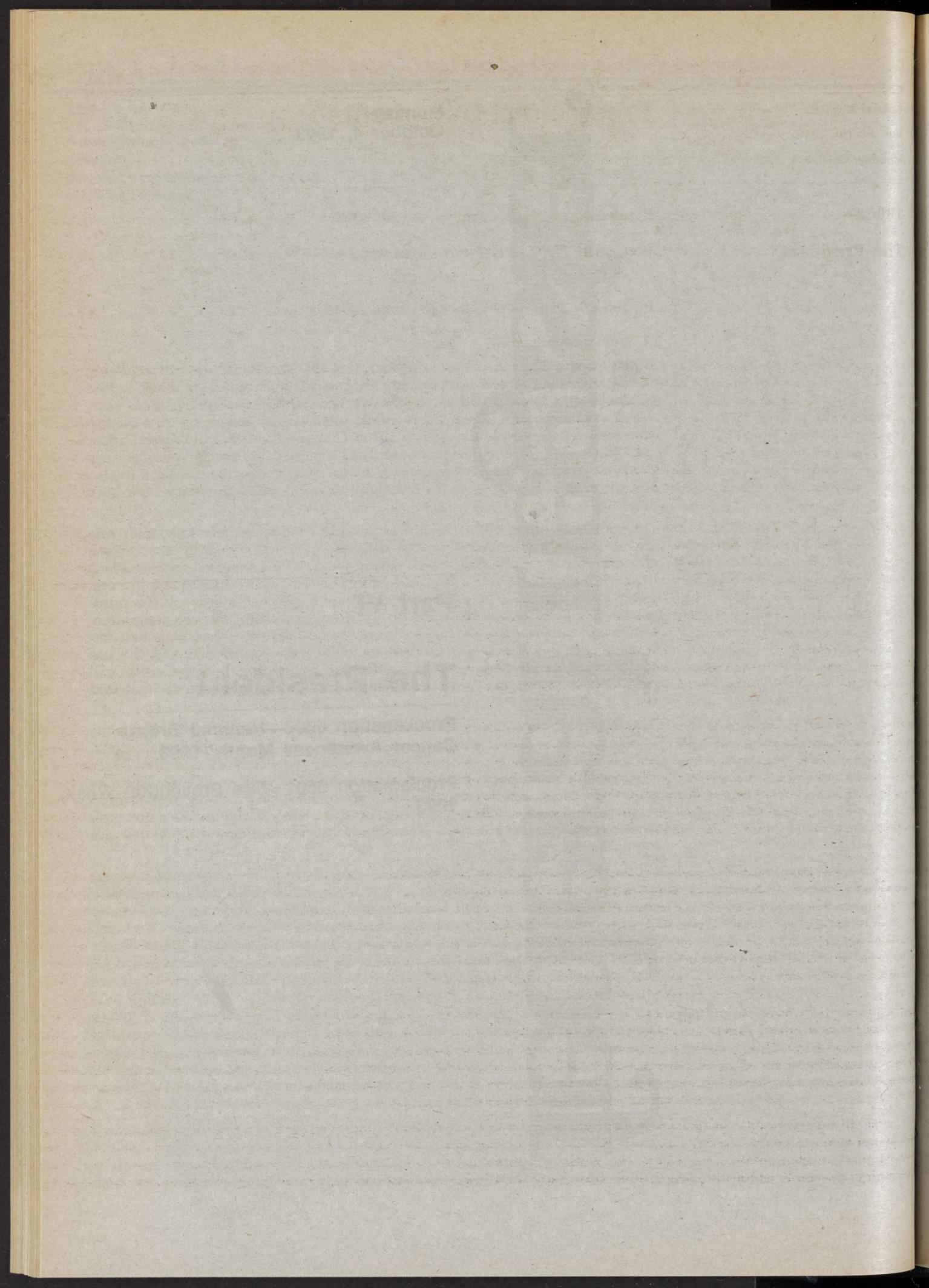
Part VI

The President

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Proclamation 6600—National Breast  
Cancer Awareness Month, 1993

Proclamation 6601—Fire Prevention Week,  
1993



## Presidential Documents

Title 3—

Proclamation 6600 of September 30, 1993

The President

**National Breast Cancer Awareness Month, 1993****By the President of the United States of America****A Proclamation**

Breast cancer will affect an estimated 182,000 women in 1993. It accounts for nearly one-third of all cancers diagnosed in women, making it one of the most serious health problems we face in America today. Each year, we designate one month to focus public attention on where we as a Nation stand with regard to this disease. This October is National Breast Cancer Awareness Month, and it is appropriate that we pause to consider, not only the strategies we have developed to combat breast cancer, but also the progress we have made in our fight, even as we acknowledge the high toll it takes on so many lives.

Breast cancer prevention research is playing an increasingly important role in our strategy to overcome this disease. Although we still have much to learn about what causes breast cancer, we do know that certain conditions or behaviors substantially increase a woman's risk of developing this disease. Some risks can be avoided, and researchers hope that others can be minimized. For this reason, the National Institutes of Health, through its component institutes—especially the National Cancer Institute—has launched important studies to assess the extent to which changes in diet and the use of the drug tamoxifen, which is effective in treating breast cancer, can prevent the development of this disease in women who are at increased risk.

The Woman's Health Trial is an exciting, innovative undertaking that aims to change dietary habits so that less fat is consumed and more fruits, vegetables, and fiber are added to our diet each day. There is some evidence to suggest a link between breast cancer and fat in the diet, at least for older women. What we hope to learn from this study is how best to help women change their eating habits and, thus, protect themselves, not only from breast cancer, but also from other cancers and conditions that are related to diet.

While there is much to be said about this disease, one important message must reach everyone: Women should form a partnership with their health care providers for the early detection of breast cancer, a key component of our nationwide program to reduce the toll of this disease. Research has shown that screening mammography, used together on a regular basis with a clinical breast exam and monthly breast self-examination, can reduce deaths from this disease by one-third or more for women over 50. I am pleased that the Federal Government has been a leader in authorizing payment for screening mammography for women enrolled in Federal health care programs. It is also reassuring that insurance companies have followed suit, recognizing that the benefits of early detection far outweigh its costs. As we look to create a health care system in America that works for all people, we must be certain that we emphasize such preventative techniques as regular screening for breast cancer.

We face a major public education challenge in breast cancer awareness. Every woman must be reassured that she can become a partner with the health care system in ensuring that should she develop breast cancer, it will be found and treated early. Through education programs, women come

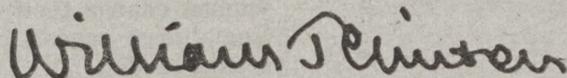
to understand what actions they can take to prevent cancer. To be sure, success depends on providing the public with understandable, credible messages—but that is only half of the story. Unless every woman can be assured access to affordable medical care, including mammography and physicians' services to help in the detection of small tumors, public education campaigns will not be effective.

In spite of the best efforts of the health care community to encourage prevention and early detection, we know that thousands of women, nonetheless, will develop breast cancer, and many of them will die from it. Thus, the search to find effective treatments must continue, as must efforts to find effective therapies that have a minimal impact on the quality of a woman's life. We have come a long way from the time when extensive surgery was a woman's only treatment option for breast cancer. Lumpectomy followed by radiation therapy is a treatment approach that helps many women avoid disfiguring surgery. Many women now receive treatment with chemotherapy to shrink a tumor before surgery is done so that the breast can be spared; others receive chemotherapy after surgery to augment the primary treatment. While we still have much to learn, the rate at which our knowledge has increased is remarkable. We must build on past successes and continue our commitment to basic research. True progress will require that we not waver in this commitment.

The Congress, by Senate Joint Resolution 95, has designated October 1993 as "National Breast Cancer Awareness Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month of October 1993 as National Breast Cancer Awareness Month. I invite the Governors of the 50 States and the Commonwealth of Puerto Rico, the Mayor of the District of Columbia, and the appropriate officials of all other areas under the American flag to issue similar proclamations. I also ask health care professionals, private industry, community groups, insurance companies, and all other interested organizations and individual citizens to unite to publicly reaffirm our Nation's continuing commitment to research and public education on breast cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, 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 eighteenth.



## Presidential Documents

Proclamation 6601 of September 30, 1993

### Fire Prevention Week, 1993

By the President of the United States of America

#### A Proclamation

Fire kills more Americans each year than all natural disasters combined, including floods, hurricanes, earthquakes, and tornadoes. Unlike these natural disasters, many fire losses can be prevented. During this annual observance of Fire Prevention Week, we must make our fellow citizens more conscious of the dangers of fire and of what to do when fires occur.

This year's Fire Prevention Week theme, "Get Out, Stay Out: Your Fire Safe Response," drives home the importance of planning for fire emergencies before they occur. The United States Fire Administration and the National Fire Protection Association are working with the Nation's fire service to spread this important message. Time and time again, firefighters respond to fatal fires where residents didn't take the time to learn and practice alternate means of escape, or they did not realize the need to get out quickly and stay out. We need to teach our children that fires are not at all like they see in movies; fire spreads quickly and can rapidly become deadly. Thick smoke makes it difficult to see and breathe, and the temperature is scorching. The number one priority in every fire is to escape from the building and stay out.

I urge all Americans to learn how to respond quickly in case of a fire emergency, and I urge our Nation's employers to provide a fire emergency response plan for the workplace so that all employees will know what to do if fire occurs. Effective fire escape plans should include two ways out of every room, and assurance that all exits are accessible. Windows painted shut, blocked doors, and security bars can be deadly hazards that can trap fire victims inside and hinder rescuers' attempts from outside. Equally important, we must resist any temptation to reenter a burning building. No valuable is worth as much as a life.

Fire Prevention Week is a time not only to think about our own safety, but also to show our appreciation to the brave men and women who risk their safety in our Nation's fire services. Too often, their dedication results in the ultimate sacrifice. Last year, 80 firefighters died in the line of duty and more than 97,000 were injured. These courageous men and women will be honored on Sunday, October 10, 1993, during the Twelfth Annual National Fallen Firefighters Memorial Service at the National Fire Academy in Emmitsburg, Maryland.

We should also recognize the members of the other public and private organizations that are working toward our shared goal of fire safety, including the American Burn Association, the American Red Cross, the Congressional Fire Service Institute, the Fire Marshals Association of North America, the International Association of Arson Investigators, the International Association of Black Professional Firefighters, the International Association of Fire Chiefs, the International Association of Fire Fighters, the International Society of Fire Service Instructors, the National Association of State Fire Marshals, and the National Volunteer Fire Council. The efforts of these and other organizations working for fire safety will be greatly enhanced if we as individual citizens learn and practice fire-safe behavior. I also commend the efforts of public officials, fire-fighters, educators, business leaders, and

the community and volunteer organizations who are working together to bring about a safer America.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning October 3, 1993, as Fire Prevention Week. I call upon the people of the United States to plan and actively participate in fire prevention activities not only this week, but throughout the year. I also ask all Americans to pay tribute to those firefighters who have made the ultimate sacrifice for our safety.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, 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 eighteenth.

*William J. Clinton*

[FR Doc. 93-24494  
Filed 9-30-93; 5:11 pm]  
Billing code 3195-01-P

# Federal Register

Monday  
October 4, 1993

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## Part VII

# Department of Transportation

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## Coast Guard

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### 33 CFR Parts 2 and 3 Captain of the Port Zone Boundaries; Final Rule

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Parts 2 and 3**

[CGD 93-020]

**Captain of the Port Zone Boundaries**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the descriptions of its Captain of the Port (COTP) zones. Most of the changes are related to extending the boundaries to the seaward limit of the Exclusive Economic Zone (EEZ). Additionally, changes are made to the onshore boundaries of several COTP zones. The purpose of establishing these boundaries is to define the areas of responsibility of the COTPs. The changes update the regulations to reflect current Coast Guard organization.

**EFFECTIVE DATE:** November 3, 1993.

**ADDRESSES:** Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

**FOR FURTHER INFORMATION CONTACT:** CDR Robert Pond, Marine Environmental Protection Division, (202) 267-6860, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Drafting Information**

The principal person involved in drafting this document is Mary-Jo Cooney Spottswood, Project Manager and Project Counsel, Oil Pollution Act (OPA 90) Staff.

**Background and Purpose**

Among the subject areas covered by 33 CFR part 3 are the onshore and nearshore geographical boundaries of the 47 COTP zones established by the Coast Guard. However, the current boundaries do not extend to the seaward limit of the EEZ. Because various treaties, laws, and regulations administered by the Coast Guard apply out to the seaward limit of the EEZ, it is necessary to define the boundaries of the COTP zones to include the waters of the EEZ. The regulations amend 33 CFR part 2 to define the EEZ and 33 CFR part 3 to revise the boundaries of the COTP

zones. These boundaries are established for Coast Guard organizational purposes to define the area of responsibility of each COTP.

The Coast Guard is proceeding directly to a final rule under section 553(b)(3)(A) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), which excludes rulemakings relating to agency organization, procedure, or practice from the requirements of public notice and comment.

**Regulatory Evaluation**

This rule is not major under Executive Order 12291 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. The rule relates only to internal Coast Guard organization and imposes no new costs on the maritime industry.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This rule imposes no costs on the maritime industry. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

The rule is administrative in nature and relates only to internal Coast Guard organization. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

**List of Subjects**

**33 CFR Part 2**

Administrative practice and procedure, Law enforcement.

**33 CFR Part 3**

Organization and functions (Government agencies).

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 2 and 3 as follows:

**PART 2—JURISDICTION**

1. The authority citation for part 2 is revised to read as follows:

**Authority:** 14 U.S.C. 633, 80 Stat. 931 (49 U.S.C. 1655(b)); 49 CFR 1.4(b), 1.46(b).

2. Section 2.05-35 is added to read as follows:

**§2.05-35 Exclusive Economic Zone.**

The Exclusive Economic Zone (EEZ) of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and the United States overseas territories and possessions. The EEZ extends to a distance 200 nautical miles from the baseline from which the maritime boundary with a neighboring State remains to be determined, the boundary of the EEZ will be determined by the United States and the other State concerned in accordance with equitable principles.

**PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES**

3. The authority citation for part 3 continues to read as follows:

**Authority:** 14 U.S.C. 633; 49 CFR 1.45, 1.46.

4. In § 3.01-1, paragraph (f) is amended by adding a new sentence to the end of the paragraph to read as follows:

**§3.01-1 General description.**

\* \* \* \* \*  
(f) \* \* \* Each Captain of the Port Zone and each Marine Inspection Zone described in this part also includes the Exclusive Economic Zone (EEZ)

adjacent to the area for the purpose of enforcing or acting pursuant to a statute effective in the EEZ.

5. In § 3.05-10, paragraph (b) is revised to read as follows:

§ 3.05-10 Boston Marine Inspection Zone and Captain of the Port Zone.

(b) The boundary of the Boston Marine Inspection Zone and Captain of the Port Zone starts at the boundary of the Massachusetts and New Hampshire coasts at 42°52.3' N. latitude, 70°49.0' W. longitude and proceeds seaward on a line bearing 90° T to the outermost extent of the EEZ; thence southeast along the outermost extent of the EEZ to 42°08' N. latitude; thence west to 42°08' N. latitude, 70°15' W. longitude; thence southwest to the Massachusetts coast at Manomet Point at 41°55' N. latitude, 70°33' W. longitude; thence northwest to 42°04' N. latitude, 71°06' W. longitude; thence to the Massachusetts and Rhode Island boundaries at 42°01.5' N. latitude, 71°28.0' W. longitude; thence west along the southern boundary of Massachusetts, except the waters of Congamond Lakes; thence north along the Massachusetts-New York boundary to the intersection of the Massachusetts-New York-Vermont boundaries; thence east along the Massachusetts-Vermont boundary and the Massachusetts-New Hampshire boundary to the point of origin.

6. In § 3.05-15, paragraph (b) is revised to read as follows:

§ 3.05-15 Portland, Maine, Marine Inspection Zone and Captain of the Port Zone.

(b) The boundary of the Portland, Maine, Marine Inspection Zone and Captain of the Port Zone starts at the boundary of the Massachusetts and New Hampshire coasts at 42°52.3' N. latitude, 70°49.0' W. longitude and proceeds seaward on a line bearing 90° T to the outermost extent of the EEZ; thence northerly and westerly along the outermost extent of the EEZ and the Canadian border to the western boundary of Essex County in Vermont; thence south along the westernmost Vermont county boundaries of Essex, Caledonia, Lamoille, Washington, Orange, Windsor, and Bennington to the intersection of the Vermont-New York-Massachusetts boundaries; thence east along the Vermont-Massachusetts and New Hampshire-Massachusetts boundaries to the point of origin.

7. In § 3.05-20, paragraph (b) is revised to read as follows:

§ 3.05-20 Providence Marine Inspection Zone and Captain of the Port Zone.

(b) The boundary of the Providence Marine Inspection Zone and Captain of the Port Zone starts on the Massachusetts coast at Manomet Point at 41°55' N. latitude, 70°33' W. longitude and proceeds northeast to 42°08' N. latitude 70°15' W. longitude; thence east along 42°08' N. latitude to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to a line bearing 132° T from Watch Hill Light, Rhode Island; thence northwest along a line bearing 132° T from Watch Hill Light, Rhode Island, to Watch Hill Light; thence northeast to 41°21' N. latitude, 71°48.5' W. longitude at Westerly, Rhode Island; thence north to 41°25' N. latitude, 71°48' W. longitude; thence north along the Connecticut-Rhode Island boundary, including the waters of Beach Pond, to the Massachusetts boundary; thence east along the Massachusetts-Rhode Island boundary to 42°01.5' N. latitude, 71°28.0' W. longitude; thence east to 42°04' N. latitude, 71°06' W. longitude; thence southeasterly to the point of origin.

8. Section 3.05-25 is revised to read as follows:

§ 3.05-25 New York Marine Inspection Zone.

(a) The New York Marine Inspection Office is located in New York, New York.

(b) The boundary of the New York Marine Inspection Zone encompasses the geographical areas delineated in §§ 3.05-30 and 3.05-35.

9. Section 3.05-30 is revised to read as follows:

§ 3.05-30 New York Captain of the Port Zone.

(a) The New York Captain of the Port Office is located in New York, New York.

(b) The boundary of the New York Captain of the Port Zone starts on the south shore of Long Island at 40°35.4' N. latitude, 73°46.6' W. longitude and proceeds southeasterly along a line bearing 135° T to 38°28' N. latitude, 71°00' W. longitude; thence northwesterly along a line bearing 122° T from the New Jersey coast at 39°57' N. latitude; thence west along 39°57' N. latitude to 74°27' W. longitude; thence northeast to the Pennsylvania boundary; thence northeasterly along the Pennsylvania-New Jersey boundary to the intersection of the New York-New Jersey-Pennsylvania boundaries at Tristate; thence northwesterly along the east bank of the Delaware River to

42°00' N. latitude; thence east to 74°39' W. latitude; thence north to the Canadian border; thence easterly along the Canadian border to the northeast corner of the Orleans County line in Vermont; thence following the eastern and southern boundaries of Orleans, Franklin, Chittenden, Addison, and Rutland Counties to the Vermont-New York boundary; thence southerly along the New York boundary to 41°01.5' N. latitude, 73°40' W. longitude; thence southerly to the southern shore of Manursing Island at 40°58' N. latitude, 73°40' W. longitude; thence southeasterly to 40°52.5' N. latitude, 73°37.2' W. longitude; thence southerly to 40°40' N. latitude, 73°40' W. longitude; thence southwesterly to the point of origin.

10. In § 3.05-35, paragraph (b) is revised to read as follows:

§ 3.05-35 Long Island Sound Captain of the Port Zone.

(b) The boundary of the Long Island Sound Captain of the Port Zone starts at 40°35.4' N. latitude, 73°46.6' W. longitude; thence proceeds along a line northwesterly to 40°40' N. latitude, 73°40' W. longitude; thence to 40°52.5' N. latitude, 73°37.2' W. longitude; thence northeast to the south shore of Manursing Island at 40°58' N. latitude, 73°40' W. longitude; thence northerly to the Connecticut-New York boundary at 41°01' N. latitude, 73°40' W. longitude; thence north along the western boundary of Connecticut to the Massachusetts-Connecticut boundary; thence east along the southern boundary of Massachusetts, including the waters of the Congamond Lakes, to the Rhode Island boundary; thence south along the Connecticut-Rhode Island boundary, excluding the waters of Beach Pond, to 41°24' N. latitude, 71°48' W. longitude; thence southerly to 41°21' N. latitude, 71°48.5' W. longitude at Westerly, Rhode Island; thence southwesterly to Watch Hill Light, Rhode Island. The northern offshore boundary is a line bearing 132° T from Watch Hill Light to the outermost extent of the EEZ. The southern offshore boundary extends along a line bearing 135° T from the south shore of Long Island at 40°35.4' N. latitude, 73°46.6' W. longitude to 38°28' N. latitude, 71°00' W. longitude; thence easterly to the outermost extent of the EEZ; thence northerly along the outermost extent of the EEZ to the intersection of the northern boundary.

11. In § 3.10-10, paragraph (b) is revised to read as follows:

**§ 3.10-10 St. Louis Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The St. Louis Marine Inspection Zone and Captain of the Port Zone are comprised of all of Wyoming except for Sweetwater County; Colorado; North Dakota; South Dakota; Kansas; Nebraska; in Arkansas, Boone, Marion, Baxter, and Fulton Counties; all of Missouri except for Scott, Stoddard, Mississippi, New Madrid, Dunklin, and Pemiscot Counties, and those parts of Cape Girardeau and Bollinger Counties south of a line drawn from the southeast corner of Madison County eastward to the point of intersection of the upper Mississippi River (Mile 55.3) and Union and Alexander Counties (in Illinois); Iowa; that part of Minnesota south of 46°20' N. latitude; that part of Wisconsin south of 46°20' N. latitude and west of 90° W. longitude; that part of Illinois north of Alexander, Pulaski, and Johnson Counties, and west of Johnson, Saline, Hamilton, Wayne, Clay, Jasper, Cumberland, Coles, Douglas, Champaign, and Ford Counties and south of 41° N. latitude; and that part of Illinois west of 90° W. longitude and north of 41° N. latitude.

12. In § 3.25-05, paragraph (b) is revised to read as follows:

**§ 3.25-05 Philadelphia Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The boundary of the Philadelphia Marine Inspection zone and Captain of the Port Zone starts at the New Jersey coast at 39°57' N. latitude, thence proceeds westward to 39°57' N. latitude, 74°27' W. longitude; thence north-northwesterly to the intersection of the New York-New Jersey-Pennsylvania boundaries at Tristate; thence north following the course of and including the waters of the Delaware River until it meets the New York boundary; thence west along the New York-Pennsylvania boundary to 78°55' W. longitude; thence south to 41°00' N. latitude; thence west to 79°00' W. longitude; thence south to the Pennsylvania-Maryland boundary; thence east to the intersection of the Maryland-Delaware boundary; thence south and east along the Maryland-Delaware boundary to the sea, including Fenwick Island Light, but not including that portion of Delaware containing the reaches of the Nanticoke River and the Chesapeake and Delaware Canal. The offshore boundary of the Philadelphia Captain of the Port Zone starts at Fenwick Island Light and proceeds east along 38°28' N. latitude, to 71°00' W. longitude; thence northwesterly along a line bearing 122° T from the New Jersey coast at 39°57' N. latitude.

13. In § 3.25-10, paragraph (b) is revised to read as follows:

**§ 3.25-10 Hampton Roads Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The boundary of the Hampton Roads Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the Virginia-Maryland boundary and the coast and proceeds along the Virginia-Maryland boundary to a point 37°57.2' N. latitude, 76°03' W. longitude on Chesapeake Bay; thence to a point 37°56.5' N. latitude, 76°10.5' W. longitude; thence to a point 37°55' N. latitude, 76°16.8' W. longitude; thence to a point 37°55' N. latitude, 76°28.2' W. longitude; thence to a point 38°19.5' N. latitude, 77°25.2' W. longitude; thence to a point 39°06' N. latitude, 78°30' W. longitude on the Virginia-West Virginia boundary; thence southerly along the Virginia-West Virginia boundary and the Virginia-Kentucky boundary to the Tennessee boundary; thence eastward along the Virginia-Tennessee boundary to the Virginia-North Carolina boundary; thence eastward along the Virginia-North Carolina boundary to Kerr (Buggs Island) Lake; thence along the shore of Kerr Lake in North Carolina back to the Virginia-North Carolina boundary; thence eastward along the Virginia-North Carolina boundary to the west bank of the Chowan River; thence southerly along the west bank of the Chowan River to a point 36°00' N. latitude, 76°41' W. longitude; thence generally southerly and easterly along the western boundaries of Washington, and Hyde Counties to a point 35°37' N. latitude, 76°32' W. longitude; thence easterly to a point 35°37' N. latitude, 76°00.5' W. longitude; thence generally southwesterly to a point 35°01.5' N. latitude, 76°20' W. longitude; thence easterly to the sea at 34°59.8' N. latitude, 76°07.8' W. longitude. The offshore boundary starts from the coast at 37°55' N. latitude and proceeds and 37°55' N. latitude to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to 34°59.8' N. latitude; and thence westerly along 34°59.8' N. latitude to the coast at 76°07.8' W. longitude.

14. In § 3.25-15, paragraph (b) is revised to read as follows:

**§ 3.25-15 Baltimore Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The boundary of the Baltimore Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the Delaware-Maryland boundary and the coast and proceeds along the

Delaware-Maryland boundary west and north to the Pennsylvania boundary, including the Chesapeake and Delaware Canal and the reaches of the Nanticoke River; thence west along the Pennsylvania-Maryland boundary to the West Virginia boundary; thence southerly and easterly along the Maryland-West Virginia boundary to the Virginia boundary; thence southwesterly along the Virginia-West Virginia boundary to a point 39°06' N. latitude, 78°30' W. longitude; thence to a point 38°19.5' N. latitude, 77°25.2' W. longitude; thence to a point 37°55' N. latitude, 76°28.2' W. longitude; thence to a point 37°55' N. latitude, 76°16.8' W. longitude; thence to a point 37°55' N. latitude, 76°10.5' W. longitude; thence to a point 37°57.2' N. latitude, 76°03' W. longitude on Chesapeake Bay; thence along the Maryland-Virginia boundary to the sea. The offshore boundary starts at the intersection of the Delaware-Maryland boundary and the coast and proceeds east to 38°28' N. latitude, 71°00' W. longitude; thence southeasterly on a line bearing 122° T to the outermost extent of the EEZ; thence westerly along 37°55' N. latitude to the coast.

15. In § 3.25-20, paragraph (b) is revised to read as follows:

**§ 3.25-20 Wilmington Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The boundary of the Wilmington Marine Inspection Zone and Captain of the Port Zone starts at the sea at 34°59.8' N. latitude, 76°07.8' W. longitude, and proceeds along a line northwesterly to a point 35°01.5' N. latitude, 76°10' W. longitude; thence westerly to a point 35°01.5' N. latitude, 76°20' W. longitude; thence westerly to a point 35°01.5' N. latitude, 76°10' W. longitude; thence westerly to a point 35°01.5' N. latitude, 76°20' W. longitude; thence westerly to a point 35°37' N. latitude, 76°32' W. longitude; thence northerly and westerly along the western boundaries of Hyde and Washington Counties to a point 36°00' N. latitude, 76°41' W. longitude; thence northerly along the west bank of the Chowan River to the North Carolina-Virginia boundary; thence westerly along the North Carolina-Virginia boundary to Kerr (Buggs Island) Lake; thence along the shore of Kerr Lake in North Carolina to the North Carolina-Virginia boundary; thence westerly along the North Carolina-Virginia boundary to the Tennessee boundary; thence southwesterly along the North Carolina-Tennessee boundary to the Georgia boundary; thence easterly along the North Carolina-Georgia boundary to

the South Carolina boundary; thence easterly along the South Carolina-North Carolina boundary to the sea. The offshore boundary of the Wilmington Captain of the Port Zone starts at the coast at 34°59.8' N. latitude; thence proceeds easterly to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to a line bearing 122° T from the intersection of the South Carolina-North Carolina boundary and the sea to the outermost extent of the EEZ; thence westerly along a line bearing 122° T to the coast.

16. In § 3.35-10, paragraph (b) is revised to read as follows:

**§ 3.35-10 Miami Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Miami Marine Inspection Zone and Captain of the Port Zone starts at the eastern Florida coast at 28°00' N. latitude; thence proceeds west to 28°00' N. latitude, 81°30' W. longitude; thence south to 26°00' N. latitude, 81°30' W. longitude; thence southwesterly to the southern tip of Cape Romano, Florida. The offshore area of the Miami Captain of the Port Zone includes that portion of the western North Atlantic Ocean area bounded on the north by 28°00' N. latitude from the coast to the outermost extent of the EEZ and bounded on the east and south by the outermost extent of the EEZ; and that portion of the eastern Gulf of Mexico and the Florida Bay bounded on the north by a line bearing 227° T from the southern tip of Cape Romano to the outermost extent of the EEZ and bounded on the west and south by the outermost extent of the EEZ.

17. In § 3.35-15, paragraph (b) is revised to read as follows:

**§ 3.35-15 Charleston Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Charleston Marine Inspection Zone and Captain of the Port Zone starts at the sea at the intersection of the North Carolina-South Carolina boundary; thence proceeds westerly along the North Carolina-South Carolina boundary to the intersection of the North Carolina-South Carolina-Georgia boundaries; thence southerly along the South Carolina-Georgia boundary to the intersection with the Federal dam at the southern end of Hartwell Reservoir; thence southerly along the eastern bank of the Savannah River to 32°30' N. latitude; thence easterly to the eastern bank of the Edisto River at 32°41' N. latitude; thence southerly along the eastern bank of the

Edisto River to the southern tip of Bay Point, Edisto Island, South Carolina. The offshore boundary starts at a line bearing 122° T from the intersection of the South Carolina-North Carolina boundary and the sea to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to 30°50' N. latitude; thence east along 30°50' N. latitude to a line bearing 122° T from the southern tip of Bay Point, Edisto Island, South Carolina; thence easterly along a line bearing 122° T to the coast.

18. In § 3.35-20, paragraph (b) is revised to read as follows:

**§ 3.35-20 Jacksonville Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Jacksonville Marine Inspection Zone and Captain of the Port Zone starts at the Georgia coast at 30°50' N. latitude; thence proceeds west to 30°50' N. latitude, 82°15' W. longitude; thence south to the intersection of the Florida-Georgia boundary at 82°15' W. longitude; thence westerly along the Florida-Georgia boundary to 83°00' W. longitude; thence southeasterly to 28°00' N. latitude, 81°30' W. longitude; thence east to the sea at 28°00' N. latitude. The offshore boundary starts at the coast at 30°50' N. latitude; thence proceeds easterly to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to 28°00' N. latitude; thence westerly along 28°00' N. latitude to the coast.

19. In § 3.35-25, paragraph (b) is revised to read as follows:

**§ 3.35-25 San Juan Marine Inspection Zone and Captain of the Port Zone.**

(b) The San Juan Marine Inspection Zone and Captain of the Port Zone are comprised of both the Commonwealth of Puerto Rico and the Territory of the Virgin Islands and the adjacent waters to the outermost extent of the EEZ.

20. In § 3.35-30, paragraph (b) is revised to read as follows:

**§ 3.35-30 Savannah Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Savannah Marine Inspection Zone and Captain of the Port Zone starts at the southern tip of Bay Point, Edisto Island, South Carolina; thence proceeds northerly along the eastern bank of the Edisto River to 32°41' N. latitude; thence westerly to the eastern bank of the Savannah River at 32°30' N. latitude; thence northerly along the eastern bank of the Savannah River to the intersection of the South Carolina-

Georgia boundary with the Federal dam at the southern end of Hartwell Reservoir; thence northerly along the South Carolina-Georgia boundary to the intersection of the North Carolina-South Carolina-Georgia boundaries; thence westerly along the Georgia-North Carolina boundary and continuing westerly along the Georgia-Tennessee boundary to the intersection of the Georgia-Tennessee-Alabama boundaries; thence southerly along the Georgia-Alabama boundary to 32°53' N. latitude; thence southeasterly to the eastern bank of the Flint River at 32°20' N. latitude; thence southerly along the eastern bank of the Flint River and continuing southerly along the southeastern shore of Jim Woodruff Reservoir to 84°45' W. longitude; thence southerly to the intersection of the Florida-Georgia boundary; thence easterly along the Florida-Georgia boundary to 82°15' W. longitude; thence north to 30°50' N. latitude, 82°15' W. longitude; thence east to the sea at 30°50' N. latitude. The offshore boundary starts at a line bearing 122° T from the southern tip of Bay Point, Edisto Island, South Carolina to the intersection with 30°50' N. latitude; thence proceeds westerly along 30°50' N. latitude to the coast.

21. In § 3.35-35, paragraph (b) is revised to read as follows:

**§ 3.35-35 Tampa Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Tampa Marine Inspection Zone and Captain of the Port Zone starts at the Florida coast at 83°50' W. longitude; thence proceeds north to 30°15' N. latitude, 83°50' W. longitude; thence west to 30°15' N. latitude, 84°45' W. longitude; thence north to the Florida-Georgia boundary at 84°45' W. longitude; thence easterly along the Florida-Georgia boundary to 83°00' W. longitude; thence southeasterly to 28°00' N. latitude, 81°30' W. longitude; thence south to 26°00' N. latitude, 81°30' W. longitude; thence southwesterly to the southern tip of Cape Romano, Florida; thence southwesterly along a line bearing 227° T to the outermost extent of the EEZ; thence westerly along the outermost extent of the EEZ to the intersection with a line bearing 199° T from the intersection of the Florida coast at 83°50' W. longitude; thence easterly along a line bearing 199° T to the coast.

22. In § 3.40-10, paragraph (b) is revised to read as follows:

**§ 3.40-10 Mobile Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Mobile Marine Inspection Zone and Captain of the Port Zone starts at the Florida coast at 83°50' W. longitude; thence proceeds north to 30°15' N. latitude, 83°50' W. longitude; thence west to 30°15' N. latitude, 84°45' W. longitude; thence north to the southern shore of the Jim Woodruff Reservoir at 84°45' W. longitude; thence northeasterly along the eastern shore of Jim Woodruff Reservoir and northerly along the eastern bank of the Flint River to 32°20' N. latitude, 84°02' W. longitude; thence northwesterly to the intersection of the Georgia-Alabama boundary at 32°53' N. latitude; thence northerly along the Georgia-Alabama boundary to 34°00' N. latitude; thence west to the Alabama-Mississippi boundary at 34°00' N. latitude; thence northerly along the Alabama-Mississippi boundary to the southern boundary of Tishomingo County, Mississippi; thence westerly and southerly along the southern boundaries of Tishomingo and Prentiss Counties, Mississippi, including that area of the Tennessee-Tombigby Waterway south of the Bay Springs Lock and Dam; thence southerly and westerly along the eastern and southern boundaries of Lee, Chickasaw, and Calhoun Counties, Mississippi; thence southerly along the western boundaries of Webster, Choctaw, Winston, Neshoba, Newton, Jasper, Jones, Forrest and Stone Counties, Mississippi; thence easterly along the northern boundary of Harrison County, Mississippi, to 89°10' W. longitude; thence south to the Mississippi coast; thence southeasterly to 29°10' N. latitude, 88°00' W. longitude; thence south to the outermost extent of the EEZ; thence easterly along the outermost extent of the EEZ to the intersection with a line bearing 199° T from the intersection of the Florida coast at 83°50' W. longitude; thence northeasterly along a line bearing 199° T from the Florida coast at 83°50' W. longitude to the coast.

23. In § 3.40-15, paragraph (b) is revised to read as follows:

**§ 3.40-15 New Orleans Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the New Orleans Marine Inspection Zone and Captain of the Port Zone starts at 28°50' N. latitude, 88°00' W. longitude; thence proceeds north to 29°10' N. latitude, 88°00' W. latitude; thence northwesterly to the Mississippi coast at 89°10' N. latitude; thence north to the northern Harrison County Boundary; thence westerly along the northern Harrison County boundary; thence northerly along the western boundaries of Stone, Forrest, Jones,

Jasper, Newton, Neshoba, Winston, Choctaw, and Webster Counties to the Eighth Coast Guard District line; thence west along the Eighth Coast Guard District line to the Texas-Louisiana boundary; thence south along the Texas-Louisiana boundary to the northern DeSoto Parish boundary; thence easterly along the northern and eastern boundaries of DeSoto, Sabine, Vernon, and Allen Parishes; thence east along the northern boundaries of Acadia, Lafayette, St. Martin, Iberia, Assumption, and Lafourche Parishes to 29°18' N. latitude, 90°00' W. longitude; thence southeast to 28°50' N. latitude, 89°27'06" W. longitude; thence east to 88°00' W. longitude.

24. In § 3.40-17, paragraph (b) is revised to read as follows:

**§ 3.40-17 Morgan City Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Morgan City Marine Inspection Zone and the Captain of the Port Zone starts at 28°50' N. latitude, 88°00' W. longitude; thence proceeds west to 28°50' N. latitude, 89°27'06" W. longitude; thence northwesterly to 29°18' N. latitude, 90°00' W. longitude; thence northwesterly along the northern boundaries of Lafourche, Assumption, Iberia, and St. Martin Parishes; thence northwesterly along the northern boundary of Lafayette and Acadia Parishes to 92°23' W. longitude; thence south along 92°23' W. longitude to the outermost extent of the EEZ; thence easterly along the outermost extent of the EEZ to 88°00' W. longitude; thence north to 28°50' N. latitude, 88°00' W. longitude.

25. In § 3.40-20, paragraph (b) is revised to read as follows:

**§ 3.40-20 Port Arthur Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Port Arthur Marine Inspection Zone and the Captain of the Port Zone starts at the intersection of the sea and 92°23' W. longitude; thence proceeds north along 92°23' W. longitude to the northern boundary of Acadia Parish, thence westerly along the northern boundary of Acadia Parish; thence northwesterly along the northeastern boundaries of Allen, Vernon, Sabine, and De Soto Parishes; thence westerly along the northern boundary of De Soto Parish to the Louisiana-Texas boundary; thence northerly along the Louisiana-Texas boundary to the Texas-Arkansas-Louisiana boundaries; thence westerly along the Texas-Arkansas boundary and the Texas-Oklahoma boundary to 97°00'

W. longitude; thence south along 97°00' W. longitude to the southern boundary of Dallas County, Texas; thence easterly along the southern boundary of Dallas County, Texas, to the east bank of the Trinity River; thence southeasterly along the east bank of the Trinity River; thence southeasterly along the east shore of Lake Livingston; thence southerly along the east bank of the Trinity River to 30°00' N. latitude, 93°55' W. longitude; thence east along 30°00' N. latitude to 94°23' W. longitude; thence south along 94°23' W. longitude to the sea; thence seaward to 29°24' N. latitude, 94°20' W. longitude; thence easterly following a line 10.3 nautical miles from the coast to 29°30' N. latitude, 93°48' W. longitude; thence southeasterly to 27°49' N. latitude, 93°25' W. longitude; thence south along 93°25' W. longitude to the outermost extent of the EEZ; thence east along the outermost extent of the EEZ to 92°23' W. longitude; thence north along 92°23' W. longitude to the point or origin.

26. In § 3.40-30, paragraph (b) is revised to read as follows:

**§ 3.40-30 Galveston Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Galveston Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the sea and 94°23' W. longitude; thence proceeds north along 94°23' W. longitude to 30°00' N. latitude; thence west along 30°00' N. latitude to 94°55' W. longitude; thence south to 29°35' N. latitude, 94°55' W. longitude; thence southwesterly to the east bank of the Colorado River at 29°18' N. latitude, 96°07' W. longitude; thence southerly along the east bank of the Colorado River to the sea; thence along a line bearing 140° T to the outermost extent of the EEZ; thence easterly along the outermost extent of the EEZ to 93°25' W. longitude; thence north to 27°49' N. latitude, 93°25' W. longitude; thence northwesterly to 29°30' N. latitude, 93°48' W. longitude; thence westward following a line 10.3 nautical miles from the coast to 29°24' N. latitude, 94°20' W. longitude; thence northwesterly to the coast at 94°23' W. longitude.

27. In § 3.40-35, paragraph (b) is revised to read as follows:

**§ 3.40-35 Corpus Christi Marine Inspection Zone and Captain of the Port Zone.**

(b) The boundary of the Corpus Christi Marine Inspection Zone and Captain of the Port Zone starts at the junction of the sea and the east bank of the Colorado River; thence proceeds

northerly along the east bank of the Colorado River to 29°18' N. latitude, 96°07' W. longitude; thence northwesterly to the southeast corner of New Mexico at 32°00' N. latitude; thence westerly along the Texas-New Mexico boundary; thence southeasterly along the Mexican border to the sea. The offshore area includes all waters and islands contained therein of the EEZ that are south and west of a line bearing 140° T from the junction of the sea and the east bank of the Colorado River to the outermost extent of the EEZ.

28. In § 3.55-10, paragraph (b) is revised to read as follows:

**§ 3.55-10 Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Zone comprise the land masses and waters of California south of Monterey, Kings, Tulare, and Inyo Counties except San Diego and Imperial Counties. The offshore boundary starts at a line bearing 240° T from the intersection of the Monterey-San Luis Obispo County line (approximately 35°47.5' N. latitude) and the California coast to the outermost extent of the EEZ; thence proceeds southerly along the outermost extent of the EEZ to a line bearing 255° T from the intersection of the Orange-San Diego County lines (approximately 33°22.5' N. latitude) and the California coast; thence easterly along this line to the coast.

29. In § 3.55-15, paragraph (b) is revised to read as follows:

**§ 3.55-15 San Diego Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The San Diego Marine Inspection Zone and Captain of the Port Zone comprise the land masses and waters of Arizona; in Utah, Washington, Kane, San Juan, and Garfield Counties; in Nevada, Clark County; and in California, San Diego and Imperial Counties. It includes all ocean waters and islands contained therein of the EEZ south of a line bearing 255° T from the intersection of the Orange-San Diego County line (approximately 33°22.5' N. latitude) and the California coast to the outermost extent of the EEZ; thence north along the Mexican border and east along the outermost extent of the EEZ.

30. Section 3.55-20 is revised to read as follows:

**§ 3.55-20 San Francisco Bay Marine Inspection Zone and Captain of the Port Zone.**

(a) The San Francisco Bay Marine Inspection Zone and Captain of the Port

Office are located in Alameda, California.

(b) The San Francisco Bay Marine Inspection Zone and Captain of the Port Zone comprise the land masses and waters of Wyoming within the boundaries of Sweetwater County; Utah, except for Washington, Kane, San Juan, and Garfield Counties; Nevada, except for Clark County; and California, north of San Luis Obispo, Kern, and San Bernardino Counties. It also includes all ocean waters and islands contained therein of the EEZ bounded on the north by the northern boundary of the Eleventh Coast Guard District which is described in § 3.55-1; and on the south by a line bearing 240° T from the intersection of the Monterey-San Luis Obispo County lines (approximately 35°47.5' N. latitude) and the California coast to the outermost extent of the EEZ; and on the west by the outermost extent of the EEZ.

31. In § 3.65-10, paragraph (b) is revised to read as follows:

**§ 3.65-10 Puget Sound Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The boundary of the Puget Sound Marine Inspection Zone and Captain of the Port Zone starts at 48°29'35" N. latitude, 124°43'45" W. longitude and proceeds along the Canadian border eastward to the Montana-North Dakota boundary; thence southerly along this boundary to the Wyoming State line; thence westerly and southerly along the Montana-Wyoming boundary to the Idaho State line; thence northwesterly along the Montana-Idaho boundary to 46°55' N. latitude; thence westerly along 46°55' N. latitude to 123°18' W. longitude; thence northerly to a point 47°32' N. latitude, 123°18' W. longitude; thence westerly along 47°32' N. latitude to the outermost extent of the EEZ; thence northeasterly along the outermost extent of the EEZ to the Canadian border; thence easterly along the Canadian border to the point of origin.

32. In § 3.65-15, paragraph (b) is revised to read as follows:

**§ 3.65-15 Portland, Oregon, Marine Inspection Zone and Captain of the Port Zone**

\* \* \* \* \*

(b) The boundary of the Portland, Oregon, Marine Inspection Zone and Captain of the Port Zone starts at the Washington coast at 47°32' N. latitude and proceeds along this latitude easterly to a point 47°32' N. latitude, 123°18' W. longitude; thence southerly to 46°55' N. latitude; thence easterly along this latitude to the eastern Idaho State line;

thence southeasterly along the Idaho State line to the intersection of the Idaho-Wyoming boundary; thence southerly along the Idaho-Wyoming boundary to the intersection of the Idaho-Utah-Wyoming boundaries; thence westerly along the 42°00' N. latitude to the sea. The offshore boundary starts at the coast at 42°00' N. latitude; thence proceeds westerly from the coast to the outermost extent of the EEZ; thence northerly along the outermost extent of the EEZ to 47°32' N. latitude; thence easterly along 47°32' N. latitude to the coast.

33. In § 3.70-10, paragraphs (b) and (c) are revised and paragraph (d) is added to read as follows:

**§ 3.70-10 Honolulu Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The boundaries of the Honolulu Marine Inspection Zone coincide with the boundaries of the Fourteenth Coast Guard District, excluding portions surrounding the territory of Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands covered in § 3.70-15(b).

(c) The Honolulu Captain of the Port Zone comprises:

(1) The State of Hawaii, including all the islands and atolls of the Hawaiian Chain and the adjacent waters of the EEZ.

(2) American Samoa and the adjacent waters of the EEZ.

(3) Johnston Atoll and the adjacent waters of the EEZ.

(4) Palmyra Atoll and Kingman Reef and the adjacent waters of the EEZ.

(5) Wake Island and the adjacent waters of the EEZ.

(6) Jarvis Island and the adjacent waters of the EEZ.

(7) Howland and Baker Islands and the adjacent waters of the EEZ.

(d) In American Samoa, required notifications to the Officer in Charge, Marine Inspection and the Captain of the Port, Honolulu, may be made to: Supervisor, United States Coast Guard, Marine Safety Detachment, P.O. Box 249, Pago Pago, American Samoa 96799-0249.

34. Section 3.70-15 is revised to read as follows:

**§ 3.70-15 Guam Marine Inspection Zone and Captain of the Port Zone.**

(a) The Guam Marine Inspection Office and Captain of the Port Office are located in Piti, Guam.

(b) The Guam Marine Inspection Zone and Captain of the Port Zone comprise:

(1) The Territory of Guam and the adjacent waters of the EEZ.

(2) The Commonwealth of the Northern Mariana Islands and the adjacent waters of the EEZ.

(3) The Trust Territory of the Pacific Islands and the adjacent waters of the territorial sea and the Palau Marine Fishery Conservation Zone.

(c) In Commonwealth of the Northern Mariana Islands, required notifications to the Officer in Charge, Marine Inspection and the Captain of the Port, Guam, may be made to: Supervisor, United States Coast Guard, Marine Safety Detachment, Emergency Operations Center, Capitol Hill, Saipan, Commonwealth of the Northern Mariana Islands 96950-5000.

35. In § 3.85-10, paragraph (b) is revised to read as follows:

**§ 3.85-10 Southeast Alaska Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The Southeast Alaska Marine Inspection Zone and Captain of the Port Zone comprise the area within the boundary which starts at 60°01.3' N. latitude, 142°00' W. longitude; thence proceeds northeasterly to the Canadian border at 60°18.7' N. latitude, 141°00'

W. longitude; thence southerly and easterly along the United States-Canadian shoreside boundary to 54°40' N. latitude; thence westerly along the United States-Canadian maritime boundary to the outermost extent of the EEZ; thence northerly along the outer boundary of the EEZ to 142°00' W longitude; thence due north to the point of origin.

36. In § 3.85-15, paragraph (b) is revised to read as follows:

**§ 3.85-15 Western Alaska Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The Western Alaska Marine Inspection Zone and Captain of the Port Zone comprise that portion of the State of Alaska and the adjacent waters to the outermost extent of the EEZ, except for those sections of Alaska covered in §§ 3.85-10(b) and 3.85-20(b).

37. In § 3.85-20, paragraph (b) is revised to read as follows:

**§ 3.85-20 Prince William Sound Marine Inspection Zone and Captain of the Port Zone.**

\* \* \* \* \*

(b) The Prince William Sound Marine Inspection Zone and Captain of the Port Zone comprise the area within the boundary which starts at Cape Puget at 148°26' W. longitude, 59°56.06' N. latitude, and proceeds northerly to 61°30' N. latitude; thence easterly to the United States-Canadian boundary; thence southerly along the United States-Canadian boundary to 60°18.7' N. latitude; thence southwesterly to the sea at 60°01.3' N. latitude, 142°00' W. longitude; thence southerly along 142°00' W. longitude to the outermost boundary of the EEZ; thence along the outermost boundary of the EEZ to 148°26' N. longitude; thence northerly along 148°26' W. longitude to the place of origin at Cape Puget at 59°56.06' N. latitude.

Dated: September 27, 1993.

**R.C. North,**

*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 93-24206 Filed 10-1-93; 8:45 am]

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Monday  
October 4, 1993

# Federal Register

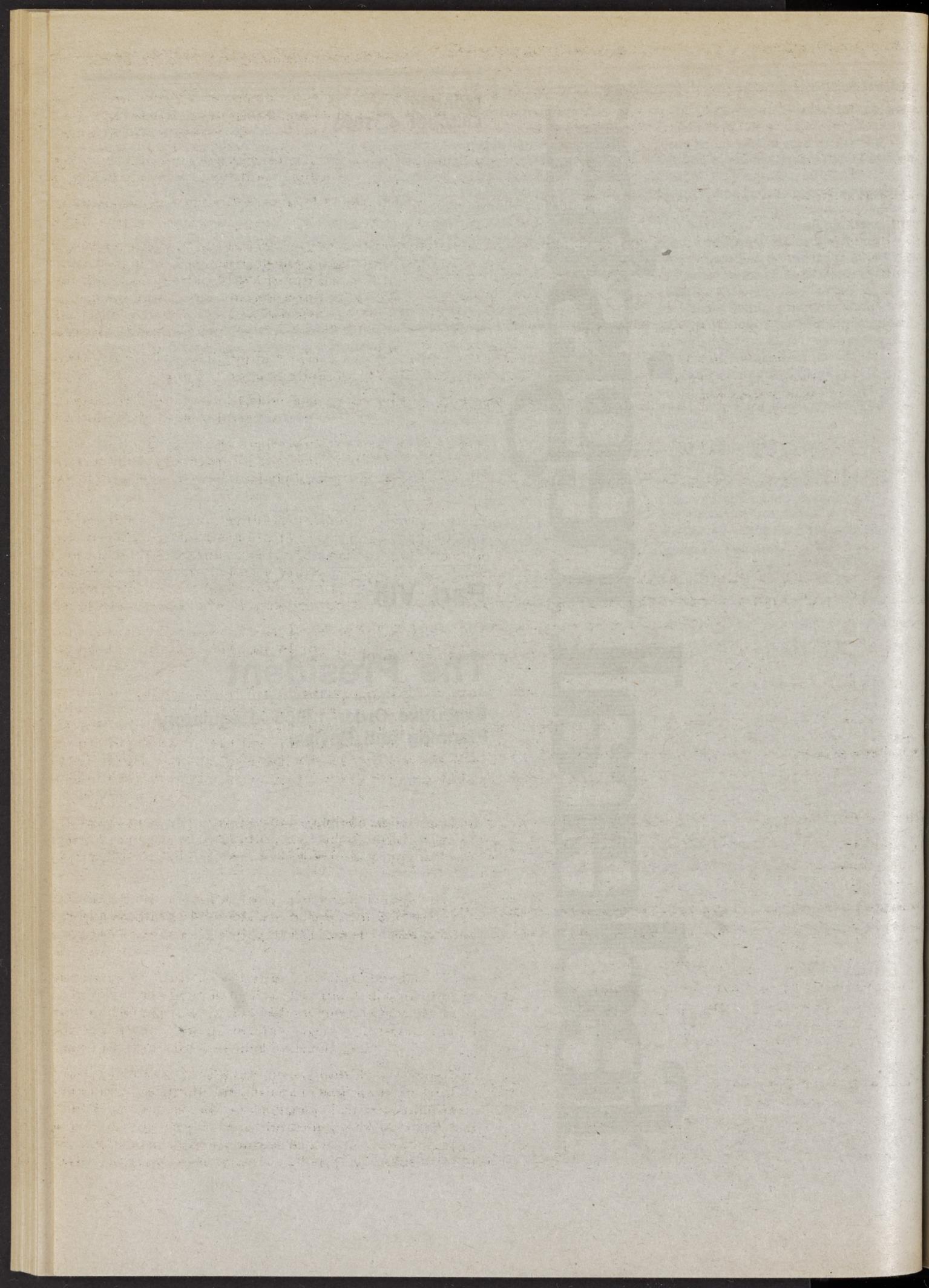
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Part VIII

## The President

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Executive Order 12866—Regulatory  
Planning and Review



# Presidential Documents

Title 3—

Executive Order 12866 of September 30, 1993

The President

## Regulatory Planning and Review

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Statement of Regulatory Philosophy and Principles.** (a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) *The Principles of Regulation.* To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

(1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation

is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.

(11) Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

**Sec. 2. Organization.** An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people.

(a) *The Agencies.* Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and assuring that the regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) *The Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President, the Vice President, and other regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations, as provided by this Executive order.

(c) *The Vice President.* The Vice President is the principal advisor to the President on, and shall coordinate the development and presentation of recommendations concerning, regulatory policy, planning, and review, as set forth in this Executive order. In fulfilling their responsibilities under this Executive order, the President and the Vice President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President and the Vice President may, from time to time, consult.

**Sec. 3. Definitions.** For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President and Vice President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President for Science and Technology; (7) the Assistant to the President for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Deputy Assistant to the President and Director of the White House Office on Environmental Policy; and (12) the Administrator of OIRA, who also shall coordinate communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) "Agency," unless otherwise indicated, means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) "Director" means the Director of OMB.

(d) "Regulation" or "rule" means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations or rules that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations or rules that are limited to agency organization, management, or personnel matters; or

(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) "Regulatory action" means any substantive action by an agency (normally published in the *Federal Register*) that promulgates or is expected

to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

**Sec. 4. Planning Mechanism.** In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law: (a) *Agencies' Policy Meeting.* Early in each year's planning cycle, the Vice President shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) *Unified Regulatory Agenda.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. The Plan shall be approved personally by the agency head and shall contain at a minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies, the Advisors, and the Vice President.

(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency, the Advisors, and the Vice President.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies, the Advisors, and the Vice President.

(6) The Vice President, with the Advisors' assistance, may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) *Regulatory Working Group.* Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility, the Advisors, and the Vice President. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Vice President on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other agency.

(e) *Conferences.* The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

**Sec. 5. Existing Regulations.** In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regula-

tions promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Vice President, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency or groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

**Sec. 6. Centralized Review of Regulations.** The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) *Agency Responsibilities.* (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory

actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the **Federal Register** or otherwise issued to the public, the agency shall:

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) *OIRA Responsibilities.* The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines: (i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10 working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did

not attend, and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when and by whom) Vice Presidential and Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the **Federal Register** or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

**Sec. 7. Resolution of Conflicts.** To the extent permitted by law, disagreements or conflicts between or among agency heads or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, or by the Vice President acting at the request of the President, with the relevant agency head (and, as appropriate, other interested government officials). Vice Presidential and Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

Resolution of such conflicts shall be informed by recommendations developed by the Vice President, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

During the Vice Presidential and Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Vice President shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

At the end of this review process, the President, or the Vice President acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President's decision with respect to the matter.

**Sec. 8. Publication.** Except to the extent required by law, an agency shall not publish in the **Federal Register** or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without

any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Vice President, as provided under section 7 of this order. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

**Sec. 9. Agency Authority.** Nothing in this order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law.

**Sec. 10. Judicial Review.** Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

**Sec. 11. Revocations.** Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

*William Clinton*

THE WHITE HOUSE,  
September 30, 1993.

[FR Doc. 93-24523

Filed 10-1-93; 12:12 pm]

Billing code 3195-01-M

**Editorial note:** For the President's remarks on signing this Executive order, see issue 39 of the *Weekly Compilation of Presidential Documents*.

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Monday  
October 4, 1993

# Executive Order

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## Part IX

### The President

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**Executive Order 12867—Termination of  
Emergency Authority for Certain Export  
Controls**

**Executive Order 12868—Measures To  
Restrict the Participation by United  
States Persons in Weapons Proliferation  
Activities**

**Executive Order 12869—Continuance of  
Certain Federal Advisory Committees**

**Executive Order 12870—Trade Promotion  
Coordinating Committee**



## Presidential Documents

Title 3—

Executive Order 12867 of September 30, 1993

The President

## Termination of Emergency Authority for Certain Export Controls

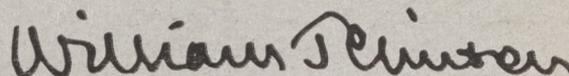
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) ("the IEEPA"), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) ("the Act"), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

**Section 1.** In view of the extension of the Act by Public Law 103-10 (March 27, 1993), Executive Order No. 12730 of September 30, 1990, which continued the effect of export control regulations under the IEEPA, is revoked, and the declaration of economic emergency is rescinded, as provided in this order.

**Sec. 2.** The revocation of Executive Order No. 12730 shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that Order that occurred during the period the order was in effect. All rules and regulations issued or continued in effect under the authority of the IEEPA and Executive Order No. 12735, including those codified at 15 CFR Sections 768-799 (1993), and all orders, regulations, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant thereto, shall remain in full force and effect, as if issued, taken, or continued in effect pursuant to and as authorized by the Act or by other appropriate authority until amended or revoked by the proper authority. Nothing in this order shall affect the continued applicability of the provision for the administration of the Act and delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12735 of November 16, 1990.

**Sec. 3.** All rules, regulations, orders, licenses, and other forms of administrative action issued, taken, or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12730 relating to the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) shall remain in full force and effect until amended or revoked under proper authority.

**Sec. 4.** This order shall take effect immediately.



THE WHITE HOUSE,  
September 30, 1993.

Historical Documents

Faint, illegible text, likely bleed-through from the reverse side of the page.

William D. ...

THE WHITE HOUSE  
WASHINGTON, D. C.

## Presidential Documents

Executive Order 12868 of September 30, 1993

### Measures To Restrict the Participation by United States Persons in Weapons Proliferation Activities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), and section 301 of title 3 of the United States Code,

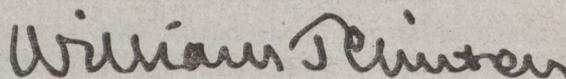
I, WILLIAM J. CLINTON, President of the United States of America, find that the proliferation of nuclear, biological and chemical weapons, and of the means of delivering such weapons, constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

Accordingly, in light of the revocation of Executive Order No. 12730 of September 30, 1990, and in order to limit the participation by United States persons in weapons proliferation activities, it is hereby ordered as follows:

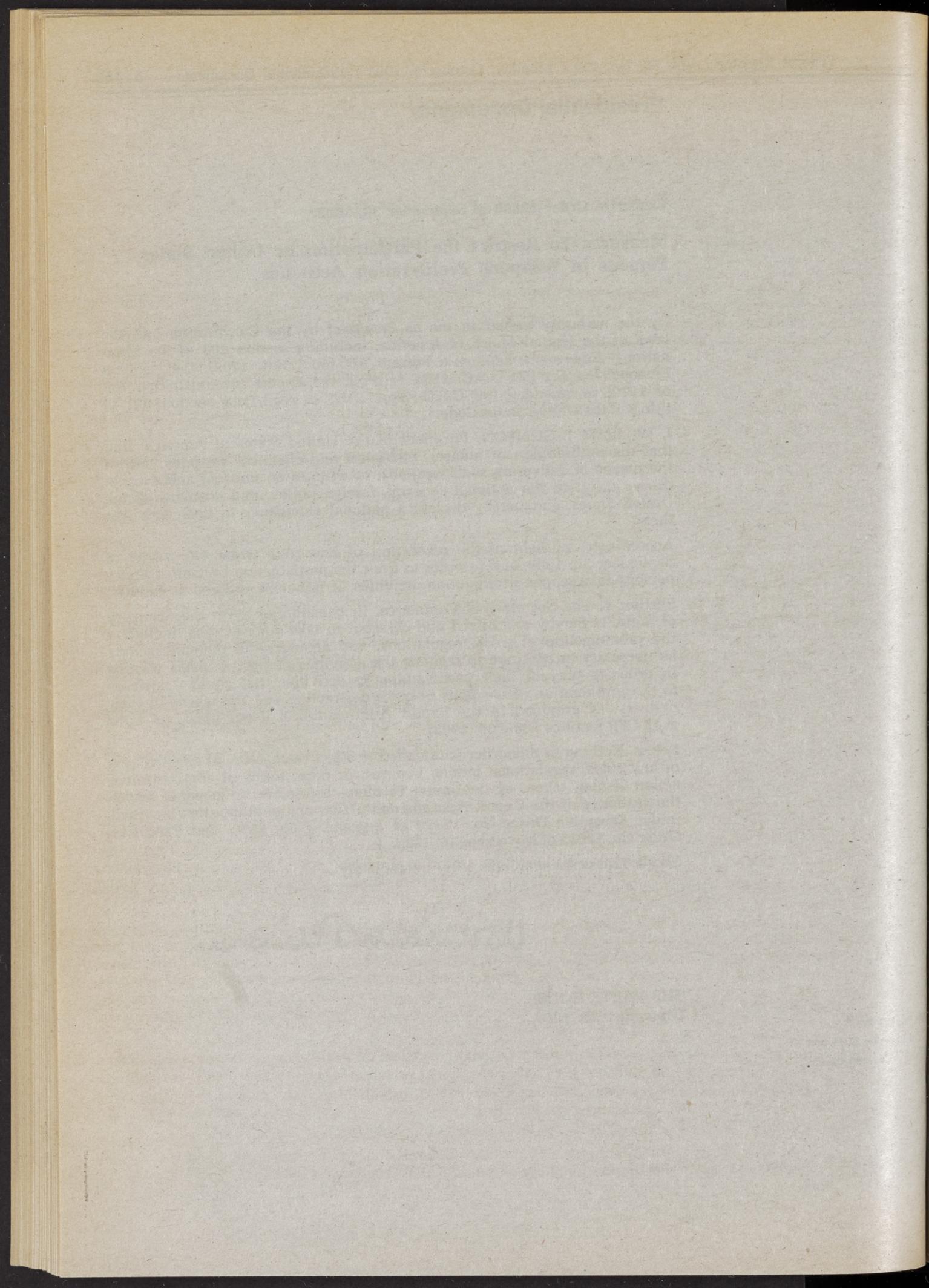
**Section 1.** The Secretary of Commerce, in consultation with the Secretary of State, is hereby authorized and directed to take such actions, including the promulgation of rules, regulations, and amendments thereto, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities that could contribute to the proliferation of weapons of mass destruction and the means of their delivery, as provided in the Export Administration Regulations, set forth at 15 CFR sections 768-799 (1993).

**Sec. 2.** Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under the authority of the Export Administration Act, or the authorities provided under Executive Order No. 12730 of September 30, 1990, and Executive Order No. 12735 of November 16, 1990.

**Sec. 3.** This order shall take effect immediately.



THE WHITE HOUSE,  
September 30, 1993.



## Presidential Documents

### Executive Order 12869 of September 30, 1993

#### Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

**Section 1.** Each advisory committee listed below is continued until September 30, 1995:

(a) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior);

(b) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196, as amended (Department of Labor);

(c) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management);

(d) President's Committee on the Arts and Humanities; Executive Order No. 12367, as amended (National Endowment for the Arts);

(e) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor);

(f) President's Committee on Mental Retardation; Executive Order No. 11776, as amended (Department of Health and Human Services);

(g) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation);

(h) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services);

(i) President's Export Council; Executive Order No. 12131, as amended (Department of Commerce); and

(j) President's National Security Telecommunications Advisory Committee; Executive Order No. 12382, as amended (Department of Defense).

**Sec. 2.** The President's Council of Advisors on Science and Technology; Executive Order No. 12700, as amended (Office of Science and Technology Policy), the authority for which expired on June 30, 1993, is hereby reestablished in accordance with the provisions of Executive Order No. 12700, as amended, and shall continue until September 30, 1995.

**Sec. 3.** Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in sections 1 and 2 of this order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

**Sec. 4.** The following Executive orders or sections thereof, which established committees that have terminated or whose work is completed, are revoked:

(a) Executive Order No. 12792, establishing the National Commission on America's Urban Families;

(b) Executive Order No. 12813, as amended by Executive Order No. 12815, establishing the President's Commission on the Management of the Agency for International Development (AID) Programs;

(c) Executive Order No. 12720, as amended by Executive Order No. 12783, establishing the President's Council on Rural America;

(d) Executive Order No. 12696, as amended by Executive Order No. 12756, establishing the President's Drug Advisory Council;

(e) Executive Order No. 12687, as amended by Executive Orders Nos. 12741 and 12785, establishing the President's Education Policy Advisory Committee; and

(f) Section 5 of Executive Order No. 12675, establishing the Vice President's Space Policy Advisory Board.

**Sec. 5.** Executive Order No. 12774 is superseded.

**Sec. 6.** This order shall be effective September 30, 1993.

*William Clinton*

THE WHITE HOUSE,  
September 30, 1993.

[FR Doc. 93-24533  
Filed 10-1-93; 1:14 pm]  
Billing code 3195-01-P

## Presidential Documents

Executive Order 12870 of September 30, 1993

### Trade Promotion Coordinating Committee

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Export Enhancement Act of 1992 (Public Law 102-429, 106 Stat. 2186), and section 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1. Establishment.** There is established the "Trade Promotion Coordinating Committee" ("TPCC"). The Committee shall comprise representatives of each of the following:

- (a) Department of Commerce;
- (b) Department of State;
- (c) Department of the Treasury;
- (d) Department of Agriculture;
- (e) Department of Energy;
- (f) Department of Transportation;
- (g) Department of Defense;
- (h) Department of Labor;
- (i) Department of the Interior;
- (j) Agency for International Development;
- (k) Trade and Development Agency;
- (l) Environmental Protection Agency;
- (m) United States Information Agency;
- (n) Small Business Administration;
- (o) Overseas Private Investment Corporation;
- (p) Export-Import Bank of the United States;
- (q) Office of the United States Trade Representative;
- (r) Council of Economic Advisers;
- (s) Office of Management and Budget;
- (t) National Economic Council;
- (u) National Security Council; and
- (v) at the discretion of the President, such other departments or agencies as may be necessary.

Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as their designated alternatives, shall be individuals who exercise significant decision-making authority in their respective departments or agencies.

**Sec. 2. Chairperson.** The Secretary of Commerce shall be the chairperson of the TPCC.

**Sec. 3. Purpose.** The purpose of the TPCC shall be to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government and to develop a governmentwide strategic plan for carrying out such programs.

**Sec. 4. Duties.** The TPCC shall:

- (a) coordinate the development of the trade promotion policies and programs of the United States Government;
- (b) provide a central source of information for the business community on Federal export promotion and export financing programs;
- (c) coordinate official trade promotion efforts to ensure better delivery of services to U.S. businesses, including:
  - (1) information and counseling on U.S. export promotion and export financing programs and opportunities in foreign markets;
  - (2) representation of U.S. business interests abroad; and
  - (3) assistance with foreign business contacts and projects;
- (d) prevent unnecessary duplication in Federal export promotion and export financing activities;
- (e) assess the appropriate levels and allocation of resources among agencies in support of export promotion and export financing and provide recommendations, through the Director of the Office of Management and Budget to the President, based on its assessment; and
- (f) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

**Sec. 5. Strategic Plan.** To carry out section 4 of this order, the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall:

- (a) establish a set of priorities for Federal activities in support of U.S. exports and explain the rationale for the priorities;
- (b) review current Federal programs designed to promote the sale of U.S. exports in light of the priorities established under paragraph (a) of this section and develop a plan to bring such activities into line with those priorities and to improve coordination of such activities;
- (c) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them;
- (d) propose, through the Director of the Office of Management and Budget, to the President an annual unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (b) of this section and eliminates funding for the areas of overlap and duplication identified under paragraph (c) of this section; and
- (e) review efforts by the States to promote U.S. exports and propose means of developing cooperation between State and Federal efforts, including co-location, cost-sharing between Federal and State export promotion programs, and sharing of market research data.

**Sec. 6. Report.** The chairperson of the TPCC, with the approval of the President, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Foreign Affairs of the House of Representatives, not later than September 30, 1993, and annually thereafter, a report describing the strategic plan developed by the TPCC pursuant to section 5 of this order, the implementation of such a plan, and any revisions to the plan.

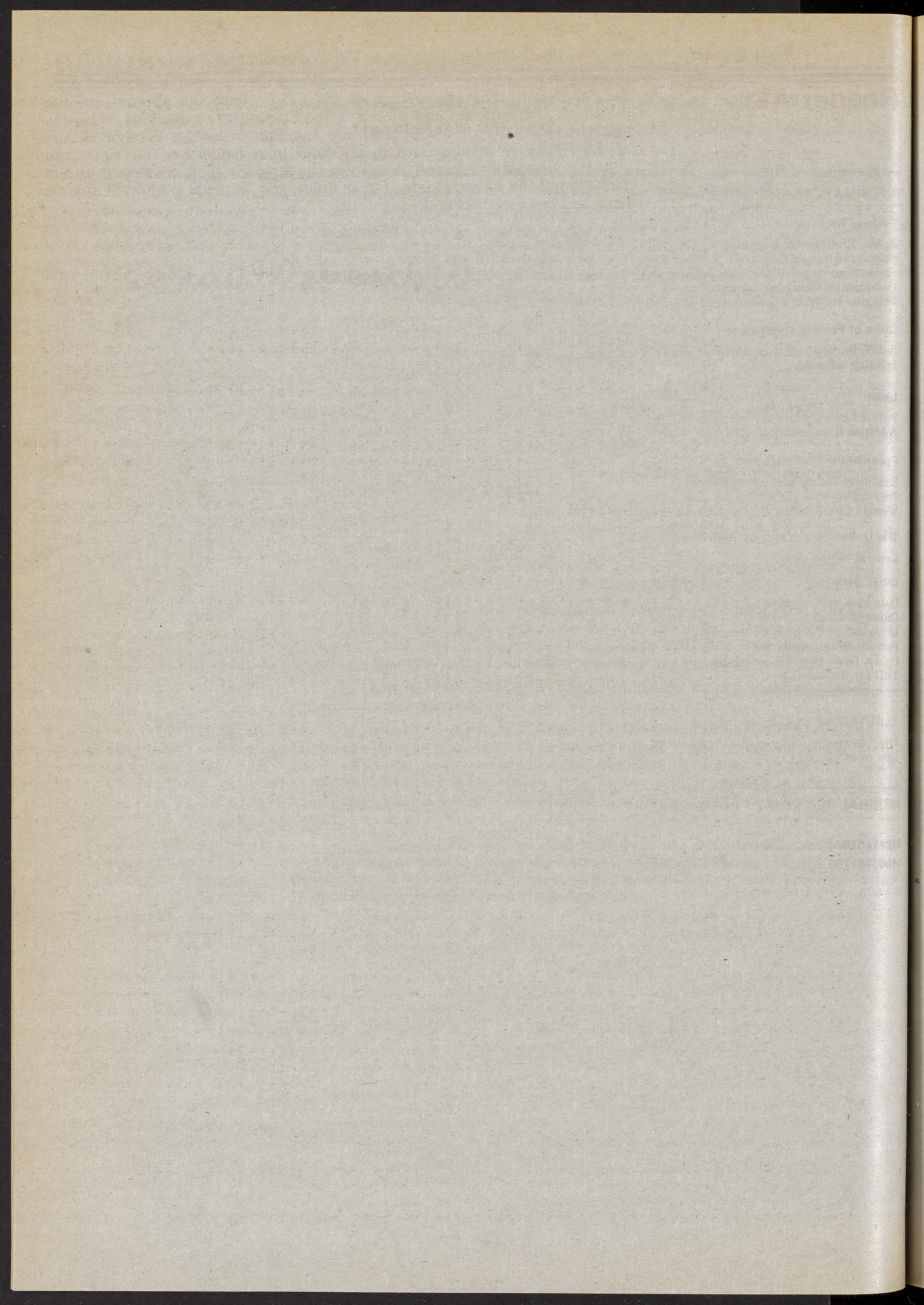
*William Clinton*

THE WHITE HOUSE  
September 30, 1993.

[FR Doc. 93-24534

Filed 10-1-93; 1:15 pm]

Billing code 3195-01-M



# Reader Aids

Federal Register

Vol. 58, No. 190

Monday, October 4, 1993

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## CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (\*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$775.00 domestic, \$193.75 additional for foreign mailing.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-019-00001-1)	\$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101)	(869-019-00002-0)	17.00	Jan. 1, 1993
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1-59	(869-019-00042-9)	29.00	Jan. 1, 1993
60-139	(869-019-00043-7)	26.00	Jan. 1, 1993
140-199	(869-019-00044-5)	12.00	Jan. 1, 1993
200-1199	(869-019-00045-3)	22.00	Jan. 1, 1993
1200-End	(869-019-00046-1)	16.00	Jan. 1, 1993
<b>15 Parts:</b>			
0-299	(869-019-00047-0)	14.00	Jan. 1, 1993
300-799	(869-019-00048-8)	25.00	Jan. 1, 1993
800-End	(869-019-00049-6)	19.00	Jan. 1, 1993
<b>16 Parts:</b>			
0-149	(869-019-00050-0)	7.00	Jan. 1, 1993
150-999	(869-019-00051-8)	17.00	Jan. 1, 1993
1000-End	(869-019-00052-6)	24.00	Jan. 1, 1993
<b>17 Parts:</b>			
1-199	(869-019-00054-2)	18.00	Apr. 1, 1993
200-239	(869-019-00055-1)	23.00	June 1, 1993
240-End	(869-019-00056-9)	30.00	June 1, 1993
<b>18 Parts:</b>			
1-149	(869-019-00057-7)	16.00	Apr. 1, 1993
150-279	(869-019-00058-5)	19.00	Apr. 1, 1993
280-399	(869-019-00059-3)	15.00	Apr. 1, 1993
400-End	(869-019-00060-7)	10.00	Apr. 1, 1993
<b>19 Parts:</b>			
1-199	(869-019-00061-5)	35.00	Apr. 1, 1993
200-End	(869-019-00062-3)	11.00	Apr. 1, 1993
<b>20 Parts:</b>			
1-399	(869-019-00063-1)	19.00	Apr. 1, 1993
400-499	(869-019-00064-0)	31.00	Apr. 1, 1993
500-End	(869-019-00065-8)	30.00	Apr. 1, 1993
<b>21 Parts:</b>			
1-99	(869-019-00066-6)	15.00	Apr. 1, 1993
100-169	(869-019-00067-4)	21.00	Apr. 1, 1993
170-199	(869-019-00068-2)	20.00	Apr. 1, 1993
200-299	(869-019-00069-1)	6.00	Apr. 1, 1993
300-499	(869-019-00070-4)	34.00	Apr. 1, 1993
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600-799	(869-019-00072-1)	8.00	Apr. 1, 1993
800-1299	(869-019-00073-9)	22.00	Apr. 1, 1993
1300-End	(869-019-00074-7)	12.00	Apr. 1, 1993
<b>22 Parts:</b>			
1-299	(869-019-00075-5)	30.00	Apr. 1, 1993
300-End	(869-019-00076-3)	22.00	Apr. 1, 1993
23	(869-019-00077-1)	21.00	Apr. 1, 1993
<b>24 Parts:</b>			
0-199	(869-019-00078-0)	38.00	Apr. 1, 1993
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1700-End	(869-019-00082-8)	15.00	Apr. 1, 1993
25	(869-019-00083-6)	31.00	Apr. 1, 1993
<b>26 Parts:</b>			
§§ 1.0-1-1.60	(869-019-00084-4)	21.00	Apr. 1, 1993
§§ 1.61-1.169	(869-019-00085-2)	37.00	Apr. 1, 1993
§§ 1.170-1.300	(869-019-00086-1)	23.00	Apr. 1, 1993
§§ 1.301-1.400	(869-019-00087-9)	21.00	Apr. 1, 1993
§§ 1.401-1.440	(869-019-00088-7)	31.00	Apr. 1, 1993
§§ 1.441-1.500	(869-019-00089-5)	23.00	Apr. 1, 1993
§§ 1.501-1.640	(869-019-00090-9)	20.00	Apr. 1, 1993
§§ 1.641-1.850	(869-019-00091-7)	24.00	Apr. 1, 1993
§§ 1.851-1.907	(869-019-00092-5)	27.00	Apr. 1, 1993
§§ 1.908-1.1000	(869-019-00093-3)	26.00	Apr. 1, 1993
§§ 1.1001-1.1400	(869-019-00094-1)	22.00	Apr. 1, 1993
§§ 1.1401-End	(869-019-00095-0)	31.00	Apr. 1, 1993
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50-299	(869-019-00099-2)	13.00	Apr. 1, 1993
300-499	(869-017-00100-0)	23.00	Apr. 1, 1993
500-599	(869-019-00101-8)	6.00	Apr. 1, 1990

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
600-End	(869-019-00102-6)	8.00	Apr. 1, 1993	<b>41 Chapters:</b>			
<b>27 Parts:</b>				1, 1-1 to 1-10		13.00	3 July 1, 1984
1-199	(869-019-00103-4)	37.00	Apr. 1, 1993	1, 1-11 to Appendix, 2 (2 Reserved)		13.00	3 July 1, 1984
200-End	(869-019-00104-2)	11.00	5 Apr. 1, 1991	3-6		14.00	3 July 1, 1984
<b>28 Parts:</b>				7		6.00	3 July 1, 1984
1-42	(869-019-00105-1)	27.00	July 1, 1993	8		4.50	3 July 1, 1984
43-End	(869-019-00106-9)	21.00	July 1, 1993	9		13.00	3 July 1, 1984
<b>29 Parts:</b>				10-17		9.50	3 July 1, 1984
0-99	(869-019-00107-7)	21.00	July 1, 1993	18, Vol. I, Parts 1-5		13.00	3 July 1, 1984
100-499	(869-019-00108-5)	9.50	July 1, 1993	18, Vol. II, Parts 6-19		13.00	3 July 1, 1984
500-899	(869-017-00107-4)	32.00	July 1, 1992	18, Vol. III, Parts 20-52		13.00	3 July 1, 1984
900-1899	(869-019-00110-7)	17.00	July 1, 1993	19-100		13.00	3 July 1, 1984
1900-1910 (§§ 1901.1 to 1910.999)	(869-017-00109-1)	29.00	July 1, 1992	1-100	(869-017-00153-8)	9.50	July 1, 1992
1910 (§§ 1910.1000 to end)	(869-017-00110-4)	16.00	July 1, 1992	101	(869-019-00157-3)	30.00	July 1, 1993
1911-1925	(869-017-00111-2)	9.00	6 July 1, 1989	102-200	(869-019-00158-1)	11.00	7 July 1, 1991
1926	(869-017-00112-1)	14.00	July 1, 1992	201-End	(869-017-00156-2)	11.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992	<b>42 Parts:</b>			
<b>30 Parts:</b>				1-399	(869-017-00157-1)	23.00	Oct. 1, 1992
1-199	(869-017-00114-7)	25.00	July 1, 1992	400-429	(869-017-00158-9)	23.00	Oct. 1, 1992
200-699	(869-019-00117-4)	20.00	July 1, 1993	430-End	(869-017-00159-7)	31.00	Oct. 1, 1992
700-End	(869-017-00116-3)	25.00	July 1, 1992	<b>43 Parts:</b>			
<b>31 Parts:</b>				1-999	(869-017-00160-1)	22.00	Oct. 1, 1992
0-199	(869-019-00119-1)	18.00	July 1, 1993	1000-3999	(869-017-00161-9)	30.00	Oct. 1, 1992
*200-End	(869-019-00120-4)	29.00	July 1, 1993	4000-End	(869-017-00162-7)	13.00	Oct. 1, 1992
<b>32 Parts:</b>				44	(869-017-00163-5)	26.00	Oct. 1, 1992
1-39, Vol. I		15.00	2 July 1, 1984	<b>45 Parts:</b>			
1-39, Vol. II		19.00	2 July 1, 1984	1-199	(869-017-00164-3)	20.00	Oct. 1, 1992
1-39, Vol. III		18.00	2 July 1, 1984	200-499	(869-017-00165-1)	14.00	Oct. 1, 1992
1-190	(869-019-00121-2)	30.00	July 1, 1993	500-1199	(869-017-00166-0)	30.00	Oct. 1, 1992
190-399	(869-017-00120-1)	33.00	July 1, 1992	1200-End	(869-017-00167-8)	20.00	Oct. 1, 1992
400-629	(869-019-00123-9)	26.00	July 1, 1993	<b>46 Parts:</b>			
630-699	(869-019-00124-7)	14.00	7 July 1, 1991	1-40	(869-017-00168-6)	17.00	Oct. 1, 1992
*700-799	(869-019-00125-5)	21.00	July 1, 1993	41-69	(869-017-00169-4)	16.00	Oct. 1, 1992
800-End	(869-019-00126-3)	22.00	July 1, 1993	70-89	(869-017-00170-8)	8.00	Oct. 1, 1992
<b>33 Parts:</b>				90-139	(869-017-00171-6)	14.00	Oct. 1, 1992
1-124	(869-017-00125-2)	18.00	July 1, 1992	140-155	(869-017-00172-4)	12.00	Oct. 1, 1992
125-199	(869-017-00126-1)	21.00	July 1, 1992	156-165	(869-017-00173-2)	14.00	8 Oct. 1, 1991
200-End	(869-019-00129-8)	24.00	July 1, 1993	166-199	(869-017-00174-1)	17.00	Oct. 1, 1992
<b>34 Parts:</b>				200-499	(869-017-00175-9)	22.00	Oct. 1, 1992
1-299	(869-017-00128-7)	27.00	July 1, 1992	500-End	(869-017-00176-7)	14.00	Oct. 1, 1992
300-399	(869-017-00129-5)	19.00	July 1, 1992	<b>47 Parts:</b>			
400-End	(869-017-00130-9)	32.00	July 1, 1992	0-19	(869-017-00177-5)	22.00	Oct. 1, 1992
35	(869-019-00133-6)	12.00	July 1, 1993	20-39	(869-017-00178-3)	22.00	Oct. 1, 1992
<b>36 Parts:</b>				40-69	(869-017-00179-1)	12.00	Oct. 1, 1992
*1-199	(869-019-00134-4)	16.00	July 1, 1993	70-79	(869-017-00180-5)	21.00	Oct. 1, 1992
*200-End	(869-019-00135-2)	35.00	July 1, 1993	80-End	(869-017-00181-3)	24.00	Oct. 1, 1992
37	(869-017-00134-1)	17.00	July 1, 1992	<b>48 Chapters:</b>			
<b>38 Parts:</b>				1 (Parts 1-51)	(869-017-00182-1)	34.00	Oct. 1, 1992
0-17	(869-017-00135-0)	28.00	Sept 1, 1992	1 (Parts 52-99)	(869-017-00183-0)	22.00	Oct. 1, 1992
18-End	(869-019-00138-7)	30.00	July 1, 1993	2 (Parts 201-251)	(869-017-00184-8)	15.00	Oct. 1, 1992
39	(869-019-00139-5)	17.00	July 1, 1993	2 (Parts 252-299)	(869-017-00185-6)	12.00	Oct. 1, 1992
<b>40 Parts:</b>				3-6	(869-017-00186-4)	22.00	Oct. 1, 1992
1-51	(869-017-00138-4)	31.00	July 1, 1992	7-14	(869-017-00187-2)	30.00	Oct. 1, 1992
52	(869-017-00139-2)	33.00	July 1, 1992	15-28	(869-017-00188-1)	26.00	Oct. 1, 1992
53-60	(869-017-00140-6)	36.00	July 1, 1992	29-End	(869-017-00189-9)	16.00	Oct. 1, 1992
61-80	(869-017-00141-4)	16.00	July 1, 1992	<b>49 Parts:</b>			
81-85	(869-017-00142-2)	17.00	July 1, 1992	1-99	(869-017-00190-2)	22.00	Oct. 1, 1992
86-99	(869-017-00143-1)	33.00	July 1, 1992	100-177	(869-017-00191-1)	27.00	Oct. 1, 1992
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190-259	(869-017-00146-5)	16.00	July 1, 1992	400-999	(869-017-00194-5)	31.00	Oct. 1, 1992
260-299	(869-017-00147-3)	36.00	July 1, 1992	1000-1199	(869-017-00195-3)	19.00	Oct. 1, 1992
300-399	(869-017-00148-1)	15.00	July 1, 1992	1200-End	(869-017-00196-1)	21.00	Oct. 1, 1992
400-424	(869-017-00149-0)	26.00	July 1, 1992	<b>50 Parts:</b>			
425-699	(869-017-00150-3)	26.00	July 1, 1992	1-199	(869-017-00197-0)	23.00	Oct. 1, 1992
700-789	(869-017-00151-1)	23.00	July 1, 1992	200-599	(869-017-00198-8)	20.00	Oct. 1, 1992
790-End	(869-017-00152-0)	25.00	July 1, 1992	600-End	(869-017-00199-6)	20.00	Oct. 1, 1992
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<sup>1</sup>Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

<sup>2</sup>The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

<sup>3</sup>The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

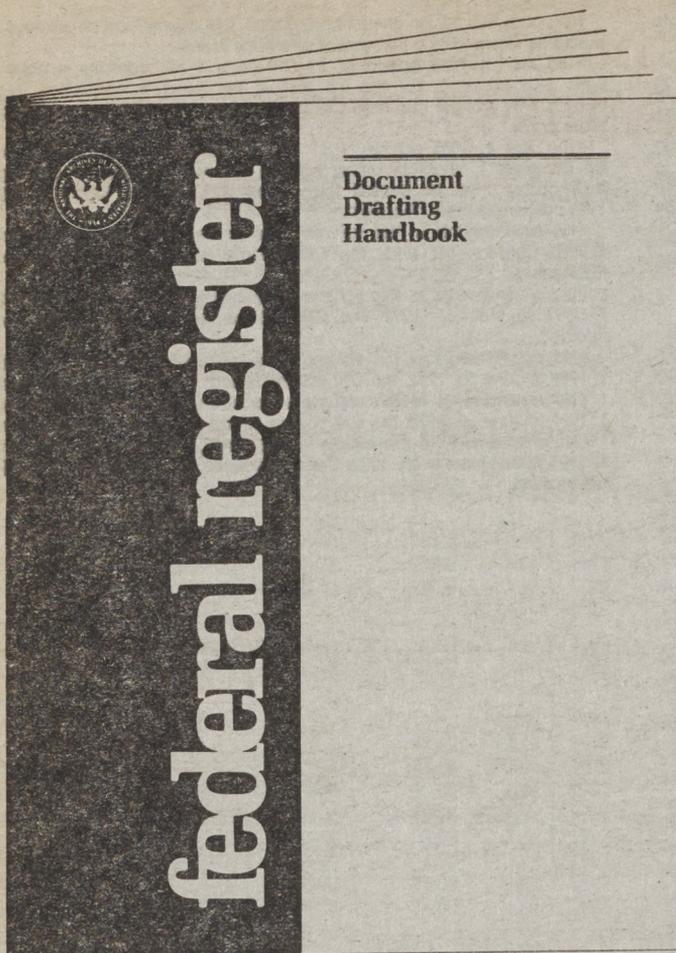
<sup>4</sup>No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

<sup>5</sup>No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 31, 1993. The CFR volume issued April 1, 1991, should be retained.

<sup>6</sup>No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

<sup>7</sup>No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1993. The CFR volume issued July 1, 1991, should be retained.

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48 CFR 101-11.6

48 CFR 101-11.6

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48 CFR 101-11.6



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